

Local Government Pension Scheme 2014 Discretions Policy

Summary

1. This report informs the Committee of changes to the Council's Discretions Policy following implementation of the Local Government Pension Scheme 2014, and asks the Committee to approve the updated Employers Discretions policy so it can be implemented.

Background

2. The Local Government Pension Scheme (LGPS) sets out a statutory requirement for every employer to have a Discretions Policy in place detailing the employer's decisions in relation to Pensions.
3. The Council has a Discretions Policy covering the previous LGPS regulation, originally approved by Urgency Committee in 2002, and to which minor amendments were made in 2006.
4. Whilst many of the existing discretions will remain in the Council's Policy, there are some employer discretions which are additional to the current Policy, some which are changed, and some which are removed. This report does not propose any amendments to those originally approved by Urgency Committee in 2002 which flow through to the LGPS 2014 Regulations.
5. Details of the key areas within the discretions policy to be considered are outlined below with a recommendation as to the Employer Discretion to be adopted in each instance.

Waiving of Actuarial Reduction for Early Payment of Pension Benefits at the Request of a Current Employee

6. The LGPS 2014 Regulations include a significant change in that any current employee can decide to retire voluntarily from age 55 without the employer's consent: up to March 2014 the employer's consent was required to retire before age 60, with no employer consent required from age 60. Actuarial reduction will normally apply to pensions taken from age 55 up to normal retirement age using actuarial guidance issued by the Secretary of State.
 - a. The employer discretion is that Employers may agree to waive all or part of the actuarial reduction. Waiving the reduction would require the Council to make a payment to the pension fund for the shortfall created by paying the pension early without reduction, known as a pension strain payment or employer pension cost.
 - i. The Council will therefore not waive any actuarial reduction on benefits paid which a member voluntarily draws before normal pension age.

Early Payment of Pension Benefits before Normal Retirement Age at the Request of a Former Employee (a Deferred Pensioner)

7. The new Regulations allow any member or former member to retire from age 55 at their choice and with actuarial reduction applying (See above). Former employees with service under previous LGPS regulations may also wish to take their pension from age 55. Currently former employees require the Council's consent to access their pension before age 60, however these provisions fall away from 1 April 2014 when the 2008 Regulations cease to apply.

Shared Cost Additional Pension Contributions

8. Under LGPS 2014 employees have the option to 'buy back' pension lost due to periods of authorized unpaid absence from work, including periods of unpaid child related leave. Where an employee takes this option, they enter an Additional Pension Contribution scheme with their employer. Where such a scheme is entered into within 30 days of returning to work, the Regulations state the total cost of the scheme is shared, with the employee paying one third of the total cost and the employer paying the remaining two thirds.

- a. The Employer Discretion here enables employers to either pay the full Additional Pension contribution, or pay a Shared Cost Additional Pension contribution in other circumstances.
 - i. The employer costs of shared cost contributions could be considerable therefore it is proposed the Council will not pay employer funded Additional Pension contributions at all, and will not enter Shared Cost Additional Pension contribution Arrangements in any other circumstances other than those to enable employees to buy back lost pension as required by the legislation.

Early Payment of Pension Benefits from Age 55 where Employees have a Protected 85-year Rule Protection for Accrued Benefits

- 9. The Regulations require that employers have a policy on whether to agree to apply the 85-year rule to the benefits of a scheme member wishing to voluntarily draw their pension between age 55 and 60. The 85-year rule allows benefits to be paid unreduced where the age and membership in the pension scheme (in whole years) add up to 85. The 85-year rule protection would not automatically apply if the employee decides to voluntary retire between 55 and 60, but the employer can agree to apply the 85-year rule to accrued pension benefits, in which case employer costs arise.
- 10. The 'Rule of 85' continues under LGPS 2014, however this now comes into effect after the age of 60. Therefore if an employee met the 'Rule of 85' and chose to retire between 55 and 60, they would still face an actuarial reduction to their benefits, and the pension strain would not be passed to the employer. If however they chose to retire after age 60 and met the 'Rule of 85', that Pension Cost will be passed to the Employer to pay.
 - a. The Employer Discretion here relates to whether the Council wishes to 'switch on' the 'Rule of 85' or waive the actuarial reduction for those voluntary drawing benefits after age 55 and before 60.
 - i. On both these points, it is proposed that the Council will not waive any actuarial reduction, or switch on the 'Rule of 85' in line with the original principles on which the Discretion Policy was approved.

