

Personnel Committee
Date: 23 June 2014

Title: Local Government Pension Scheme 2014 and Policy Statement.

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan ?	No
Is it eligible for "call in" by Scrutiny ?	No
Date signed off by <u>Director</u> & name	Ruth Redfern – 12 June 2014
Is it signed off by the Director of Resources?	David Smith – 12 June 2014
Is it signed off by the Assistant Director - Legal & Governance?	N/A
Cabinet member portfolio	

Electoral [wards](#) affected:
 Ward councillors consulted:

Public or private: **Public**

1. Purpose of report

The Local Government Pension Scheme Regulations 2013 requires the Council to publish and keep under review a written policy statement on how it will apply a number of discretionary powers in relation to certain provisions of the LGPS.

2. Key points

The pension regulations require that in preparing this policy statement, the Council must have regard to the extent to which the exercise of any of its discretionary policies could lead to a serious loss of confidence in public service. The exercise of any discretions must therefore be reasonable, affordable and justified in the circumstances and be consistently applied.

3. Implications for the Council

In exercising these discretions, there may be cost implications to the Council. The attached report outlines the circumstances / criteria as to when these discretions may be used.

4. Consultees and their opinions

Directors Group – considered the policy at their meeting 10/6/14
West Yorkshire Pension Fund
LGPC Secretariat – Guidance on application of Discretionary Policies
Human Resources

5. Next steps

Personnel Committee to agree:

- The principles and recommendations set out in the attached report detailing how each discretion will be exercised.
- The decision to approve the use of any of the discretions will rest with the Director of Resources in conjunction with the relevant Service Director. The Pensions and Financial Services Officer will be able to offer guidance on the application of any of the discretions and the associated costs.
- To clarify that appeals against how any of the discretions have been exercised will be direct to the Pensions and Financial Services Officer, and the West Yorkshire Pension Fund.

6. Officer recommendations and reasons

The attached report outlines the recommendations for each discretion and the circumstances as to how they could be utilised.

That the application of the policy be delegated to the Director of Resources in consultation with the appropriate service Director.

7. Cabinet portfolio holder recommendation

8. Contact officer and relevant papers

David Blackburn – Pensions and Financial Services Officer

9. Assistant director responsible

Rosemary Gibson – Head of HR

LGPS Discretions statements – Kirklees Council

Summary

The introduction of the new Local Government Pension Scheme (LGPS) from 1 April 2014 requires the Council to formulate and publish a policy statement on how it will exercise a number of discretionary powers in relation to certain provisions of the scheme.

The report summarises the discretionary provisions contained within the scheme and makes recommendations on how these will be exercised.

Background

The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014. The provisions of the new LGPS, together with protections for members benefits accrued before 1 April 2014, are now contained in the Local Government Pension Scheme Regulations 2013 (the '**LGPS Regulations 2013**') and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (the '**LGPS Transitional Regulations 2014**').

Therefore, this statement now relates to the application of discretions under:

- a) the **LGPS Regulations 2013**;
- b) the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 ('**LGPS Transitional Regulations 2014**'); and
- c) the Local Government Pension Scheme Regulations 1997 ('**LGPS Regulations 1997**') and the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 ('**LGPS Benefits Regulations 2007**'), which continue to have effect in so far as is necessary under *Regulation 3 (Membership before 1 April 2014) of the LGPS Transitional Regulations 2014*.

General principles considered in the formulation of the Discretionary Policy Statement:

- a) The policy must be published by 30 June 2014
- b) The policy statement must not limit, or 'fetter' how the Council uses any of the discretions afforded by the scheme.
- c) The immediate and potential ongoing cost to the Council of using any of the discretions.
- d) In formulating the policy statements outlined below, the Council must have regard to the extent to which the exercise of its discretionary powers could lead to a serious loss of confidence in the public service.
- e) The Council is required to keep its statement under review and make such revisions as are appropriate following a change in its policy. Following any changes in its policy the employer must publish the revised policy and send a copy to the administering authority within one month of the date the policy is revised.

SCHEME EMPLOYER DISCRETIONS

Specific discretions under the LGPS Regulations 2013 and the LGPS Transitional Regulations 2014.

Details of the **discretions** available are as follows:

1. Shared cost Additional Pension Contributions - Regulation 16(2e) and 16(4)(d)

This provision allows an active member who is paying into the pension scheme to enter into an arrangement to pay additional contributions, either by regular contributions or by a lump sum payment. This may be funded in whole or in part by the Council.

Recommendation

The Council does not consider this discretion to be an essential part of its overall employment strategy. However, where it may be appropriate to consider such requests, for example as a recruitment and retention tool, the Council will consider applications made under these specific provisions having regard to the particular circumstances surrounding each case.

It is likely that decisions will be made on the merits of each case having particular regard to factors such as:

- the Council's ability to meet the cost of granting such a request; and/or
- the member's personal circumstances.

2. Awarding Additional Pension – Regulation 31

This provision allows the Council to grant extra annual pension up to the maximum allowed by the scheme rules, provided that the member is active or is within 6 months of leaving for reasons of redundancy or business efficiency **or** whose employment was terminated by mutual consent on grounds of business efficiency.

