

**REPORT FOR: PENSION FUND
COMMITTEE**

Date of Meeting:	29 July 2014
Subject:	Statement of Policy on Employer Discretions under the Local Government Pension Scheme Regulations
Responsible Officer:	Tom Whiting – Corporate Director of Resources
Exempt:	No
Wards affected:	NA
Enclosures:	None

Section 1 – Summary and Recommendations

The introduction of the new Local Government Pension Scheme (LGPS) from 1 April 2014 requires the Council to publish a pensions policy statement on discretions contained within the LGPS regulations.

This report summarises the pension policies that need to be reviewed and makes recommendations for the adoption of new pension policy statements.

Recommendations:

The Committee is requested to consider the information detailed in the report and agree the following recommendations:

1. To only award an additional pension in exceptional circumstances (see 2.8 to 2.11 below).
2. To only contribute to a Shared Cost AVC arrangement in exceptional circumstances (see 2.12 to 2.14 below)
3. To amend the Council's current Flexible Retirement Policy as referenced in 2.18 and 2.19 below.
4. To apply the policy on the 85 year rule and the waiving of any actuarial reduction as shown in 2.27 below.

Section 2 – Report

2.1 Background

- 2.2 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.
- 2.3 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.
- 2.4 As a result of the changes, Scheme employers participating in the LGPS in England and Wales have to formulate, publish and keep under review a Statement of Policy on five particular discretions which they have the power to exercise in relation to members of the CARE Scheme.
- 2.5 In formulating a policy statement the LGPS regulations stipulate that the employer *“must have regard to the extent to which the exercise of the function in accordance with its policy could lead to a serious loss of confidence in the public service”*.
- 2.6 The implication of the Regulations is that the statement should be finalised by 1 July 2014 although this has not been possible due to the Pension Fund Committee's change of meeting date (originally scheduled for 26 June 2014). However, following legal advice it was considered disproportionate to hold a special meeting for this item alone.
- 2.7 The discretions requiring a policy statement are shown below.
- i. Whether to grant additional annual pension of up to £6,500 to an active scheme member or within 6 months of ceasing to be an active scheme member by reason of redundancy or efficiency.
 - ii. Whether, how much, and in what circumstances to contribute to a shared cost Additional Pension Contribution scheme (APC).
 - iii. Whether to permit flexible retirement for staff aged 55 or over and whether to waive in whole or in part any actuarial reduction which would otherwise be applied to the flexible retirement benefits if taken before normal pension age.
 - iv. Whether to apply the '85 year rule' for a scheme member wishing to voluntarily draw benefits on or after age 55 and before age 60.
 - v. Whether to waive, in whole or in part, any actuarial reduction on benefits which a member voluntarily draws before normal pension age.

2.7 Current Situation

2.8 Granting additional annual pension

2.9 The regulations introduce from 1 April 2014 the ability for an employer to grant additional annual pension of up to £6,500. This facility was also available in the previous regulations (LGPS (Administration) Regulations 2008) although the maximum was lower at £5,000.

2.10 An employer could choose to use this facility for various reasons. For example, as an aid to recruitment and retention or as compensation or reward upon retirement. However, the employer costs in terms of reimbursement to the pension fund could make it prohibitive. By way of example, the employer cost to award a 55 year old male an additional annual pension of £6,500 would be £83,265.

2.11 Under the previous regulations Harrow Council chose not to award an additional pension in any circumstances however, this could be interpreted as not exercising the discretionary power at all. It is therefore recommended that an additional annual pension should only be awarded in exceptional circumstances.

2.12 Shared Cost Additional Pension Contribution Scheme

2.13 The regulations also allow active scheme members to purchase additional annual pension of up to £6,500 and where this is the case, the employer could voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC). For example, a 55 year old female wishing to make contributions over a 10 year period in order to purchase an additional £6,500 will be required to pay £913.25 per month. The employer could decide to pay a certain percentage of the above monthly contribution.

2.14 This is a new facility within the LGPS regulations so there is no existing statement of policy in place. However, due to the reasons laid out in 2.11 above, it is recommended that the Council should only contribute towards a SCAPC arrangement in exceptional circumstances.

2.15 Flexible Retirement

2.16 The new regulations retain the use of flexible retirement which permits the immediate payment of pension benefits, at the employers' discretion, where a scheme member reduces his/her hours or moves to a lower grade even though the scheme member has not retired from employment and continues to build up benefits in the Scheme.

2.17 Employers may also continue to waive, in whole or in part, any actuarial reduction that may apply to a scheme member's flexible retirement benefits. (An actuarial reduction is applied if a scheme member draws their benefits earlier than their normal pension age).

