

## Pension Fund Investment Sub-Committee

21 July 2014

### Changes to the Local Government Pension Scheme - Policy discretions

#### Recommendation

**That the Pension Fund Investment Sub- Committee approves the administration policies for the Pension Fund attached at Appendix A.**

#### 1.0 Background

- 1.1 The introduction of the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme Regulations (Transitional Provisions and Savings) Regulations 2013 both effective from 1 April 2014, make it necessary for the County Council, in its' capacity as the Administering Authority and Employing Authority (as defined in accordance with the pension scheme regulations) to review the policies in place for certain discretions allowed for by the regulations.
- 1.2 This report is specifically concerned with the discretions allowed for the Pension Fund.

#### 2.0 Local Government Pension Scheme( LGPS) 2014

- 2.1 The 1<sup>st</sup> April 2014 saw the introduction of LGPS 2014 and a radical change to the provisions of the Local Government Pension Scheme.
- 2.2 These changes were brought about following the review of public sector pension schemes undertaken by Lord Hutton. The main changes are:
  - The retention of a defined benefit pension scheme.
  - For membership from 1 April 2014, the introduction of a career related pension scheme (CARE) with the benefit entitlement accrued based on pensionable pay received during the year rather than accrued service and final pay.
  - An improved accrual rate of 1/49<sup>th</sup> of pay.
  - Individual pension accounts to be adjusted annually in line with prices
  - Saving provisions for membership accrued prior to the introduction of LGPS 2014.
  - The introduction of a two year vesting period for an entitlement to a benefit.
  - Saving provisions for members who on 1 April 2012 were within ten years of retirement.
  - The retention of final salary for benefits accrued prior to 1 April 2014.

- The retention of the current ill-health provisions.
- The retention of immediate payment of a benefit on being made redundant or on business efficiency if the member has attained age 55.
- The ability for members to choose to retire from age 55 and receive payment of their benefit, albeit reduced.
- An alignment of the scheme's retirement age with state retirement age for benefits accrued under LGPS 2014.
- A review of contribution bandings which will see higher paid scheme members pay a higher contribution with lower paid members paying a lower contribution.
- Pensionable pay to include non-contractual payments (e.g. overtime) which were previously treated as non-pensionable.
- The ability for members to enhance their pension provision by purchasing up to an extra £6,500 per annum.
- The introduction of a 50/50 plan whereby members may elect to pay a reduced contribution (50%) and reduce their personal benefit for that period to 50% without affecting death in service or ill-health benefits.
- Protection for members who's service is transferred to an external provider.
- A costing umbrella to ensure that the future cost of the Scheme is maintained equitably between members and employers.
- Benefits in payment and deferred benefits to be increased in line with the consumer prices index (CPI).
- A review of the governance of the Scheme.

### 3.0 Discretions

3.1 Appendix A provides a full list of discretions and proposed policies. The schedule shows where there are current policies in place and where there is a new provision the proposed policy.

### 4.0 Communications

4.1 Treasury and Pensions is liaising with all Fund employers about the employer discretions and policies required by the Scheme regulations.

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| Regulation                      | Administering Authority Discretion   | Pension Fund Policy  |
|---------------------------------|--|--|
| <b>16(1).</b>                   | Whether to turn down a request to pay Additional Pension Contributions / Shared Cost Additional Pension Contributions (APC / SCAPC) over a period of time where it would be impractical to allow such a request (e.g. where the sum being paid is very small and could be paid as a single payment). | <b>Proposed policy:</b><br><br>Payments of £50 or less the Pension Fund will require payment by way of a single payment.   |
| <b>16(10).</b>                  | Whether to require a satisfactory medical before agreeing to an application to pay an APC / SCAPC.<br>Whether to turn down an application to pay an APC / SCAPC if not satisfied that the member is in reasonably good health.   | <b>Proposed policy:</b><br><br>a) The Pension Fund will not require a satisfactory medical where the APC / SCAPC is in respect of reinstating a period of unpaid leave.<br><br>b) The Pension Fund will require the completion of a medical questionnaire by the member's GP where the APC / SCAPC is in respect of purchasing additional pension. |
| <b>17(12).</b>                  | Decide to whom any AVC / SCAVC monies (including life assurance monies) are to be paid on death of the member.   | See <b>Trans Regs 17(5) to (8) &amp; Reg 40(2), Reg 43(2) &amp; Reg 46(2) &amp; Reg 17(12) above.</b> below  |
| <b>Transitional Regs 10(9).</b> | Decide, in the absence of an election from the member within 12 months of ceasing a concurrent employment, which ongoing employment benefits from the concurrent employment which has ceased should be aggregated (where there is more than one ongoing employment).                                 | <b>Proposed policy:</b><br><br>Determine which is the most beneficial for the member.  |

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| <p><b>30(8)*</b></p> | <p>Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement. (Policy required by the Administering Authority where the employer has become defunct)</p>  | <p><b>The Pension Fund's existing policy is:</b></p> <p>Consideration will be given to waive the actuarial reduction to the benefits where the member had to give up work to provide for a chronically ill spouse or partner.</p>   |
| <p><b>30(8)*</b></p> | <p>Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age. (Policy required by the Administering Authority where the employer has become defunct).</p>  | <p><b>The Pension Fund's existing policy is:</b></p> <p>Consideration will be given to waive the actuarial reduction to the benefits where the member had to give up work to provide for a chronically ill spouse or partner</p>  |
| <p><b>68(2)</b></p>  | <p>Whether to require any strain on the Fund costs to be paid "up front" by employing authority following payment of benefits under Reg 30(6) (flexible retirement) Reg 30(7) (redundancy / business efficiency) or waiver (in whole or in part) under Reg 30(8) of any actuarial reduction that would otherwise have been applied to benefits which a member voluntarily draws before normal pension age or to benefits drawn on flexible retirement.</p> | <p><b>Proposed policy:</b></p> <p>In accordance with the Fund's existing Funding Strategy Statement, with the agreement of the Administering Authority can be spread as follows:</p> <ul style="list-style-type: none"> <li>• Major employing bodies – up to 5 years.</li> <li>• Community Admission Bodies and Designating Employers – payable immediately.</li> <li>• Academies – payable immediately.</li> <li>• Transfer Admission Bodies – payable immediately.</li> </ul> |

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| <p><b>Trans Regs Sch2 para2(2)*</b></p> | <p>Whether as the 85 year rule does not automatically apply to members who would otherwise be subject to it and who choose to voluntarily draw their benefits on or after age 55 and before age 60, to switch the 85 year rule back on for such members. Where the employer does not do so if the member has already met the 85 year rule the members benefits are to be reduced in accordance with actuarial guidance issued by the Secretary of State (with benefits from any pre 1 April 2008 membership for member who will not be 60 or more on 31 March 2016, and benefits from any pre 1 April 2016 for members who will be 60 or more on 31 March 2016 which would not normally be subject to an actuarial reduction nonetheless being subject to a reduction calculated by reference to the period between the date the benefits are drawn and age 60).</p> <p>If the member has not already met the 85 year rule the members benefits are to be reduced in accordance with actuarial guidance issued by the Secretary of State (with the reduction on that part of the members benefits subject to the 85 year rule being calculated by reference to the period between the date the benefits are drawn and age 60 or the date of attaining the 85 year rule, whichever is the later).</p> | <p>Under the current regulations, a member who benefits under the protections afforded under the rule of 85 cannot retire without the agreement of their employer. If the employer agrees to their retirement because there is no actuarial reduction (or a partial reduction depending the members age) and therefore the employer incurs a cost for allowing retirement between age 55 and 60.</p> <p>LGPS2014 allows a member protected by the rule of 85 to retire early and suffer a reduction of benefits previously protected.</p> <p>This discretion allows the employer to turn-on the 85 year rule and effectively have in place the protections currently afforded to these members.</p> <p><b>Proposed policy:</b><br/>To “switch on” the rule of 85 protections thereby retaining the pre 1 April 2014 position but to “switch off” the protection if a member wishes to retire early and suffer the actuarial reduction to their benefit entitlement.</p> |
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| <p><b>Trans Regs Sch2 para2(3)*</b></p> | <p>Whether to waive on compassionate grounds, the actuarial reduction applied to benefits from pre 1 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. (Policy required by the Administering Authority where the employer has become defunct).</p> | <p><b>The Pension Fund’s existing policy is:</b></p> <p>Consideration will be given to waive the actuarial reduction to the benefits where the member had to give up work to provide for a chronically ill spouse or partner.</p>  |
| <p><b>Trans Regs Sch2 para 2(5)</b></p> | <p>Whether to require any strain on Fund costs to be paid “up front” by employing authority following waiver of actuarial reduction under Trans Regs Sch 2 para 2(3)</p>   | <p><b>Proposed policy</b></p> <p>Because the employer is releasing benefits on compassionate grounds (e.g. the member has had to give up work to care for a chronically ill spouse or partner) it seems perverse to require payment of actuarial strain up front and thereby introduce a financial aspect to the decision making. Therefore, the Pension Fund does not require payment up front and is prepared for the cost to be subsumed as part of the subsequent triennial valuation. However, where the employer is releasing the benefits for reasons other than those described above (e.g. for financial reasons) the Fund will require payment of the strain “up front”.</p> |
| <p><b>34(1).</b></p>                    | <p>Whether to commute small pension.</p>   | <p><b>The Pension Fund’s existing policy is:</b></p> <p>To allow the commutation of small pensions provided the member satisfies HMRC requirements.</p>  |

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| <p><b>Trans Regs 17(5) to (8) &amp; Reg 40(2), Reg 43(2) &amp; Reg 46(2) &amp; Reg 17(12) above.</b></p> | <p>Decide to whom death grant is paid.</p> | <p><b>The Pension Fund's existing policy is:</b></p> <p>That Treasury and Pensions make payment to the nominee unless it is apparent that the nomination may no longer be valid (i.e. that the nominee may have separated or divorced since the nomination was made or other exceptional circumstances). If no nomination has been made or the nomination is no longer valid payment is made as follows, (in this order of priority):</p> <ul style="list-style-type: none"> <li>• to the spouse or partner upon production of evidence of marriage or partnership or,</li> <li>• any person appearing to the authority to have been his (her) relative or dependant at any time or,</li> <li>• to their personal representatives or,</li> <li>• if there is no evidence of marriage or partnership or of any persons appearing to be a relative or a personal representative, payment will be made to the Estate.</li> </ul> <p>If the nominee is a minor, payment is made to a trust fund in respect of the nominee.</p> <p>In the event of a potential dispute, the Administering Authority will gather relevant information to present to the Director of Resources to make an informed decision regarding the distribution of the amount due.</p> |
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| <b>49(1)(c)</b> | Decide, in the absence of an election from the member, which benefit is to be paid where the member would be entitled to a benefit under 2 or more regulations in respect of the same period of Scheme membership.  | <b>Proposed policy:</b><br><br>Determine which is the most beneficial for the member.  |
| <b>65.</b>      | Decide whether to obtain a new rates certificate if the Secretary of State amends the regulations as part of the “cost sharing” under Reg 63.   | <b>Proposed policy:</b><br><br>The Pension Fund will discuss the implications of such an event with the Fund’s Actuary.  |
| <b>69(1)</b>    | Decide frequency of payments to be made over to Fund by employers and whether to make an admin charge.  | <b>The Pension Fund’s existing policy:</b><br><br>The employing authority shall pay to the administering authority all (employee and employer) contributions due in respect of their employees (or former employees) by the 19 <sup>th</sup> of the month following the end of the month in which the amount was deducted from pay.  |
| <b>71(1)</b>    | Whether to charge interest on payments by employers which are overdue   | <b>Proposed policy:</b><br><br>The Fund reserves the right to charge employers interest on delayed payments under Reg 69(1).   |
| <b>82(2)</b>    | Whether to pay death grant due to personal representatives or anyone appearing to be beneficially entitled to the estate without need for grant of probate / letters of administration where payment is less than amount specified in S6 of the Administration of Estates (Small Payments) Act 1965 | <b>Proposed policy:</b><br><br>Where the death grant due is less than the amount specified in S6 of the Administration of Estates (Small Payments) Act 1965, currently £5,000, payment will be made following completion of a Form of Indemnity. However, any apparent dispute as to who should receive payment and the Fund will refer to the policy under the payment of death grants above. |



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| 83                       | Whether, where a person (other than an eligible child) is incapable of managing their affairs, to pay the whole or part of that person's pension benefits to another person for their benefit. | <p><b>Proposed policy:</b></p> <p>The Pension Fund will request Power of Attorney or in the absence of this satisfactory evidence that the person is managing the member's affairs (e.g. to whom DWP payments are being made).</p>   |
| 100(6).                  | Extend normal time limit for acceptance of a transfer value beyond twelve months from joining the LGPS.  | <p><b>The Pension Fund's current policy is:</b></p> <p>To allow in exceptional circumstances where it is clear there has been an administrative delay by the employer or the scheme administrator</p> <p>This is now a joint policy with the Administering Authority to prevent scheme employers from accepting late applications without good reason.</p> |
| 100(7)                   | Allow transfer of pension rights into the Fund.  | <p><b>Proposed policy:</b></p> <p>Allowed</p>  |
| Sch 1 & Trans Regs 17(9) | Decide to treat child as being in continuous education or vocational training despite a break.   | <p><b>The Pension Fund's existing policy is:</b></p> <p>That the AA allow a break of up to eighteen months to allow the child of a deceased member to take "a year out" between further and higher education and for payment to be suspended during this period of suspension. This has long been the practice of the Authority.</p>                       |

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| <p><b>Sch 1 &amp; Trans Regs 17(9)(b)</b></p>   | <p>Decide evidence required to determine financial dependence of cohabiting partner on scheme member or financial interdependence of cohabiting partner and scheme member.</p> | <p><b>The Pension Fund's existing policy is:</b></p> <p>That Treasury and Pensions take reasonable steps to determine that a nomination is valid. A benefit will not be payable if the member has not completed a nomination form. The nominated beneficiary will produce on request relevant and valid documents to determine interdependency. For example, proof of joint mortgage or lease for a period in excess of two years, joint bank accounts, Council tax statements.</p> |
| <p><b>Trans Regs 3(13) &amp; Admin Reg 70(1) (2008 regs) &amp; Admin Reg 71(4)(c)</b></p> | <p>Decide policy on abatement of pre 1 April 2014 element of pensions in payment following re-employment.</p>  | <p><b>The Pension Fund's existing policy is:</b></p> <p>"The County Council will no longer apply the abatement rule save in exceptional circumstances where it determines that not to abate the pension in payment could lead to a serious lack of confidence in the public service."</p>   |
| <p><b>Trans Regs 15(1)(c) &amp; Trans Regs Sch 1 &amp; 83 (1997 regs)</b></p>             | <p>Extend time period for capitalisation of added years contract.</p>  | <p><b>Proposed policy:</b></p> <p>In exceptional circumstances</p>  |

**\*These are matters about which the regulations require there must be a written policy.**