

Subject:	Local Government Pension Scheme 2014 – Employer Discretions		
Date of Meeting:	1 May 2014		
Report of:	Executive Director Finance & Resources		
Contact Officer:	Name:	Clare Penfold	Tel: 291352
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The Local Government Pension Scheme Regulations 2013 came into force on 1st April 2014 and apply to any active member of the Local Government Pension Scheme at and after that date.
- 1.2 The purpose of this report is to determine the council's policy on the new additional employer discretions that form part of these regulations that are to apply to employees. This report also reviews the way the council applies salary bandings to determine employee contribution rates.
- 1.3 Councillor pensions are not affected by these proposals and councillors have been written to separately on the changes to their entitlement from 1st April 2014.
- 1.4 When assessing recommendations for discretion, due regard is made to the policies already agreed for existing Local Government Pension Scheme employer discretions and those agreed for teachers in accordance with similar provisions under the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997.
- 1.5 There is a requirement within the new regulations that the policies, in respect of the newly defined employer discretions, must be published and notified to Scheme members by 1st July 2014. These discretions can be backdated to 1st April 2014 and will be published on the Wave.
- 1.6 In adopting the Local Government Pension Scheme Regulations 2013 scheme the Council is proposing that it continues to apply its current discretions and the report sets out the position on these.

2. RECOMMENDATIONS:

- 2.1 That the Policy & Resources Committee agreed to maintain its current pension discretions as set out at paragraphs 2.1.1- 2.1.7 and apply these to the Local Government Pension Scheme Regulations 2013. Specifically these are:-

- 2.1.1 The council continues its current practice not to fund in whole or in part, any purchase of additional pension benefits via Additional Regular Contributions (ARCs) or Purchase of Added Years or Additional Pension Contributions (APCs) as set out at section 4.1 of the report.
- 2.1.2 The council maintains its policy that any actuarial reduction due to early payment of benefits due to flexible retirement is absorbed by the individual member unless they have been placed at risk of redundancy as set out at paragraph 4.2.10
- 2.1.3 The council maintains its policy, to support applications for Voluntary Early Retirement made on compassionate grounds and, where agreed, to waive any actuarial reduction as set out at section 4.3 of the report. In all other applications for voluntary retirement, the actuarial reduction will be absorbed by the individual member.
- 2.1.4 The council maintains its policy not to award any additional pension as detailed in section 4.4.
- 2.1.5 The council continues to assess and apply rebanding of pension contributions on an annual basis as at 1st April regardless of material changes throughout the financial year as detailed in section 4.5.
- 2.1.6 The council does not switch on the 85 year rule for employees who voluntarily retire between the ages of 55-60 and continues with its current policy to only consider this as an exception on compassionate grounds.
- 2.2 That the Policy & Resources Committee agree that the council's pension policy is updated in accordance with the new scheme and delegations.

3. CONTEXT/ BACKGROUND INFORMATION

Principle changes to the Local Government Pension Scheme

- 3.1 A Career Average Revalued Earnings (CARE) scheme is to be introduced for benefits accrued after 31st March 2014. Under a CARE scheme pensionable pay for each year of membership is used to calculate pension benefits accrued for that particular period of membership; rather than the current final salary scheme which uses the pensionable pay at the end of the membership to determine benefits accrued for the total membership. All benefits accrued before 1st April 2014 will be protected as part of the final salary scheme. Further final salary protection will be provided for those who were active members on 31st March 2012 and were within 10 years of their normal pension age as at 1st April 2012.
- 3.2 A revised accrual rate of 1/49th under the CARE scheme mean that pensions are set to grow quicker than against the current accrual rate of 1/ 60th. For example, an employee with pensionable pay of £30,000 would build up £500.00 per annum in their pension account with a 1/60th accrual rate and £612.24 per annum with the 1/49th accrual rate.
- 3.3 Non contractual overtime is to become pensionable with effect from 1st April 2014. This will result in increased employer contributions where non contracted overtime is used. However, pay modernisation changes which came into force in

2013/14 will help to minimise the use of non contractual overtime particularly for those staff graded SO1/2 to M8.

