

Meeting:	Licensing & General Purposes Committee
Date:	23 June 2008
Subject:	Local Government Pension Scheme
Responsible Officer:	Corporate Director Corporate Finance - Myfanwy Barrett
Portfolio Holder:	Leader encompassing Strategy, Partnership and Finance - Councillor David Ashton-
Exempt:	No
Enclosures:	Appendix 1 – Ill Health Process Appendix 2 – Review Process

## Section 1 – Summary and Recommendations

This reports sets out the changes to the Local Government Pension Scheme regulations and the proposed process [See **Appendices 1 & 2**] to be followed in managing **Tier 3** of the new ill health provisions.

### 1.1 Recommendations:

The Committee is requested to agree the process for managing Tier 3 Ill health payments.

### 1.2 Decision Required:

Committee confirms that:-

1.2.1 The Harrow Council pension's office acts as the lead body for the purpose of administering the Tier 3 ill health payments as made under Regulation 20 of The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 and amended under Regulation 13 of The Local Government Pension Scheme (Amendment) Regulations 2008.

1.2.2 In circumstances where it is evidenced that the individual meets the test for gainful employment, but has failed to notify the authority of the same in a timely manner, the authority recovers any overpayment of Tier 3 ill health payments.

### **1.3 Reason: (For recommendation)**

Tier 3 Ill health is a new provision under the Local Government Pension Scheme Regulations which includes a review process and future decision/action to be taken. Government Actuary Department guidance is yet to be issued and therefore Harrow Council needs to put in place a robust process to manage Tier 3 ill health payments. Should GAD guidance materially differ from the Harrow Council process a further report will be made to the Committee.

## **Section 2 – Report**

### **Background**

**2.1** Regulation 20 of The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007, made 3 April 2007 effective from 1 April 2008, contained a two tier ill health retirement benefit package under which, if a member's employment is terminated because of permanent ill health and the member has at least 3 months scheme membership, the pension payable is to be based on the person's accrued membership plus;-

**Tier 1** – 100% of prospective membership between leaving and age 65 where the member has no reasonable prospect of being capable of obtaining gainful employment.

**Tier 2** – 25% of prospective membership between leaving and age 65 where the member is unlikely to be capable of obtaining gainful employment within a reasonable period of time, but is likely to be capable of obtaining gainful employment before age 65.

**2.2 Gainful employment** is defined as “paid employment for not less than 30 hours per week for a, period of not less than 12 months”.

### **3. Current Situation**

**3.1** Regulation 13 of The Local Government Pension Scheme (Amendment) Regulations 2008, made 14 April 2008, coming into force 7 May 2008 (retrospective to 1 April 2008) provided for a **Tier 3** ill health payment. This new tier provides local authority employers with powers to award benefits for those scheme members who are permanently incapable of their local government employment, but are judged by an Independent Occupational Health Practitioner (IOHP) to be capable of gainful employment within a reasonable period of time after leaving their current employment. [**Note:** Reasonable Period means a period of 3 years].

**3.2** A scheme member who leaves local government under Tier 3 will be entitled to receive their accrued pension benefits (i.e. pension benefits calculated using individual's actual scheme membership without enhancement) for such time as the individual does not obtain gainful employment, or until the employer ceases payment following a review.

**3.3** The scheme member is required under the regulations to notify the previous employer when employment is found providing details to include pay, working hours and length of contract. Should the 'gainful employment' test be

proven then the pension will cease from date gainful employment commenced. Should the scheme member be late in notifying the employer, the employer has the powers under the regulations to recover any overpayment.

#### **4. Proposed Review Mechanism**

4.1 Harrow Council is required to undertake a review when payments have been made for 18 months, if payments are still being made at that point. Harrow Council's pension's office will write to the Scheme member and enquire if their circumstances have changed, seeking relevant details (i.e. working hours, pay and length of contract). On receipt of the information If Harrow Council's pensions office decides, that gainful employment has been obtained, then the Tier 3 Ill health payments will be stopped. Where it is evidenced that the scheme member has not notified the Harrow Council pension's office in a timely manner, then Harrow Council will look to recover the overpayment.

4.2 If, as a result of Harrow Council's review enquiry, it is evidenced that the Scheme Member had not found gainful employment, then Harrow Council pensions office will seek a further opinion from an IOHP concerning the condition which resulted in the Tier 3 pension payments.

4.3 The IOHP will be asked to provide opinion and sign a certificate confirming, one of the following:-

- I. That the scheme member should have secured gainful employment by this time and specify date.
- II. That the scheme member is likely to secure gainful employment before the end of the 3-year period and specify date.
- III. That the scheme member is likely to secure gainful employment before the end of the 3-year period, but IOHP cannot provide a future date at this time.
- IV. That the scheme member is unlikely to secure gainful employment within 3 year period, but is likely to secure gainful employment before age 65 years.

4.4 Where IOHP certifies under 4.3 ii above, the Tier 3 ill health payment will cease from the advised date.

4.5 Where IOHP certifies under 4.3 iii above, the Tier 3 ill health payment will cease either from the date that the scheme member provides evidence of gainful employment or the end of the 3 year period, whichever comes first

4.6 Where IOHP certifies under 4.3 iv above a Tier 2 pension will be awarded from the advised date.

#### **5. Protection**

5.1 The new regulations provide protection to ensure that a scheme member as at 31 March 2008 who retires on ill health grounds before 1 October 2008 cannot receive benefits under the new scheme regulations that are less beneficial than the benefits that would have been received under the 1997 Pension regulations.

5.2 The protection outlined in 5.1 above continues post 30 September 2008 where the scheme member was aged 45 years or over as at 31 March 2008.

## 6. Disputes Resolution

The scheme member can exercise their right to appeal under the Internal Dispute Resolution Procedure should they disagree with a determination being made under the pension regulations.

## 7. Information Item

Copy of this report has been passed to Unison and GMB for information.

## 8. Financial Implications

The triennial actuarial valuation of the Harrow pension fund provides an allowance for future ill health retirements based on previous fund experience. Experience over the last two valuations (i.e. 2001 through to 2007) shows that actual ill health retirements are significantly below actuarial expectation.

## 9. Legal implications

The recommendations conform with The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 and The Local Government Pension Scheme (Amendment) Regulations 2008.

## 10. Performance Issues

The Council provides quarterly monitoring report on BVPI 15. There is no evidence at this time to indicate how the new three-tier arrangement will impact on this indicator at Harrow. GAD have previously indicated that the new ill health arrangements will add a further 0.1%, long-term, to the employer's pension contribution.

## 11. Risk Management Implications

Risk included on Directorate risk register? No  
Separate risk register in place? No

The recommendations ensure that the regulations are applied in a correct, timely manner which will mitigate potential risks.

## Section 3 - Statutory Officer Clearance

Name: Jennifer Hydari	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 8 June 2008		
Name: Helen White	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 10 June 2008		

## **Section 4 - Contact Details and Background Papers**

**Contact:** Greg Foley, Head of Shared Services, 0208 424 7673

### **Background Papers:**

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations

2007 <http://timeline.lge.gov.uk/2007BMandC/SI20071488/2007bIDX.htm>

The Local Government Pension Scheme (Amendment) Regulations

2008 [http://www.opsi.gov.uk/si/si2008/uksi\\_20081083\\_en\\_1](http://www.opsi.gov.uk/si/si2008/uksi_20081083_en_1)