

26 June 2014		ITEM: 5
General Services Committee		
Local Government Pension Scheme Discretionary Decision Policy Statement		
Wards and communities affected: None	Key Decision: Not applicable	
Report of: Lindsey Francklin, Business Development Manager		
Accountable Head of Service: Jackie Hinchliffe, Head of HR, OD and Transformation		
Accountable Director: Graham Farrant, Chief Executive		
This report is public		

Executive Summary

The Local Government Pension Scheme (LGPS) 2014 came into effect on the 1 April 2014. Under the conditions of the scheme Thurrock Council is required to publish certain discretions, as the employer, on a range of discretions contained within the Local Government pension Scheme regulations 2013 and the Local Government Pension Scheme (Transitional provisions, Savings and Amendment) Regulations 2014

In addition to the new regulations there are other discretionary decisions relating to previous regulations that, as the scheme employer, we have already made together with any changes due to the new scheme regulations.

Due to the complexity of the scheme and lateness of the transitional regulations being published together with the guidance the Council, as the scheme employer, must publish these discretions no later than the 1 July 2014,

1. Recommendation(s)

- 1.1 That the new discretions under the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 be approved.**
- 1.2 That the LGPS discretionary changes under the previous regulations be approved.**

2. Introduction and Background

- 2.1 The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014 so that benefits accruing for service after 31 March 2014 will accrue on a Career Average Revalued Earnings (CARE) basis, rather than on a final salary basis.
- 2.2 The provisions of the CARE scheme, together with the protections for members' accrued pre 1 April 2014 final salary rights, are contained in the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014.
- 2.3 As a result of the changes, Scheme employers participating in the LGPS in England or Wales will have to formulate, publish and keep under review a Statement of Policy on certain discretions which they have the power to exercise in relation to members of the CARE Scheme.
- 2.4 Scheme employers are also required to (or where there is no requirement, are recommended to) formulate, publish and keep under review a Statement of Policy on certain other discretions they may exercise in relation to members of the LGPS.
- 2.5 Overall, Scheme employers participating in the LGPS in England or Wales:
 - are required to formulate, publish and keep under review a Statement of Policy on certain discretions in accordance with:
 - regulation 60 of the LGPS Regulations 2013,
 - paragraph 2(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014
 - regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008 (in respect of leavers between 1 April 2008 and 31 March 2014), and
 - regulation 106 of the Local Government Pension Scheme Regulations 1997 (in respect of leavers between 1 April 1998 and 31 March 2008);
 - are recommended to formulate, publish and keep under review a Statement of Policy on one discretion under the Local Government Pension Scheme Regulations 1995 (in respect of leavers before 1 April 1998);
 - are (other than admission bodies¹) required to formulate, publish and keep under review a Statement of Policy on certain discretions in accordance with regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, operative from 1 October 2006;
 - are (other than admission bodies²) required to formulate, publish and keep under review a Statement of Policy on certain discretions in accordance

with regulation 26 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000, operative from 1 October 2000; and are (other than admission bodies) required to formulate, publish and keep under review a Statement of Policy on certain discretions relating to injury allowances under the Local Government (Discretionary Payments) (Injury Allowances) Regulations

3. Issues, Options and Analysis of Options

- 3.1 The new and changed discretions are detailed below relate to the current LGPS 2014 regulations and guidance. They also reflect changes to discretions approved by the Council for the previous discretionary pension policy statement.
- 3.2 The Discretionary Policy Statements must be clear, unambiguous, having regard to overriding equality legislation and should be read in conjunction with the Councils Termination of Employment Policy and Business Case guidance.
- 3.3 Financial implications are considered and approved as part of the Councils policy on termination of employment and business case process.
- 3.4 The report asks for consideration of the employer discretions available within the new scheme and costs would need to be borne by the respective spending directorate.
- 3.5 **Appendix 1** is the full Discretionary Policy statement

The Local Government Pension Scheme Regulations 2013

Discretion	Current decision	April 2014 decision
Whether, how much, and in what circumstances to contribute to a shared cost additional pension contribution (APC) scheme	n/a	The Council will not contribute to a shared cost APC scheme
Whether to waive, in whole or in part actuarial reduction on benefits on flexible retirement	On completion of a Directorate business case the Council can waive whole or part, actuarial reduction on benefits paid on flexible retirement	On completion of a Directorate business case the Council can waive whole or part, actuarial reduction on benefits paid on flexible retirement, where the business case can show that the service can offset any costs elsewhere, or, as an alternative to redundancy

Discretion	Current decision	April 2014 decision
<p>Whether to waive, in whole or in part actuarial reduction on benefits which a member voluntarily draws before normal pension age (NPA)</p>	<p>None</p>	<p>The Council will not waive in whole or in part actuarial reduction where a member voluntarily draws benefits before NPA</p>
<p>Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency(up to £6,500 pa)</p>	<p>Employers option to increase benefits Additional Pension On completion of a Directorate business case a maximum of £5,000 additional pension in the Local Government Pension scheme where the reason is</p> <ol style="list-style-type: none"> 1) Recruitment from the private sector 2) Early retirement due to redundancy 3) Early retirement on the grounds of efficiency retirement 4) Under a retention strategy 5) Under an exit strategy <p>To be awarded instead of but not in addition to the Award of Service *The full capital cost must be paid within 30 days of making the resolution to the pension fund</p>	<p>The Council will not grant additional pension to active members or within 6 months of ending employment by reason of redundancy or business efficiency</p>
<p>In determining assumed pensionable pay (APP), whether a lump sum payment made in the previous 12 months is a “regular lump sum”</p>	<p>None</p>	<p>Any Lump Sum payment made in the previous 12 months may be included in determining APP, if the lump sum would have been regarded as a regular payment</p>

