

## EXPLANATORY MEMORANDUM TO

### THE LOCAL GOVERNMENT PENSION SCHEME (NORTHUMBERLAND AND TYNE AND WEAR PENSION FUND MERGER) REGULATIONS 2020

2020 No. 502

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry for Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.

#### 2. Purpose of the instrument

- 2.1 To provide for the merger of the local government pension funds held by Northumberland County Council (“Northumberland”) and the Council of the Borough of South Tyneside, usually referred to as South Tyneside Council (“South Tyneside”).

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

##### *Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

#### 4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.  
4.2 The territorial application of this instrument is England only.

#### 5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

#### 6. Legislative Context

- 6.1 The Public Service Pensions Act 2013 (“the 2013 Act”) enables the Secretary of State to make regulations creating pension schemes for, amongst others, local government workers.  
6.2 In England and Wales, such a scheme is created by the Local Government Pension Scheme Regulations 2013 (“the 2013 Regulations”). The 2013 Regulations were made exercising powers in the Superannuation Act 1972 but section 18 of the 2013 Act provides for them to take effect as scheme regulations.  
6.3 The scheme created by the 2013 Regulations is a funded scheme administered by 88 administering authorities specified in Part 1 of Schedule 3 to those regulations.

- 6.4 Under paragraphs 1(a) and 1(j) to Part 1 of Schedule 3 of the 2013 Regulations respectively, Northumberland and South Tyneside are designated as administering authorities and are each required to maintain a pension fund for eligible Scheme members and to pay those members' benefits from that fund.

## **7. Policy background**

### *What is being done and why?*

- 7.1 These Regulations are the result of a formal proposal for merger of the local government pension funds held by Northumberland and South Tyneside that was provided to the Secretary of State for Housing, Communities and Local Government on 24 December 2019 by those two administering authorities. The merger is intended to bring about efficiencies savings and further service delivery improvements. The authorities anticipate that the merger will result in lower administration costs per member and that participating employers should pay lower employer contribution rates in the long term.
- 7.2 The Government's policy is to consider favourably merger applications from LGPS administering authorities where there is local support for the merger taking place and it is anticipated this would bring about significant benefits (e.g. improved service provision or cost reductions).
- 7.3 The proposal had the support of the Pensions Committees for Northumberland and South Tyneside, both Local Pension Boards and the six principal local authorities that make up the majority of the membership of both funds, i.e. Newcastle City Council, Gateshead Council, North Tyneside Council, Sunderland City Council, South Tyneside and Northumberland.
- 7.4 The benefits and rights of scheme members, whether active, deferred or pensioner, will continue to be as set out in the scheme regulations, and these regulations do not alter them. Under these Regulations, where a decision concerning the rights or liabilities of any person was due to be decided by Northumberland, but has not been decided before the merger date, that decision must now be taken by South Tyneside.
- 7.5 The Regulations will have retrospective effect from 1 April 2020, as permitted by section 3(3)(b) of the 2013 Act. This date has been chosen to tie in with the scheme year end and the actuarial valuation cycle. It also creates no significant adverse effects in relation to members of the scheme, and so the requirements at section 23 of the 2013 Act, for further consultation, or at section 24 of the 2013 Act, for the affirmative legislative procedure, do not apply.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union.

## **9. Consolidation**

- 9.1 The amendments made by these Regulations are relatively minor and it is not considered appropriate to consolidate the 2013 Regulations at this time.

## **10. Consultation outcome**

- 10.1 Prior to making amendments to the 2013 Regulations, the Government consulted on the merger proposal from 20 March to 1 May 2020<sup>1</sup>, as required by section 21 of the 2013 Act. LGPS stakeholders were alerted to the commencement of the consultation through an email which was sent by the Local Government Association, via the Scheme Advisory Board's distribution list. Three responses were submitted, from Northumberland and South Tyneside, as well as from another local authority in the area, Gateshead Council. All responses reiterated the authorities' support for the merger. The responses from Northumberland and South Tyneside confirmed their views that merging the funds will result in benefits for scheme members and employers. No further comments were made on the proposals by the respondents, nor on the draft regulations which were attached to the consultation.
- 10.2 Whilst we would usually expect more responses to LGPS consultations of more general relevance to stakeholders, the number of responses received to this consultation is consistent with the numbers we have received on similar fund merger proposals.
- 10.3 After careful consideration of the responses to the consultation, the Government has decided to proceed with the merger of the two pension funds. A Government response to the consultation has been published summarising the responses received<sup>2</sup>.

## **11. Guidance**

- 11.1 No guidance is necessary to accompany these Regulations.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector, although the councils envisage achieving lower administration costs due to efficiencies benefits.
- 12.3 An Impact Assessment has not been prepared for this instrument because it relates to the maintenance of existing regulatory standards.

## **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 These Regulations do not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Simon Clarke MP has made the following statement:

“I welcome that this merger will result in lower administration costs per member and that participating employers may pay lower employer contribution rates in the long term.”

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<sup>1</sup> <https://www.gov.uk/government/consultations/proposed-merger-of-the-northumberland-and-tyne-and-wear-pension-funds>

<sup>2</sup> <https://www.gov.uk/government/consultations/proposed-merger-of-the-northumberland-and-tyne-and-wear-pension-funds>

## **15. Contact**

- 15.1 Con Hargrave at the Ministry of Housing, Communities and Local Government, telephone: 0303 444 8393 or email: [con.hargrave@communities.gov.uk](mailto:con.hargrave@communities.gov.uk), can answer any queries regarding the instrument.
- 15.2 Suzie Clarke, Deputy Director for Local Government Finance, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Simon Clarke MP, Minister of State at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.