Definition of Pensionable Pay

11. The definition of Pensionable Pay has changed under the Regulations to include non-contractual overtime and additional hours. Whilst this has a financial impact, there is no employer discretion which could reduce or limit this.

Award of Additional Pension

12. The existing Employer discretion on whether to grant additional pension to an employee, or within 6 months of ceasing to be an employee due to redundancy or business efficiency remains.
 - a. It is not proposed to change the Council's position in relation to this discretion which is not to grant additional pension to any member.

Transferring in of Pension Rights

13. Where an active member has previous LGPS service, they may elect to aggregate this with their ongoing service within 12 months of becoming an active member 'or such longer periods that the employer may allow'
 - a. In line with the previous Discretion policy the Council will permit aggregation from previous LGPS service beyond 12 months.
14. If an active member wishes to transfer in pension rights from a non-local government source, they must do so within 12 months of becoming an active member 'or such longer periods that the employer may allow'
 - a. The Council will not permit aggregation from a non-local government source beyond 12 months unless there is evidence of administrative shortcomings.

Consultation

15. The recommendations made in this report are a result of discussion and consultation between the Director of Customer and Business Support Services, the Head of Human Resources and Technical Accountant. The discretions made have been to comply with the Council's statutory requirements with regard to both cost and human resource implications and the legal framework as set out by the LGPS regulation.

Options

16. It is a requirement under the LGPS Regulations 2013 for the Council to have an Employers Discretion policy in place.

Analysis

17. When the Council's Discretion Policy was original approved by Urgency Committee in 2002 it was in accordance with the following principals:
 - a. A fair and transparent process for decision making in relation to employer discretions pertaining to existing employees who are members of the LGPS, and deferred members of the LGPS (those who have left the employment of the Council)
 - b. Consistency of decision making in relation to employer discretions
 - c. Ensuring, where possible that the cost to the Council is well managed.
18. The employer discretions detailed in this report adhere to these principles.

Council Plan

19. This report contributes to the overall effectiveness of the Council's governance and assurance arrangements contributing to an 'Effective Organisation'

Implications

20.
 - (a) **Financial** – These are detailed in the body of the report
 - (b) **Human Resources (HR)** – It is important that the Council has the ability to use local discretions to effectively and efficiently manage within the organisation. Any discretions the Council uses will operate under a framework to ensure a consistent application to reduce the chance of claims of unfairness.
 - (c) **Equalities** – The Equality Act 2010 impacts on the Employer Discretions Policy, with regard to Age Discrimination in that the 'Rule of 85' only affects those who are older, so the Council needs to guard against the risk of treating this group of

employees differently from others. The proposal not to switch on the 'Rule of 85' or waive any actuarial reduction ensures all employees who are members of the LGPS are treated in the same way. The way in which any decision making process is carried out regarding any early retirements (including redundancy, efficiency, or voluntary early retirements) will also be transparent and not differentiate between age groups.

(d) **Legal** – The LGPS Regulations 2013 makes it clear that the Council must have an employer Discretions policy in place and inform the Pension Fund of that Policy.

(e) **Crime and Disorder** - There are no implications

(f) **Information Technology (IT)** - There are no implications

(g) **Property** - There are no implications

Risk Management

21. Failure to agree and publish a policy dealing with Discretions under the LGPS 2014 may lead to an inconsistent approach and possible legal challenge.

Recommendation

The Staffing Matters and Urgency Committee is asked to approve the revised Local Government Pension Scheme Employer Discretion Policy.

Reason: To invite Members to consider changes to the Council's Employers Discretion Policy following the implementation of the LGPS 2014 and approve the updated policy

Contact Details

Author:

Emma Audrain
Technical Accountant
Customer & Business
Support Services
Telephone: 01904 551170

Mark Bennett
Head of Business HR
Human Resources
Telephone: 01904 554518

Chief Officer Responsible for the report:

Ian Floyd
Director of Customer and Business
Support Services
Telephone: 01904 551100

**Report
Approved**



Date 27/10/2014

Specialist Implications Officers

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

None

Annex

The report is supported by the appendices listed below:

- Appendix 1 – List of Legislation relating to the Discretions Policy
- Appendix 2 – The proposed Employer Discretion Policy
- Appendix 3 – Guidance on Pensionable Pay