Discretion	Current decision	April 2014 decision
Determine whether person in receipt of Tier 3 Ill Health pension has started gainful employment	None	The Council will review the Tier 3 pension at 18 months and 3 years to determine whether the person has started gainful employment
Whether to recover any overpaid Tier 3 pension following commencement of gainful employment	None	The Council will make every effort to recover overpaid Tier 3 pensions
Decide whether suspended Ill Health Tier 3 member is unlikely to be capable of gainful employment before NRA because of Ill Health	None	On application to Occupational Health and referral to a Independent registered medical practitioner (IRMP), subject to that decision, whether the member is unlikely to be capable of gainful employment
Extend normal time for acceptance of a transfer cost where more than one employing authority is involved	None	Allow extension of transfer cost by an additional 12 months

The Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014

Discretion	Current decision	April 2014 decision
<p>Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)</p>	<p>Flexible Retirement can be part of an organisational restructuring programme, as an alternative to redundancy or as part of phased retirement</p> <p>Stepping Down:</p> <p>Where a member's pay in a continuous period of employment is reduced due to the member taking lower paid employment or with less responsibility, the employee may choose to have final pay as the average of 3 consecutive years within a 10 year-period.</p> <p>On completion of a Directorate business case the Council can release all or some of the member's accrued pension benefits at the time of stepping down into lower paid employment.</p> <p>The Council to recognise all service as continuous where a member has been subject of a transfer under the Transfer of Undertakings (protection of employment) Regulations</p>	<p>On completion of a Directorate business case the Council can waive whole or part, actuarial reduction on benefits paid on flexible retirement, where the business case can show that the service can offset any costs elsewhere or as an alternative to redundancy</p>

Discretion	Current decision	April 2014 decision
Whether to switch on the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60	None	The 85 year rule will not be switched on where benefits are taken on or after age 55 and before age 60
Whether to waive on compassionate grounds the actuarial reduction applied to benefits from pre April 2014 membership where the employer has switched on the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60	None	The 85 year rule will not be switched on where benefits are taken on or after age 55 and before age 60 and will not be waived on compassionate grounds
Whether to waive, any actuarial reduction on pre and/or post April 2014 benefits	None	<p>The Council will not waive actuarial reductions on pre or post April 2014 benefits</p> <p>Approval will not be given to waiver in whole or part of any actuarial reduction which applies to any deferred benefits</p>
Allow late application to convert scheme AVC's into membership credit i.e. allow applications more than 30 days after cessation of active membership (where AVC arrangements was entered into before 13 November 2001)	None	Late application will not be allowed

**THE LOCAL GOVERNMENT (EARLY TERMINATION OF EMPLOYMENT)
(DISCRETIONARY COMPENSATION) (ENGLAND AND WALES) REGULATIONS 2006**

Discretion	Current decision	April 2014 decision
Redundancy payments to be based on actual weeks pay where this exceeds the statutory weeks pay	Actual Weeks pay will be used in the calculation of Redundancy and compensation payments	Actual weeks contractual pay (not pensionable pay)

4. Reasons for Recommendation

4.1 The Council as the Local Government Pension Scheme Employer must publish certain discretions within the Local Government Pension scheme regulations.

5. Consultation (including Overview and Scrutiny, if applicable)

5.1 This report recommendations have been agreed by the People Board and fully consulted on with the Trade Unions who are part of the Councils collective bargaining agreement.

6. Impact on corporate policies, priorities, performance and community impact

6.1 The Councils decisions on the Local Government Pension Scheme employer discretions support the Change Policy and Organisational Development Strategy.

7. Implications

7.1 Financial

Implications verified by: **Sean Clark**
Head of Corporate Finance

The Council only budgets for the annual pension deficit payment and the ongoing superannuation contributions for current employees. These determinations set out the rules under which additional payments may be made. These are not budgeted and so the cost of which will be reflected within the business case and considered as part of that business case.

7.2 Legal

Implications verified by: **Chris Pickering**
Principal solicitor

This report sets out the statutory obligations on the Council to publish the listed discretions. The report sets out the options available but the publication of the listed discretions is mandatory

7.3 Diversity and Equality

Implications verified by: **Natalie Warren**
Community Development Manager

Each business decision will be made free from discrimination on the grounds of any protected characteristic - age, disability, gender reassignment, marriage or civil partnership, pregnancy & maternity, race, religion and belief, sex, sexual orientation or any other personal criteria.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- the Local Government Pension Scheme Regulations 2013
- the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014
- LGE Guidance on Employer Discretions
- <http://www.lgpsregs.org/>

9. Appendices to the report

- **Appendix 1** – Full Discretionary Policy Statement

Report Author:

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