- 3.4 Employee contributions are to be determined by the banding that an employee's actual pay falls into. Currently this is assessed on whole-time equivalent salary. This may impact on future fund valuations and the employer contribution rate that is set by the fund actuary as part-time employees are likely to pay lower contributions rates. Annual contribution rates are to be assessed by the Payroll Systems Team at the end of March.
- 3.5 Normal Pension Age will become the same as a member's State Retirement Age. The State Retirement Age is scheduled to increase in stages up to age 68.
- 3.6 A 50:50 option is to be introduced allowing members to opt to pay 50% of their allocated pension banding contribution to purchase 50% benefits for the same period. Employer contribution will continue at 100% throughout this period. The intention is to give scheme members more financial flexibility and reduce the number of people opting out of the scheme. This is a short-term option and the council must re-enrol a member in the main scheme to pay full contributions every three years in-line with the council's auto re-enrolment date unless a member has already opted to return to the main scheme. If re-enrolled into the main scheme a member may make a further election to rejoin the 50/50 scheme.
- 3.7 Any member joining the scheme after 1st April 2014 who opts out of the scheme with less than two years' pension scheme membership (including any transfers made into the scheme) will be paid a refund of employee pension contributions. The current time limit for service and payment of refunds is three months. Members who joined the scheme before 1st April 2014 who leave the scheme with more than three months' but less than two years' membership (including any transfers made into the scheme) will have the choice whether to take a refund of contributions or defer their benefits as allowed by the current scheme rules. Where a member leaves the scheme with service of less than three months the refund will continue to be paid via the payroll. Refunds for membership with periods of up to two years' but more than three months will be paid by the pension scheme administrators.

4 **NEW PENSION SCHEME ANALYSIS AND PROPOSALS**

4.1 Additional Pension Contributions

- 4.1.1 The facility to pay Additional Pension Contributions (APCs) is a new provision from 1st April 2014 which replaces the existing Additional Regular Contributions (ARCs) and former Purchase of Added Years as a means of topping up Local Government Pension Scheme benefits.
- 4.1.2 Scheme members may purchase additional Local Government Pension Scheme benefits by means of Additional Pension Contributions (APCs) up to a maximum limit of £6,500 per annum as set by the scheme regulations. This limit is set from 1st April 2014 and will be reviewed each April in line with Pensions Increase.
- 4.1.3 The amount to be paid is determined by the pension scheme administrator in accordance with actuarial guidance based on age and gender. The guidance

may be reviewed at any time and may result in a revision of the rate of contributions to be paid each April. It would be difficult to substantiate the benefits to business needs against the additional high cost of contributing towards guaranteed benefits at rate that is subject to revision.

4.1.4 The council's current policy is that it will not fund in whole or in part any Additional Regular Contributions (ARCs).

4.2 Flexible Retirement

4.2.1 The council's flexible retirement policy is intended as a short-term measure to enable a member to ease themselves into retirement by a stepping down process that allows them to become accustomed to lower pay and reduced working hours. It can also be used as a viable management tool for succession planning.

4.2.2 An average of 21 employees has taken flexible retirement each year over the past three years with 26 cases agreed in 2013-14, 92% of which resulted in no cost to the council.

4.2.3 Cases where there is no cost to the council for early payment of pension benefits, i.e. all employees over the age of 60 or those aged 55-60 who have no 85 year rule protection are reviewed and authorised by the Head of the Employing Service and the Head of Human Resources and OD. These are cases where there is either no cost for early payment of pension benefits or the cost is absorbed by the member through an actuarial reduction to the benefits paid.

4.2.4 Cases where there is a cost to the council for early payment of pension benefits, i.e. employees aged 55-60 who meet the criteria for 85 year rule protection are taken to the Early Retirement Compensation Panel. The service is expected to relinquish hours from their budget in these circumstances to aim to achieve a target level of annualised savings of 33.3%..

4.2.5 The 2014 regulations will allow for employees to retire voluntarily from age 55 onwards without employer consent where the member reduces their working hours or grade. Where flexible retirement is not agreed by the council, under the new regulations a member would be able to leave the council's employment under the new voluntary retirement regulations.

4.2.6 The existing regulations allow for all or part of the pension benefits to be brought into payment which is reflected in the council's policy. In practice the pension scheme administrators have never been asked to action part payment of benefits by any fund employer nor have they received Government Actuary Department (GAD) guidance to date as to how such benefits should be calculated.

4.2.7 Where an actuarial reduction cannot be applied to a member's pension benefits, due to operation of the 85 year rule, the cost of early payment of pension falls to the service.

4.2.8 The council's criteria for good business decisions is for services to aim to achieve a target level of annualised savings of 33.3% for assessing business cases.

Where there is a cost to the service for early payment of pension benefits the savings target is achieved by relinquishing hours from the service's budget.

4.2.9 Currently East Sussex County Council does not support a flexible retirement option for their employees. West Sussex County Council currently assess flexible retirement applications on a case by case basis where applications must make a business case and members must take a reduction in pay of at least 20%.

4.2.10 It is the council's current policy that any actuarial reduction to be applied due to early payment of benefits due to flexible retirement is absorbed by the member unless they have been placed at risk of redundancy. Such cases are reviewed on a case by case basis.

4.3 Voluntary Early Retirement

4.3.1 With effect from 1st April 2014 members will be entitled to leave the council's employment and claim their benefits from age 55 onwards without the council's consent. This has previously only been permissible from age 60 onwards. There will be no 85 year rule protection for benefits that are claimed before age 60. Whilst this gives flexibility to members as to when they can retire and claim their benefits the decision to do so will have a significant financial impact on those who would otherwise satisfy the criteria for 85 year rule protection from age 55-60. For example, the actuarial reduction for members claiming their benefits 10 years early would be 42% for males and 40% for females along with a 26% reduction to any retirement lump sum taken; for 7 years early 32% (males), 31% (females), 19% lump sum; and for 3 years early 16% (males), 15% (females), 8% lump sum.

4.3.2 Under the new regulations, the council has the discretion to waive in whole or in part any actuarial reduction that is applied in such circumstances. In addition the council has the discretion to 'switch on' the 85-year rule protection to an individual leaving between the age of 55 and 60. To waive the actuarial reduction or to switch on the 85 year rule protection would result in prohibitively high costs to the council.

4.3.3 The council's current policy is to only waive actuarial reductions in the case of successful applications for early payment of pension benefits on compassionate grounds. Such cases are reviewed on a case by case basis. It is recommended that the council retains its current policy as this provides a clear policy as to when and how the actuarial reduction can be waived in a fair and consistent practice.

4.4 Award of additional pension

4.4.1 The council has the discretion to award additional pension to an active member or where an active member was dismissed by reason of redundancy, or business efficiency or whose employment was terminated by mutual consent on grounds of business efficiency.

4.4.2 Where employment has ceased the award must be made within 6 months of the employment ending.

- 4.4.3 The council's current policy is to not award additional pension benefits; however there is scope in cases of redundancy to enhance the severance payment up to a maximum of 104 weeks' pay.
- 4.4.4 Over the past three years there have been five retirements from the council of the grounds of efficiency of the service; only one of these was during 2013-14.
- 4.4.5 With effect from 1st April 2014, the maximum additional pension that may be awarded under the Local Government Pension Scheme regulations is £6,500. This amount will be reviewed each April in accordance with the Pensions (Increase) Act.
- 4.4.6 The total additional pension that can be awarded is £6,500 and this limit will be reduced by any amount of additional pension already purchased under regulations 16(2)(e) and 16(4)(d).
- 4.4.7 The council's current policy is not to award any additional pension.

4.5 Re-banding of employee pension contributions

- 4.5.1 Employer pension contributions are assessed and set by the pension fund actuary as part of a triennial fund valuation. From the 2013/14 fund valuation the council's contribution rate is set at 18.5% (2014/15); 19% (2015/16); 19.5% (2016/17). There is an additional charge of £249,000 to be paid in 2016/17 but as yet it is not clear how this will be collected.
- 4.5.2 Pension benefits are not determined by the amount of contributions paid by an employee but by reference to scheme membership and salary. Scheme benefits are guaranteed and the employer contribution rate is set to ensure there are sufficient funds to pay scheme benefits in relation to each employing authority's members.
- 4.5.3 The rate at which active members pay employee pension contributions is determined by salary bandings. With effect from 1st April 2014 the actual whole time or part time pay will be used to assess the contribution rate for each separate employment. Previously the whole time equivalent salary has been used in all cases.
- 4.5.4 The council has the discretion as to whether to assess and change the contribution rate where there is a change of employment or a material change that affects pensionable pay during a financial year; or alternatively to assess annually as at 1st April.
- 4.5.5 Whilst an increase to employee contributions during a financial year does not impact on the level of benefits paid it could ease the burden on employer costs determined at valuation. The council has determined that is more efficient to make the assessment on an annual basis rather than at points of change during the year.
- 4.5.6 Information in relation to pay and contributions is supplied annually to the pension scheme administrator by way of an end of year return which is used to

update pension records. If more than one contribution rate were to be used throughout a financial year this would skew the calculations completed by the scheme administrators resulting in inaccurate data on the pension records and a high volume of remuneration queries sent to the council to be checked and corrected.

4.5.7 The East Sussex Pension Scheme Administrators confirmed that East Sussex County Council and the majority of other fund employers barring those with a very small workforce reassess bandings on an annual basis.

4.5.8 The council's current policy is to assess contribution rates annually as at 1st April.

4.6 Other information

4.6.1 The contracted-out rate of National Insurance is to be abolished in 2016. Currently employees who are a member of an occupational pension scheme pay a lower rate of National Insurance as they have contracted out of the State Second Pension (SSP). This could potentially impact on scheme membership due to employees having to pay more in National Insurance Contributions. The contracted out rate of national Insurance for employers will also be abolished in 2016 and this is expected to add over £2 million of costs to the General Fund. However, the government has said that national expenditure control totals for local government will be adjusted and the council should therefore receive additional grant to offset this increased cost.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 Due to restricted timescales a specific meeting was held with representatives from the GMB and Unison to discuss the council's policy discretions. Otherwise this would have been tabled for discussion at the Staff Consultation Forum. The unions are in agreement and support the proposed policy discretions.

5.2 The council's policy remains under annual review and wherever possible, future changes would be planned for discussion through the Staff Consultation Forum.

6. CONCLUSION

6.1 In conclusion it is recommended that the council does not change its existing pension's policies but transfers these to the new and amended provisions of the Local Government Pension Scheme 2013.

6.2 The existing policies provide equitable and fair application of employer discretions to scheme members whilst protecting the financial interests of the council.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

7.1 There are no direct financial implications arising from the recommendations in this report as they are a continuation of existing practice.

- 7.2 The council's employer's contribution rate to the East Sussex Pension Fund is 18.5% for 2014/15. The impact of non contractual overtime becoming pensionable could result in additional costs to the General Fund of approximately £180,000. This is based on the level of overtime for 2013/14 but the changes following pay modernisation are expected to reduce this in 2014/15. The budget assumptions for 2014/15 included a 1% increase for pay costs and any additional costs arising from this change will need to be met from this provision. Any exceptional increase in costs as a result of this change will be reviewed as part of the TBM process in the context of the corporate risk provisions set aside within the budget.
- 7.3 The abolition of the contracted out National Insurance rate for employees may result in employees leaving the pension scheme which could result in a saving to the Council on employer contributions. However, it is not possible to quantify this at this stage.
- 7.4 It is anticipated that any additional costs to the council from the abolition of the contracted out rate for employers National Insurance will be met by additional grant from central government.

Finance Officer Consulted: Jeff Coates

Date: 11/03/14

Legal Implications:

- 7.5 These are set out in the body of the report.

Lawyer Consulted:

Elizabeth Culbert

Date 06/03/14

Equalities Implications:

- 7.6 An Equalities Impact Assessment has been completed for each of the discretions and no significant adverse impact has been identified. All decisions made under these discretions will be monitored from an equalities aspect.

Sustainability Implications:

- 7.7 None.

Any Other Significant Implications:

- 7.8 None.

SUPPORTING DOCUMENTATION

Appendices:

1. Discretions under the Local Government Pension Scheme 2014 – Brighton & Hove City Council Policy Statement - DRAFT

Documents in Members' Rooms

1. None

Background Documents

1. Discretions under the Local Government Pension Scheme 2014
2. LGPS 2014 – At a Glance
3. LGPSR Policy Statement 2008
4. Retirement Redundancy and Other Compensation Policy Statement 2013
5. The 85 year rule (ESCC)

Discretions under the Local Government Pension Scheme 2014 – Brighton & Hove City Council Policy Statement - DRAFT

1 Introduction

- 1.1 Brighton & Hove City Council, as the Employing Authority, and East Sussex County Council, as the Administering Authority, are required to publish, and keep under review, their policies on discretionary powers under pensions regulations for those employees entitled to join the Local Government Pension Scheme.
- 1.2 The council is required by law not to fetter, in any way, the exercise of its discretions, and accordingly this Policy Statement does not record or create any contractual or other legal right for employees. It is simply a statement of current council policy as at 1 April 2014. The council has the general right, on notice, to change or revoke the policy as it alone sees fit. Furthermore, the council has the right not to apply the policy, or to apply it with such variations as it alone determines, in any particular case or cases.

2 Additional Pension Contributions - Regulations 16(2)e/16 (4)d

- 2.1 If you are a member of the Pension Scheme you may increase your pension benefits, up to a maximum of £6,500, by the payment of regular Additional Pension Contributions (APCs).
- 2.2 If you are a member of the Pension Scheme you may increase your pension benefits, up to a maximum of £6,500, by the payment of a lump sum contribution.
- 2.3 The council has decided that it will not fund in whole or in part any APC's a member has opted to pay by either regular contributions or lump sum payment.

3 Flexible Retirement – Regulation 30(6)

- 3.1 If you are a member of the Pension Scheme, and you are aged 55 or over, you may apply for immediate payment of your pension benefits if you reduce your working hours or grade in line with the council's Retirement, Redundancy and Other Compensation Policy Statement.
- 3.2 The council will assess each application on a case by case basis including an assessment of business needs. Any actuarial reduction to be applied to the benefits will be absorbed by the individual and no additional compensation will be paid by the council.

4 Early Retirement without Employer's Consent – Regulation 30(8)

- 4.1 If you have attained age 55 you may leave the council's employment and elect to claim your pension benefits, subject to any actuarial reduction, with immediate effect.

4.2 The council has decided not to waive in whole or in part any reduction to a member's pension unless an application is made on compassionate grounds.

4.3 Any such application will be assessed on a case by case basis. Please refer to Retirement at Brighton & Hove Procedures.

5 Award of additional pension – Regulation 31

5.1 Employers have the discretion to award additional pension up to a maximum of £6,500 to an active member or deferred member where employment is to cease/has ceased on the grounds of redundancy or efficiency of the service. Such an award is to be made within 6 months of the date of employment ending.

5.2 The council has decided that it will not award additional pension under these circumstances.