

<b>Report to:</b>	<b>EXECUTIVE CABINET</b>
<b>Date:</b>	28 November 2018
<b>Executive Member / Reporting Officer:</b>	Councillor Bill Fairfoull – Deputy Executive Leader Tracy Brennand - Assistant Director People and Workforce Development
<b>Subject:</b>	<b>LOCAL GOVERNMENT PENSION SCHEME EMPLOYER DISCRETIONS</b>
<b>Report Summary:</b>	<p>The report outlines the required employer discretions under the Local Government Pension Regulations. It states each policy decision, and where appropriate identifies under what circumstances any exceptions would be considered and by who.</p> <p>All employer discretions have been determined to ensure financial sustainability whilst supporting individuals accessing their pension benefits</p>
<b>Recommendations:</b>	<ol style="list-style-type: none"> <li>1 That the Pension Scheme Policy Statement as outlined in <b>Appendix 1</b>, which sets out the required employer discretions under the Local Government Pension Regulations, be approved.</li> <li>2 That the Pension Scheme Policy Statement as outlined in <b>Appendix 2</b>, which sets out the non-mandatory employer discretions under the Local Government Pension Regulations, be approved.</li> <li>3 That Cabinet agree to review the policy statement in line with a proforma, to be produced by the Fund for the next Valuation and thereafter on a three yearly basis in accordance with the pension schemes valuation cycle, to ensure financial and operational viability.</li> </ol>
<b>Policy Implications:</b>	In line with Policy and legal framework.
<b>Financial Implications: (Authorised by the Section 151 Officer)</b>	<p>Employer discretions provide flexibility within the pension regulations for employers to determine how individuals can access their benefits. This flexibility can facilitate organisational needs however the exercising of these discretions, affording extra benefits to scheme members, will incur additional costs to the Council.</p> <p>All employer discretions have been determined to ensure financial sustainability whilst supporting individuals accessing their pension benefits.</p>
<b>Legal Implications: (Authorised by the Borough Solicitor)</b>	<p>Local Government Pension Scheme (LGPS) is a statutory pension scheme and its rules are laid down under Acts of Parliament. The 1997 Regulations provided less central control of pension arrangements, increased the scope of local decision-making and offered improved flexibility in pension provision. This gave employers more scope to manage pension scheme benefits. These are known as discretions. The subsequent LGPS regulations, including the latest LGPS 2014 rules require employers to formulate, publish and keep under review a policy</p>

statement in relation to the exercise of a number of discretions under the LGPS. This policy statements shows the basis on which the employer makes its decisions on the various discretions.

**Risk Management:**

Compliance with the regulations will ensure the Council is acting in accordance with the pension regulations and reduce the risk of challenge from active and deferred scheme members, ensuring consistent and fair systems for the release of pension benefits

**Access to Information:**

The background papers relating to this report can be inspected by contacting Alison Williams, Head of Organisation and Workforce Development



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## 1. INTRODUCTION

- 1.1 Local Government Pension Scheme (LGPS) is a statutory pension scheme and its rules are laid down under Acts of Parliament. The 1997 Regulations provided less central control of pension arrangements, increased the scope of local decision-making and offered improved flexibility in pension provision. This gave employers more scope to manage pension scheme benefits. These are known as discretions.
- 1.2 Subsequent LGPS regulations, including the latest LGPS 2014 rules, require employers to formulate, publish and keep under review a policy statement in relation to the exercise of a number of discretions under the LGPS. The policy statement should show the basis on which the employer would make its decisions on the various discretions.

## 2. EXERCISE OF DISCRETIONARY POWERS

- 2.1 It is important that any discretionary power is exercised correctly. In formulating and reviewing its policy, an employer is required by the Regulations to:-

- have regard to the extent to which the exercise of its discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service (Regulation 60(5) of the LGPS Regulations 2013)
- to be aware of discrimination, i.e. age related, and to be aware of the local demographics as an employer, and
- be satisfied that the policy is workable, affordable and reasonable having regard to foreseeable costs. It is recommended that policies are reviewed every 3 years, i.e. in line with the triennial valuation.

- 2.2 Discretionary powers must also:-

- not be used for an ulterior motive and be exercised reasonably
- be used taking account of all relevant factors
- only be used when there is a real and substantial future benefit to the employer in return for incurring the extra costs, and
- be duly recorded when used.

## 3. LOCAL GOVERNMENT PENSION SCHEME DISCRETIONARY AREAS – POLICY STATEMENT

- 3.1 A copy of the Pension Scheme Policy Statement is attached as **Appendix 1**. The policy statement document covers the Council's approach to its discretion in the following areas under the LGPS 2014 scheme:-

- Whether to grant extra annual pension
- Whether to share the cost of purchasing additional pension (SCAPC)
- Whether to permit flexible retirement
- Whether to 'switch on' the 85 year rule (always excludes flexible retirement) upon the voluntary early payment of deferred benefits
- Whether to waive upon the voluntary early payment of benefits, any actuarial reduction on compassionate grounds or otherwise (excluding flexible retirement)

- 3.2 In relation to pension discretions, the relevant legislation is that which is in force at the time the employee leaves the pension scheme. The Council will, therefore, need to be mindful of

the discretions applicable at the time and apply these accordingly. In this respect the policy statement includes discretions under the 2008, 1997 and 1995 regulations.

- 3.3 There are a number of non-mandatory discretions which the Council may exercise under the LGPS regulations which the Council is not required to publish. A copy of the Council's Pension Scheme Policy Statement in respect of the non-mandatory discretions is attached as **Appendix 2**.

#### **4. REVIEW OF THE POLICY STATEMENT**

- 4.1 As an employer, the Council is required to formulate, publish and keep under review a policy statement on how they will apply their discretionary powers in relation to certain provisions of the LGPS.
- 4.2 It is recommended that this policy statement and associated impacted policies will be reviewed on a three yearly basis, or sooner if there is a change in legislation that would affect its operation or business needs require it.

#### **5. RECOMMENDATIONS**

- 5.1 The recommendations are set out at the front of the report.