

Report of the Chief Operating Officer

Local Government Pension Scheme 2021 Discretions Policy Summary

1. This report informs the Committee of an amendment to the Council's LGPS Discretionary Policy Statement in order to comply with The Local Government Pension Scheme Regulations 2013 (the "**LGPS Regulations**").

Background

2. The LGPS Regulations require the Council to prepare a written statement of its policy in relation to the exercise of its discretions under regulations 16(2)(e) and 16(4)(d) (funding of additional pension), 30(6) (flexible retirement), 30(8) (waiving of actuarial reduction) and 31 (award of additional pension) of the LGPS Regulations as well as paragraph 1(1)(c) of Schedule 2 to The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (Rule of 85).
3. The Council also exercises many other employer discretions under the LGPS Regulations although it is not compulsory to include them in the Discretionary Policy Statement.
4. The Council must also keep its Discretionary Statement under review and make such revisions as are appropriate following any change in its policy.
5. When formulating and reviewing its Discretionary Policy Statement under the Discretionary Compensation Regulations, the Council must:
 - a have regard to the extent to which the exercise of its discretions in accordance with its policy, unless properly limited, could lead to a serious loss of confidence in the public service; and
 - b be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

6. The Council wishes to introduce a new salary sacrifice Shared Cost AVC scheme for employees, who are members of the Local Government Pension Scheme (LGPS). This scheme provides an opportunity for employees to save for the future and gain National Insurance Contribution (NIC) savings on these additional voluntary contributions through salary sacrifice
7. This new scheme has only recently become available. It provides an additional opportunity for the Council to support LGPS members with their financial wellbeing. There is no additional cost to the Council, since any costs are absorbed by the savings in employer NIC payments.
8. An amendment to the Discretionary Policy Statement is necessary to allow the use of such a scheme.

Analysis

9. The revised Policy Statement is attached at Appendix 1.
10. The amendment is to Regulation R17(1) and definition of SCAVC in RSch 1, with the new text showing on page 6 of the discretion policy statement.
11. This change which could have a material impact on scheme members and the Council is summarised as follows.

Contributions to Shared Cost Additional Pension Contributions (SCAPCs)

12. The LGPS regulations allow for scheme employer's to also contribute towards the cost of AVCs through Shared Cost AVCs (SCAVC).
13. The Council has historically elected to not permit Shared Cost AVCs given any contribution made by the Council would come at a direct cost to the Council. However, it is now possible for staff to contribute to Shared Cost AVCs under a salary sacrifice arrangement without there being any direct cost to the Council.

Current Policy

14. 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.

New Policy

15. The Council will allow Local Government Pension Scheme Members to contribute to a shared cost salary sacrifice scheme additional voluntary contribution (SSSCAVC) scheme. The amount of these employer Shared Cost AVC contributions will not exceed the amount of salary sacrificed by the employee.
16. The reason for the change is to allow the new salary sacrificed shared cost AVCs to be offered to staff as a benefit, at no cost to the council.
17. The Council will not enter into any other form of Shared Cost AVC arrangement.
18. The Council is satisfied that the exercise of its discretions in accordance with the proposed Discretionary Policy Statement:
 - a. would not lead to a serious loss of confidence in the public service; and
 - b. in the case of the exercise of the discretions under the Discretionary Compensation Regulations, would be workable, affordable, and reasonable having regard to the foreseeable costs.

Consultation

19. Consultation has taken place with key members of staff across the organisation, Corporate Management Team, and North Yorkshire Pension fund. Engagement has also been made with the trade unions.

Council Plan

20. This report contributes to the overall effectiveness of the Council's governance and assurance arrangements contributing to an 'open and effective council'.

Implications

21.

- (a) **Financial** – There is an overall saving to the council in NICs, including after fees, where staff pay into the new SSSCAVC scheme.
- (b) **Human Resources (HR)** – There are no HR implications.
- (c) **Equalities** – There are no implications.
- (d) **Legal** – The LGPS Regulations and the Discretionary Compensation Regulations both makes it clear that the Council must formulate, publish and keep under review a Discretionary Policy Statement and any failure to do so would be a breach of those Regulations.
- (e) **Crime and Disorder** - There are no implications
- (f) **Information Technology (IT)** - There are no implications
- (g) **Property** - There are no implications

Risk Management

22. Any failure to formulate, publish and keep under review a Discretionary Policy Statement in accordance with the LGPS Regulations and the Discretionary Compensation Regulations would be a breach of those Regulations and potentially an act of maladministration. This could also result in the Council exercising its discretions in an inconsistent manner and possible legal challenge.

Recommendation

23. The Staffing Matters and Urgency Committee is asked to approve the revised Discretionary Policy Statement.

Reason: To invite Members to consider changes to the Council's Discretionary Policy Statement to comply with the LGPS Regulations and Discretionary Compensation Regulations and approve the new Statement

24. If approved the Pension Discretion Policy Statement will be signed dated, and forwarded to the NY Pension Scheme by the Chief Finance Officer (Section 151 Officer).

Contact Details

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**Chief Officer Responsible for the
report:** Ian Floyd, Chief Operating
Officer

Report Date: 17 January 2022

Approved

Specialist Implications Officers: Accounting Technician, Chief Finance Officer/Section 151

Wards Affected: None

For further information please contact the author of the report

Background Papers:

None

Annexes:

Appendix 1 – The proposed revised Employer Discretionary Policy Statement