

Warwickshire Local Pension Board

26 April 2022

Review of Pension Fund Discretions Policy

Recommendations

1. That the Board notes and comments on the recommended updates to the Warwickshire Pension Fund discretions policy.
2. That the Board notes the changes to practice implemented within existing discretions, following legal developments and recommendations from the Local Government Association.

1. Executive Summary

- 1.1 The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014 so that benefits for service after 31 March 2014, build-up on a defined benefit career average revalued earnings (CARE) basis, rather than on a defined benefit, final salary basis.
- 1.2 Scheme Administrators participating in the LGPS in England or Wales must formulate, publish, and keep under review a statement of policy on all mandatory discretions which they have the power to exercise in relation to members of the CARE Scheme and earlier schemes. It is also recommended by the Local Government Association that the same action is taken in respect of non-mandatory discretions.
- 1.3 This is the first review of the Warwickshire Pension Fund's discretions that were originally agreed and ratified in 2016.

2. Financial Implications

- 2.1 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 discretion has not been exercised properly. Such awards range between a nominal sum and £2,000 with exceptional cases exceeding that sum.
- 2.2 The Warwickshire Pension Fund seeks legal and/or actuarial advice on complex cases, which will usually incur a cost to the Fund.

3. Environmental Implications

None

4. Supporting Information

4.1 It is proposed that the Fund's policy on exercising discretion in relation to the following is amended as set out below:

- **Regulation 34 (1)**

To commute in all cases where the value of benefits is within HMRC limits. As part of the Club Vita data cleanse, it has been identified that the fund has a higher-than-average proportion of trivial pensions in payment. These payments could be compounded into a one-off lump sum, therefore discharging the fund of any further liability or administration of the payment.

- **Regulation 16(10)**

The Pension Fund will not require the completion of a medical questionnaire on receipt of an application to purchase additional pension.

- **Transitional Regulations Schedule 2, para 2(2)**

To "switch off" the rule of 85 protections for affected members of a defunct employer on a case-by-case basis and allow those staff who wish to retire under the 85-year rule to take the actuarial reduction themselves, at no cost to the Pension Fund.

4.2 Further, the following changes to practice within the existing discretion shall be implemented in line with legal developments and recommendations from the Local Government Association:

- **Transitional regulations 17(5) to (8) & Reg 40 (2) & Reg 46 (2) & Reg 17 (12)**

A notification must be sent to a person who has made an unsuccessful claim against a death grant. This will tell them of the decision not to award them a share of the payment. That notification must include the grounds for that decision. This is covered by regulation 73(2) of the LGPS Regulations 2013.

- **Schedule 1 & Transitional regs 17 (9)(b)**

A partner's benefit will be payable if the member has not completed a nomination form. The requirement for a completed nomination form to be held on record was removed following the following a Supreme Court judgement in 2017.

- 4.3 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

- 5.1 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.

Appendices

1. Warwickshire Pension Fund Discretions Policy

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The report was circulated to the following members prior to publication:

Local Member(s):

Other members: