

TELFORD & WREKIN COUNCIL

PERSONNEL COMMITTEE – 8th FEBRUARY 2018



LOCAL GOVERNMENT PENSION SCHEME: EMPLOYER'S DISCRETIONARY POLICIES

REPORT OF THE ASSISTANT DIRECTOR: FINANCE & HUMAN RESOURCES

PART A) – SUMMARY REPORT

1. SUMMARY OF MAIN PROPOSALS

The purpose of this report is prepare for the implementation of expected regulations relating to public sector exit payment and to recommend a number of minor amendments to current discretions under various Local Government Pension Scheme Regulations.

The Local Government Pension Scheme requires all Scheme employers to publish policy statements on certain discretions afforded by the various regulations. The Council determined its policy on discretions under the 2013 and 2014 Regulations in June 2014 and this policy is published on the Shropshire Pensions website (<https://shropshirecountypensionfund.co.uk/>)

The proposals are

- 1.1 for authority to be delegated to the Human Resources Manager to implement any necessary amendments to place a cap on exit payments in line with new Regulations expected in 2018 after consultation with the Chair of Personnel Committee. Such amendments to take effect one month following their publication date unless the Regulations define an earlier implementation date.
- 1.2 a minor change to be made to some discretionary policies under the Local Government Pension Scheme Regulations 2013 regarding employer contribution banding, clarification of the definition of a week's pay used in the existing discretionary policies under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 (as amended); and an amendment to the flexible retirement criteria.

These discretions do not apply to councillors. Trade unions have been consulted on the proposed changes to these discretions.

2. RECOMMENDATIONS

- 2.1 That authority be delegated to the Human Resources Manager to make any necessary adjustments to the Council’s Policy on Discretions under the Local Government Pension Scheme to ensure that it complies with new regulations relating to exit payments and publishes these changes in accordance with the Local Government Pension Scheme Regulations. Any adjustments to be made after consultation with the Chair of the Personnel Committee.
- 2.2 That any decisions on proposals to cap exit payments which are more than the £95,000 proposed cap, prior to the introduction of the new regulations, should be made after consultation with the Chair of the Personnel Committee.
- 2.3 To amend the current discretion under the Local Government Pension Scheme Regulations 2013 (Regulation 9), to authorise the Human Resources Manager:
- 2.3.1 to review and re-band pension contributions on an annual rather than a monthly basis with effect from 1st April 2018; and
- 2.3.2 to re-define the elements included in the calculations as follows
- Annual salary and Non-variable pensionable pay elements (e.g. allowances) for the year commencing on 1st April, plus
 - Variable pensionable pay elements paid during the previous year ending on 31st March (e.g. honoraria payments, non-contractual overtime and additional hours paid to part-timers)
- 2.4 To amend the current discretion under the Local Government Pension Scheme Regulations 2013 (Regulation 30 (6)) to allow the Human Resources Manager to authorise the release of pension benefits on flexible retirement in exceptional cases where it will enable the retention of specialist or critical skills or support a period of succession planning/training in which case savings may not be realised to fund the release.
- 2.5 To amend the current policy under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 for people who are, or are eligible to be, members of the Local Government Pension Scheme to clarify and confirm the definition of a ‘week’s’ pay for these purposes in that it does not include any sum in respect of employer pension contributions. It is recommended that this be formally approved and take effect for all decisions made on or after 8th March 2018.

3. **SUMMARY IMPACT ASSESSMENT**

COMMUNITY IMPACT	Do these proposals contribute to specific Co-Operative Council priority objective(s)?	
	Yes	These proposals support all objectives through the

		provision of a fair set of employment policies which value the Council's workforce, enabling it to provide services which put Co-operative values at the heart of the Organisation
	Will the proposals impact on specific groups of people?	
	No	<i>Not applicable</i>
TARGET COMPLETION/DELIVERY DATE	<i>Not applicable</i>	
FINANCIAL/VALUE FOR MONEY IMPACT	Yes	Recommendations are based on policies that are seen to be workable, affordable and reasonable having regard to the foreseeable costs. Any financial implications associated with flexible retirement cases will be reviewed on an individual case basis.
LEGAL ISSUES	These are addressed in the Appendices	Recommendations are based on the exercise of discretionary powers which are limited to the extent that they should not lead to a serious loss of confidence in the public service.
OTHER IMPACTS, RISKS & OPPORTUNITIES	No	Not applicable.
IMPACT ON SPECIFIC WARDS	No	Not applicable.