The Council may wish to use this Regulation as an aid to recruitment, an aid to retention or to compensate or reward an employee who is retiring.

Recommendation

The Council will consider applications made under this discretion having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to the following:

- the member's personal circumstances;
- the interests of the Council;
- the additional contributions that are required to be paid to the Fund by the Council in respect of the exercise of this discretion;
- any potential benefits or savings to the Council arising from the exercise of this discretion;

- other options that are, from time to time, available under the Council's severance arrangements;
- the funding position of the Council within the Fund;
- the ability of the Council to meet the cost of granting such an award.

3. Flexible Retirement – Regulation 30(6)

This provision allows the Council to consent for a member who has attained the age of 55 to draw all or part of their retirement benefits (both pension and lump sum) whilst continuing in employment, and remaining a member of the pension scheme, provided that:

- There has been a reduction in hours, or in grade, equivalent to at least an overall 20% reduction in remuneration.

The Council can choose to waive any reductions that apply under this discretion.

Recommendation

The Council will consider applications made under this discretion having regard to the particular circumstances surrounding each case. It is recommended that there should be a reduction in hours, or in grade, equivalent to at least an overall 20% reduction in remuneration. Decisions will be made on the merits of each case having particular regard to:

- the operating requirements of the employing service area
- the Council's ability to meet the cost of granting such a request
- the member's personal circumstances.
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4. Waiving actuarial reductions - Regulation 30(8)

The Council may waive the actuarial reductions applied to members' benefits:

- a) for active members voluntarily retiring on or after age 55 who immediately draw benefits, and for deferred members and suspended tier 3 ill health pensioners who elect under regulation 30(5) of the LGPS Regulations 2013 to draw benefits (other than on ill health grounds) on or after age 55, whether to:

- waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April 2014

- waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2014

Please note there is no definition in the regulations of 'compassionate grounds',

Recommendation

The Council, will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the Council's ability to meet the cost of granting such a request
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place from time to time can be made
- the member's personal circumstances

Applications for the payment of unreduced benefits for service before 1 April 2014 on the grounds of compassion will be granted if:

- in the Council's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval. It is likely that only cases where the former member is prevented from undertaking any form of paid employment due to the need to provide long term care for a dependant, will be considered, and
- the Council can meet the cost of granting such a request.

5. Switching on the 85 year rule

The Council may decide to apply the 85 year rule protections to members who choose to voluntarily draw their benefits on or after age 55 and before age 60. This will enable the individuals benefits to be paid either unreduced, or with a smaller reduction.

Recommendation

- Waiving of actuarial reductions and the application of the 85 year rule protections will be considered only where there is a clear financial or operational advantage to the Council in doing so.
- the Council's ability to meet the cost of granting such a request

Further discretions under the LGPS Regulations 1997 and the LGPS Benefits Regulations 2007

There are also two other discretions for employers but these relate specifically to members who left before 1 April 2014.

Whilst the LGPS Regulations 2013 repeals the LGPS Regulations 1997 and the LGPS Benefits Regulations 2007 (in so far as they had not already been repealed), Regulation 3(1) of the LGPS Regulations 2013 allows for the LGPS Regulations 1997 and the LGPS Benefits Regulations 2007 to still have effect in so far as they relate to certain member benefits before 1 April 2014. As such, the other discretions still available for certain members only, are as follows:

1. Early Payment of Deferred Pensions for members who left before 1st April 2014 - Regulation 30(2) and 30(5) of the LGPS Benefits Regulations 2007 & Regulation 31(2) and Regulation 31(5) of the LGPS Regulations 1997

This provision gives the Council the discretion, to allow members who left the scheme before 1 April 2014 and who are over the age of 55 to take their benefits early. Under Regulation 30(5) employers can waive any reduction to benefits paid under that Regulation on compassionate grounds.

Recommendation

The Council, will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the Council's ability to meet the cost of granting such a request
- the member's personal circumstances

Applications for the payment of unreduced benefits on the grounds of compassion will be granted if:

- in the Council's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval. It is likely that only cases where the former member is prevented from undertaking any form of paid employment due to the need to provide long term care for a dependant, will be considered, and
- the Council can meet the cost of granting such a request.

2. Early Payment of Deferred Pensions for members who left before 1st April 2014 and have ceased to be entitled to a tier 3 ill benefit - Regulation 30A(3) and 30A(5) of the LGPS Benefits Regulations 2007.

This regulation allows employers to allow members who have ceased to be entitled to a tier 3 ill health benefit and who are over the age of 55 to take their benefits early. Under sub paragraph 5 of Regulation 30A employers can waive any reduction to benefits paid under that Regulation on compassionate grounds.

Recommendation

The Council, will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the employer's ability to meet the cost of granting such a request
- the member's personal circumstances

Applications for the payment of unreduced benefits on the grounds of compassion will be granted if:

- in the Council's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval. It is likely that only cases where the former member is prevented from undertaking any form of paid employment due to the need to provide long term care for a dependant, will be considered, and
- the Council can meet the cost of granting such a request.