

EAST AYRSHIRE COUNCIL

CORPORATE GOVERNANCE COMMITTEE 28 SEPTEMBER 2006

PENSION ISSUES

Report by the Depute Chief Executive/Executive Director of Corporate Support

1. PURPOSE

1.1 The purpose of the report is to:-

- (i) provide the Corporate Governance Committee with an update on the financial position of Strathclyde Pension Fund following its Annual Meeting which took place on 23 June 2006; and
- (ii) advise the Committee of proposed changes to the Local Government Pension Scheme.

2. BACKGROUND

2.1 As members will be aware representatives of the Local Government Pension Scheme have previously met with both management and trade union representatives to discuss the future security of the Local Government Pension Scheme.

2.2 Strathclyde Pension Fund which is the 15th largest fund in the UK recently held its annual meeting at which it provided all employers and admitted bodies participating in the fund an overview of the fund's 2005/2006 accounts together with details of the Actuarial Valuation of the Fund as at 31 March 2005.

2.3 The Local Government Pension Scheme has a normal retirement age of 65. However, the Rule of 85 allows Scheme members who choose to retire from age 60 or from age 50 with employer's consent to take an unreduced pension if the sum of their age plus service equals 85 years.

2.4 The Scottish Executive considers that the Rule will breach the terms of the EC Directive on equality in the workplace which deems that provisions in the rules of occupational pension schemes which are discriminatory on age grounds are unlawful unless they fall within limited exceptions. The Directive requires that such rules are removed by December 2006 at the latest and the UK government has announced plans to implement by October 2006. The Scottish Executive intends that the Rule will be removed from the scheme regulations in Scotland from the same date.

2.5 The Finance Act 2004 introduced a simplified tax regime which resulted in changes being made to the LGPS with effect from 1 April 2006.

3. STRATHCLYDE PENSION FUND

- 3.1** 2005 was another very good year for the fund with the return for 2005 being +22% which is well ahead of the strategic benchmark as well as average fund returns. The total value of assets as at 31 March 2005 was £7,005 m.
- 3.2** At 31 March 2006, there were 88,572 active members, 30,358 deferred/undecided leavers and 57,351 pensioners. Within East Ayrshire Council there were 3565 members of SPF with 442 deferred members and 715 pensioners.
- 3.3** The previous Actuarial Valuation was carried out at 31 March 2002. Over the 3 year period the proportion of part-time members has increased from 22% of the active membership in 2002 to 25% in 2005. The average age Pensioner deaths increased from 75 in 2002 to 76.2 in 2005. The average age of all retirements increased from 57.2 in 2002 to 58.6 in 2005. Since the last valuation the Fund's market value assets have increased from £6,050m in 2002 to £6,990m in 2005. The Funding Position for accrued benefits at 31 March 2005 was 97% which is among the best in the country.
- 3.4** The Fund's admin developments for 2006/07 include a relaunch of the SPF Website (Autumn 2006) and an internet member self service (launch 2007). An Electronic Data Capture Pilot has commenced with 7 participating employers.
- 3.5** Work is progressing with the Fund's Business Plan for investments and there remain a number of challenges which will require to be addressed:-
- Impact of possible removal of Rule of 85
 - New Regulatory Requirements
 - New LGPS from 2008?
 - New Police and Fire Schemes
- 3.6** The funding strategy remains prudent long term and the future will depend on market conditions, demographic experience and possible new scheme.
- 3.7** Under the provisions of the Regulations, the next formal valuation of the Fund is due to be carried out as at 31 March 2008.

4. LOCAL GOVERNMENT PENSION SCHEME (SCOTLAND) AMENDMENT (NO.2) REGULATIONS 2006

- 4.1** The draft regulations have been issued by the Scottish Public Pension Agency which describe the Scottish Executive's preferred option. The Scottish Executive believes that it is appropriate to provide transitional provisions in respect of existing members in order to protect reasonable expectations they may have regarding the application of the Rule of 85.
- 4.2** The draft regulations outline the intention to remove the Rule of 85 from the Scheme from 1 October 2006 in order to comply with EC Directive 2000/78/EC. The proposed regulations provide full protection to all existing members until 1

April 2008 and for existing scheme members who will be age 60 and who satisfy the 85 year rule by 31 March 2020.

- 4.3** A revised Scottish LGPS is being introduced in 2008 and will not include options that assume any 85 year rule rights except for those existing scheme members who satisfy the above protection under the transitional provisions.
- 4.4** The draft regulations introduce significant and well supported flexibilities into the scheme's legal framework to reflect the simplified tax regime provided by the Finance Act 2004. These proposed changes are outlined below with some changes being effective retrospectively from 6 April 2006:
- Removal of existing scheme limits on benefits and contributions
 - Maximum age of member raised to 75
 - Earnings cap removed from 1 October 2006 and capped members' membership between 1989 – 2006 to be reduced pro-rata
 - Employer discretion to waive contributions when 40 years service achieved before age 60 removed (from 1/10/06)
 - Commutation of pension to lump sum available, up to 25% of capital value of benefits, at £12 for every £1 pension (from 1/10/06)
 - AVCs can be paid as a lump sum as long as within the 25% limit
 - Flexible retirement introduced from 1 October 2006 where hours or grade reduced
- 4.5** The draft regulations also introduce a number of other changes to ensure compliance with age discrimination legislation and inserting the Scottish Police Services Authority into the Schedule of Scheme Employers to allow civilian staff of the new body access to membership of the scheme.
- 4.6** The closing date for the consultation exercise was 31 July 2006 and the final regulations are expected to be laid before Parliament shortly.

5. FUTURE ISSUES

- 5.1** Draft Regulations have been issued in England and Wales to replace the Local Government (Early Termination of Employment – Discretionary Compensation) Regulations which will become effective from October 2006. The proposed Regulations will remove the discretionary power for Councils to award up to 10 years added years and this would reduce to a maximum of 6 years and 243 days.
- 5.2** This would also mean that pre-existing offers where compensatory added years are granted before 1 October 2006 but actioned after 1 October 2006 would not be permitted.

5.3 Similar Regulations will be issued in Scotland and it is anticipated that these will be issued in early September with an implementation date of 2 December 2006. Cosla have indicated their concerns to the Scottish Public Pensions Agency regarding the timescales for implementation and the fact that some Councils may already have made offers which would not be actioned before this date. The SPPA have indicated that this will be considered.

6. FINANCIAL IMPLICATIONS

6.1 Any financial implications associated with the introduction of the Regulations will be met from within existing budgets.

7. POLICY/LEGAL IMPLICATIONS

7.1 The draft regulations will ensure compliance with age discrimination legislation and comply with the continuous improvement theme within the Community Plan.

8. RECOMMENDATIONS

8.1 The Corporate Governance Committee is asked to note the content of this report.

Elizabeth Morton
Depute Chief Executive/
Executive Director of Corporate Support
4 September 2006

LIST OF BACKGROUND PAPERS

1. The Local Government Pension Scheme (Scotland) Amendment (No.2) Regulations 2006

Anyone wishing further information should contact Martin Rose, Head of Personnel (Telephone 01563 576092).