2.18 Harrow's current policy on Flexible Retirement is detailed below:

- a) All requests for flexible retirement will be considered;
- b) Approval will only be granted if it is in Harrow Council's best interest to do so and where the service area can demonstrate operational efficiencies;
- c) There will have to be a sufficient reduction in the scheme member's grade or hours to ensure that the pension fund is reimbursed for any shortfalls.
- d) The waiving of any early retirement actuarial reduction (either in part or in full) will only be considered in exceptional circumstances.
- e) Flexible Retirements must be approved by a Director and agreed by;
 - I. The Officer Sub Group and Members of the Pension Fund Committee where there is a strain on the pension fund; or
 - II. The Divisional Director of HRD & Shared Services where there is no strain on the pension fund.

2.19 The above statement of policy could continue to be applied however, as any pension fund strain must be reimbursed through the salary saving and thus having no impact on the fund, it is recommended that the policy is amended to allow the Officer Sub Group in consultation with the Portfolio Holder for Finance & Major Contracts to approve flexible retirement requests where there is a strain on the pension fund.

2.20 Application of the 85 year rule and the waiving of any actuarial reduction on early retirements

2.21 Under the previous regulations a scheme member aged 55 or above could receive, subject to the employer's consent, the immediate payment of their pension benefits upon leaving (or having previously left with a deferred pension entitlement). If the member met the 85 year rule (i.e. age plus scheme membership totalled 85), there would be no (or a lower) actuarial reduction applied to their pension benefits.

2.22 From 1 April 2014 it became possible for a scheme member to retire early and receive immediate pension benefits from age 55 onwards without the employer's consent. However, the pension would be actuarially reduced depending on how long before normal pension age the scheme member is retiring irrespective of whether they meet the 85 year rule or not.

2.23 In view of the above, a new employer discretion has been introduced which allows the employer to 'switch on' the 85 year rule in order for the scheme member to receive unreduced or partially reduced benefits. If the 85 year rule was switched back on, the employer would be responsible for meeting any strain on the pension fund. This position is

no different to that which applied under the previous regulations where an employer consented to payment of early retirement benefits.

- 2.24 As in the previous regulations, the employer discretion to waive, in part or in full, any actuarial reduction applied to a scheme member's pension benefits still exists. Prior to April 2014 the actuarial reduction could only be waived on compassionate grounds and this remains the case relating benefits accrued up to March 2014 (or longer for certain scheme members). (NB: there is no definition in the regulations of 'compassionate grounds'). However, in respect of benefits accrued post April 2014 the actuarial reduction can be waived on any grounds. Again, if the actuarial reduction is waived to any degree the employer would be responsible for meeting any strain on the pension fund.
- 2.25 Prior to April 2014 early retirement requests required final approval from the Pension Fund Committee as the pension costs were indirectly charged to the Council through employer contribution rates which are assessed triennially. This approach had the potential to create a negative impact on the health of the pension fund overall.
- 2.26 From April 2014 this position has since changed in that any pension strain costs is now directly charged to the Council (service area) and will therefore not impact the pension fund. This means that the financial impact on early retirements fall outside of the pension fund.
- 2.27 In light of the above, the recommendation for the statement of policy in relation to the application of the 85 year rule and the waiving of actuarial reductions is shown below:
- a) All requests for the application of the 85 year rule or the waiving of any actuarial reduction, in part or in full, will be considered;
 - b) Approval will only be granted if it is in Harrow Council's best interest to do so and where the service area can demonstrate operational efficiencies;
 - c) Any strain on the pension fund must be met by the service area.
 - d) The waiving of any early retirement actuarial reduction (either in part or in full) on compassionate grounds and/or on any grounds will only be considered in exceptional circumstances.
 - e) Subject to (f) below, requests must be approved by a Director and agreed by the Officer Sub Group in consultation with the Portfolio Holder for Finance & Major Contracts.
 - f) In line with DCLG guidance, where a scheme member's lump sum retirement grant amounts to £100,000 or more, requests must also be approved by full Council or the relevant delegated committee of Council.

2.28 Financial Implications

2.29 Contained within the body of the report.

2.30 Risk Management Implications

2.31 The recommendations ensure that there is no risk to the pension fund and mitigates budgetary risks to revenue.

2.32 Risk included on Directorate risk register? No

2.33 Separate risk register in place? No

2.34 Equalities Implications

2.35 None

2.36 Council Priorities

2.37 NA

Section 3 - Statutory Officer Clearance

Name: Simon George	<input type="checkbox"/>	Chief Financial Officer
Date: 29 May 2014		
Name: Caroline Eccles	<input type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 4 June 2014		

* Delete the words "on behalf of the" if the report is cleared directly by Simon George or Hugh Peart.

Ward Councillors notified:	NO
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Section 4 - Contact Details and Background Papers

Contact: Linda D'Souza, Service Manager – Shared Services, 020 8424 1426. Linda.D'Souza@harrow.gov.uk

Background Papers:

If appropriate, does the report include the following considerations?

1.	Consultation	YES
2.	Priorities	NO