

Staff and Pensions Committee

7 March 2022

Local Government Pension Scheme Employer Pensions Discretions Policy

Recommendation

That the Committee approves the LGPS Employer's Pensions Discretion policy attached in Appendix 2.

1. Executive Summary

Warwickshire County Council is both a scheme employer and the administering authority of the Local Government Pension Scheme ("Scheme").

The various Scheme regulations all require that each Scheme employer must formulate, publish and keep under review a statement of their policy concerning all mandatory discretions which they have the power to exercise in relation to members of the Scheme. It is also recommended by the LGA that the same action is taken in respect of non-mandatory discretions.

Currently, policy information concerning the exercise of certain pension discretions by the Council as a Scheme employer can be drawn from a number of places. Where there is no specific policy information about a discretion, the Pay Policy Statement confirms that discretion will be exercised on a 'case by case' basis. However, there is no single document which gives full consideration to each of the required mandatory discretions and those non-mandatory ones where a policy decision is recommended.

It is proposed that there is a convenient single document which draws together all of the existing policy information. The draft Policy is at Appendix 2.

No changes are proposed to any of the existing published policies concerning the exercise of pension discretions. Where there is no published policy at present, the draft Policy sets out a proposed policy statement.

2. Financial Implications

The Pensions Ombudsman has discretion to award compensation for distress and inconvenience for maladministration even where no legal rights have been infringed for instance in circumstances where a delay has been caused by a discretion not

being exercised properly. Such awards range between a nominal sum and £2,000 with exceptional cases exceeding that sum.

Decision makers should obtain legal advice on complex cases, as these may incur a cost to the relevant service

3. Environmental Implications

None.

4. Supporting Information

Discretions are powers that enable employers to choose how to apply the Scheme regulations in respect of certain provisions. When the Council sets and reviews these employer discretions, consideration is given to:

- Cost – discretionary powers come with a cost attached - policies must not lead to a loss of confidence in public services, therefore have to be affordable
- Basis on which decisions are made – policies should not be so rigid or restrictive as to prevent flexibility where a possibly unanticipated situation requires it
- Equality – criteria that do not discriminate and where decisions are objectively justified

There are many employer pension discretions however only a relatively small number have to be published.

Currently, policy information concerning the Council's employer pension discretions can be drawn from:

- Staff and Pensions Committee approval of various discretions (both mandatory and non-mandatory) in 2015, following the commencement of the 2014 Scheme (Appendix 1).
- The Council's Pay Policy Statement.
- The Council's Flexible Retirement Policy
- The Council's Redundancy Policy
- The Council's Constitution

A review of the discretions identified a lack of clarity in some areas, in particular the Council's approach to members with deferred benefits. There are also some mandatory discretions for which there is no published policy save for a catch-all provision in the Pay Policy Statement that such discretions will be exercised on a 'case by case' basis in accordance with the Council's scheme of delegation.

The draft Policy incorporates the existing policy information and cross refers to other policy documents where appropriate.

Where there is no existing policy statement for a discretion, the proposed policy statement is in red text in the draft Policy.

In view of the requirement to keep discretions policies under review, a review period will be set to every 3 years or earlier when changes to legislation or guidance takes place.

It is likely that further changes will be necessary in due course, following changes to legislation and statutory guidance in relation to:

- The use of Special Severance payments
- The Public Sector Exit Payment Cap

5. Timescales associated with the decision and next steps

The policy can be implemented immediately and will be published by the Warwickshire Pension Fund and on the Council's website.

Appendices

1. Staff & Pensions Committee report December 2015
2. Draft Local Government Pension Scheme Employer Pensions Discretions Policy

Background Papers

None

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