PART B) – ADDITIONAL INFORMATION

4. INFORMATION

Local Government Pension Scheme 2014

- 4.1 In total there are 107 discretions under the current and previous Local Government Pension Schemes, although not all have to have a formal published policy. In June 2014 this Committee approved the discretions which needed to have a written policy under the 2013 and 2014 Pension Regulations. Amendments to the following policies are proposed:

4.1.1 Policy on contribution banding:

A new HR/Payroll System is in the process of implementation but the policy needs to be amended as the options available in the System for calculations of employee contributions do not fit exactly with the current policy. The option that closest resembles the existing policy has been selected and it is also proposed that the frequency of rebanding is reduced from monthly to annually. This will reduce the administrative burden, although contractual changes that lead to a significant change in pensionable pay will continue to prompt a review of the banding at the time of the change, e.g. a change in hours or appointment to a higher or lower grade.

A further amendment to the definition of pay elements which are included in the calculations is also required for clarification purposes. The detail is defined in 2.3 above

An assessment has been made of the potential impact on employee contributions and this has demonstrated, based on current knowledge, that there is unlikely to be an adverse impact on the Council's future contribution rate.

4.1.2 Flexible retirement - Regulation 30 (6)

The current policy requires savings to be recovered within a three year period. This does not give the flexibility that is sometimes necessary to accommodate the needs of individuals in specialist posts or who have critical skills that need to be retained within the organisation. It is therefore proposed that authority be delegated to the Human Resources Manager in exceptional cases to approve release of pension benefits under Regulation 30 where savings cannot be made in order to support a period of succession planning/training.

- 4.2 There is no proposal to change any of the other existing Discretions Policies under the 2103/14 LGPS Regulations. Policy decisions made under previous schemes remain in place since those will apply to previous membership and benefits accrued in varying circumstances

Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006

- 4.3 Clarification relating to the calculation of a week's pay for payments made under these Regulations is necessary following a recent Employment Appeals Tribunal case involving the University of Sunderland. The case referred to the interpretation of a week's pay under Section 221 of the Employment Rights Act 1996 and has amended the assessment of a week's pay for calculating compensation in cases of dismissal to include the employer pension contribution where one is made.
- 4.4 The Regulations give local authorities the power to go beyond the statutory maximum week's pay and to base redundancy payments on a figure up to an

actual week's pay. The Council's existing policy is use an actual week's pay rather than a statutory week's pay and it further enhances redundancy payments by 1.5 times the statutory week's entitlement. This policy has proved successful in managing the necessary reductions in staffing levels through volunteers for redundancy in order to achieve savings targets. Since restructuring processes started in 2010 over 930 redundancies have been made, with only 13.6% being due to compulsory redundancy. It is not therefore proposed that any changes be made to this policy other than to clarify what is taken into account in the calculation of payments. The level of enhancements is considered to exceed the amount that would be paid in employer pension contributions and therefore the calculation of a week's pay excludes employer pension contributions. The wording of the policy would be amended accordingly.

Government proposals on Exit Payments

4.5 In July 2016 the Government consulted on proposals relating to exit payments as part of a common framework of upper limits which should be applied to the main elements of compensation provision across the main public sector schemes. It believed that applying the upper limits across these schemes will bring greater consistency between them and would bring public sector more in line with exit terms more commonly available in the wider economy. The Department for Communities and Local Government is tasked with the responsibility for reforms which are consistent with the framework in respect of the changes necessary for the local government workforce. Further consultation on the draft Regulations is expected early in 2018 with implementation of new Regulations expected to take place at the earliest in April 2018. There are two elements to the proposals which are set out in general terms below:

4.5.1 The restriction of exit payments made within a 28 day period to a maximum of £95,000, including pension strain costs. This will catch a wide range of payments including redundancy, payment in lieu of notice, severance or ex gratia payments and compensation whether under a contract of employment or otherwise. Previously published draft regulations included a power for full council to waive the cap in relation to payments made to an individual employee subject to Treasury directions. It is not clear at this stage who might be able to waive the cap for other employers such as schools who are subject to the Council's policies under the Local Government Pension Regulations.

4.5.2 Recovery of exit payments previously made by a public sector employer where the individual returns to the public sector within a period of 12 months earning over £80,000 per annum. A return includes as a self-employed contractor or as an employee of another authority and recovery would be on a tapering basis after the sum equivalent to statutory redundancy is taken into account. This will include the recovery of the cost of pension strain costs and a return will not be permitted until repayment or an agreement is in place.

- 4.6 It is recommended that, should any amendments be necessary, the Head of Human Resources has delegated authority to make any necessary adjustments to the Council's Policy on Discretions under the Local Government Pension Scheme to ensure that it complies with the new Regulations and publishes these changes in accordance with the Local Government Pension Scheme Regulations. Such amendments to take effect one month following their publication date. Prior to the introduction of the new regulations, any decisions on proposals for exit payments which are more than the proposed £95,000 cap will be made after consultation with the Chair of the Personnel Committee.

5. PREVIOUS MINUTES

Cabinet – 10 March, 2008 (CB -137), Personnel Committee – 26 June 2014 (PEB-4)

6. BACKGROUND PAPERS

None

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