



7 Tweedside Park
Tweedbank
GALASHIELS
TD1 3TE

www.pensions.gov.scot

Local Government Pension Scheme Stakeholders

Tel: 01896 89 3229
Fax: 01896 893214
sppapolicy@gov.scot

13 July 2020

Dear Colleagues

THE LOCAL GOVERNMENT PENSION SCHEME (SCOTLAND)

1. The purpose of this letter is to seek the views of stakeholders regarding the attached draft Direction Order.
2. The draft direction order is written in terms in terms of paragraph 2 of part 1 of schedule 4 of the Local Government Pension Scheme (Scotland) Regulations 2018 (S.S.I. 2018/141), the “2018 Regulations”.

Background

3. The Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Regulations 2020 amended Schedule 4 of the 2018 Regulations, to specify that the Scottish Ministers may, upon application of a Scheme employer, by a written direction, substitute a different administering authority as the appropriate administering authority for a person or class of persons.
4. The Scottish Ministers received a letter dated 30 September 2019 setting out an application from VisitScotland, a Scheme employer (the “Scheme employer”). The Scheme employer has requested that City of Edinburgh Council (the “Receiving Authority”) (as administering authority of the Lothian Pension Fund) be substituted as the appropriate administering authority for scheme members described in column 1 at entries 26 and 28 to 36 of the table included at part 2 of schedule 4 of the 2018 Regulations.
5. Comments are invited on the draft direction. You may complete the Consultation Response Form attached at Annex B which can be submitted electronically to sppapolicy@gov.scot or by post to the following address:

Local Government Pensions Consultation, SPPA Policy, 7 Tweedside Park,
Tweedbank, Galashiels, TD1 3TE.

6. The consultation is largely a technical necessity to comply with the Public Services Pensions Act 2013, will run for 30 days and will close on 13 August 2020; we ask that anyone wishing to respond does so by then.
7. We intend to publish a summary of consultation responses as soon as possible after the consultation closes. We would like to be able to include any response you make in that summary. However, if you ask us not to publish your response to this consultation, we will regard it as confidential.
8. The draft direction is set out in Annex A, attached.

Handling your response

9. All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

10. Where respondents have given permission for their response to be made public these will be made available to the public in the Scottish Government Library after the consultation period. You can make arrangements to view responses by contacting the SG Library on 0131 244 4556. Responses can be copied and sent to you, but a charge may be made for this service.
11. Once the consultation has closed we will consider all responses before preparing the final Direction.

Comments and complaints

12. If you have any comments about how this consultation exercise has been conducted, please email sppapolicy@gov.scot

Yours faithfully

Kimberly Linge
Policy Manager, LGPS

DRAFT
Direction
of
the Scottish Ministers
in terms of
paragraph 2 of part 1 of schedule 4
of the Local Government Pension
Scheme (Scotland) Regulations 2018
(S.S.I. 2018/141), the “**2018 Regulations**”.

WHEREAS:

(1) the Scottish Ministers are, in terms of section 2(1) of the Public Service Pensions Act 2013, the “**responsible authority**” for the Local Government Pension Scheme (the “**Scheme**”) as constituted by regulation 2(1) of the 2018 Regulations.

(2) in accordance with paragraph 2 of part 1 of schedule 4 of the 2018 Regulations, the Scottish Ministers may, upon application of a Scheme employer, by a written direction substitute a different administering authority as the appropriate administering authority for a person or class of persons.

(3) the Scottish Ministers received a letter dated 30 September 2019 setting out such an application from VisitScotland, a Scheme employer (the “**Scheme employer**”).

(4) the Scheme employer has requested that City of Edinburgh Council (the “**Receiving Authority**”) (as administering authority of the Lothian Pension Fund) be substituted as the appropriate administering authority for the Scheme for the following class of persons:

(i) the Scheme members described in column 1 at entries 26 and 28 to 36 of the table included at part 2 of schedule 4 of the 2018 Regulations; and

(ii) former employees of any predecessor bodies to VisitScotland (including Tourist Board Training Limited) for whom responsibility was transferred to VisitScotland and who were members of the Scheme at the date of that transfer,

(the “**VisitScotland Members**”).

(5) full details of the VisitScotland Members participating in the Scheme as at 31 March 2019 have been shared with the Receiving Authority and a summary is detailed below:

	Actives	Deferreds (including frozen refunds and undecided leavers)	Pensioners & dependents	Total
Lothian	150	133	37	320
Strathclyde	7	57	23	87
Highland	11	42	53	106
Falkirk	6	26	30	62
Tayside	10	3	75	88
NE Scotland	1	37	41	79
Dumfries	7	8	18	33
Fife	5	9	16	30
Borders	1	8	7	16
Orkney	0	5	3	8
Shetland	1	5	4	10
Total	199	333	307	839
<i>Total (excluding Lothian)</i>	<i>49</i>	<i>200</i>	<i>270</i>	<i>519</i>

(6) it is proposed that the Scottish Ministers direct that the Receiving Authority be substituted as the appropriate administering authority for the VisitScotland Members with Lothian Pension Fund substituted for each of those funds specified in column 2 at entries 26 and 28 to 36 of the table included at part 2 of schedule 4 of the 2018 Regulations (“the Exporting Funds”) as the appropriate fund for the Scheme employer in respect of the VisitScotland Members, and that as a result:

(i) the value of all assets and liabilities notionally allocated to VisitScotland will transfer from each of the Exporting Funds to Lothian Pension Fund; and

(ii) the Receiving Authority shall become responsible for administering the Scheme for the VisitScotland Members,

(the “**Proposed Consolidation**”).

(7) subject to such a direction being issued, the Receiving Authority and the administering authority of each of the Exporting Funds have agreed to implement the Scheme employer’s request.

(8) the Scheme employer has indicated that it considers that the Proposed Consolidation will have no detrimental impact on the Scheme employer or any member (active, deferred or pensioner) of the Lothian Pension Fund or the Exporting Funds.

(9) the Scottish Ministers have, in terms of paragraph 4 of part 1 of schedule 4 of the 2018 Regulations, consulted with such bodies as appeared to them to be affected by the Proposed Consolidation and concluded that the discretion referred to in recital (2) above should be exercised as proposed by the application described in recital (3).

THE SCOTTISH MINISTERS, in the exercise of their powers under paragraph 2 of part 1 of Schedule 4 to the 2018 Regulations, accordingly **HEREBY DIRECT** that:

- (a) the Receiving Authority be substituted as the appropriate administering authority for the VisitScotland Members with Lothian Pension Fund substituted for each of the Exporting Funds as the appropriate fund for the VisitScotland Members.
- (b) a sum representing the value of all assets of each Exporting Fund notionally allocated to VisitScotland is to be transferred by each Exporting Fund to Lothian Pension Fund, which in its turn shall take over in respect of each Exporting Fund, that Exporting Fund's liabilities in respect of VisitScotland.
- (c) responsibility for administering the Scheme for the VisitScotland Members shall be transferred from the administering authorities of the Exporting Funds to the Receiving Authority.
- (d) the substitution and transfer shall take place on such date or dates as may be agreed between the administering authority of each of the Exporting Funds and the Receiving Authority (each a "**Merger Date**"), subject to limb (j) below
- (e) any payment received by the administering authority of an Exporting Fund in respect of the VisitScotland Members arising before the Merger Date, but received after that date, must be paid to Lothian Pension Fund.
- (f) any payment due to be made by the administering authority of an Exporting Fund in respect of the VisitScotland Members from the Exporting Funds which has not been made before the Merger Date must be paid from Lothian Pension Fund.
- (g) any question concerning the rights or liabilities of any VisitScotland Member under the 2018 Regulations or the Earlier Regulations (as defined in regulation 1 of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014) which was decided before the Merger Date by the administering authority of an Exporting Fund is deemed to be a decision of the Receiving Authority for the purposes of any challenge to such a decision.
- (h) any question concerning the rights or liabilities of any VisitScotland Member under the 2018 Regulations or the Earlier Regulations which was due to be decided by the administering authority of an Exporting Fund, but which was not decided before the Merger Date, must be decided by the Receiving Authority.
- (i) any arrangements for the payment of additional voluntary contributions by VisitScotland Members established by the administering authority of an Exporting Fund continues to have effect as if it had been established by the Receiving Authority.
- (j) by 31 March 2021 all documents must be executed and all things necessary to complete the substitution and transfer must be done.



Annex B-

The Local Government Pension Scheme (Scotland) Regulations 2018

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Title Mr Ms Mrs Miss Dr *Please tick as appropriate*

Surname

Forename

2. Postal Address

Postcode

Phone

Email

3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate Yes No



(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

Comments