



## **REPORT TO EMPLOYMENT PANEL**

### **PORTFOLIO AREA: DEPUTY LEADER GOVERNANCE AND RESOURCES**

**DATE OF MEETING:** 4 APRIL 2011

**Public**

**INSIDE POLICY FRAMEWORK**

**TITLE: LOCAL GOVERNMENT PENSION SCHEME REGULATIONS  
– EMPLOYER DISCRETIONS**

**Report of:** Assistant Director, Resources

**Report reference:** RD1/11

#### **Summary:**

The Local government Pension Scheme (LGPS) contains a number of discretions that the employer can, if it wishes, adopt. Some of those discretions must form part of a published written policy whether or not the employer intends to adopt them. When the LGPS Regulations changed in 2006 and 2007, Members were presented with reports and made decisions on those discretions the Council adopted. This report deals with those discretions that the Council has not adopted.

#### **Recommendations:**

Members agree the recommendations made in paragraph 4 of this report.

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**Note:** in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: PPP 67/07, PPP 69/07, PPP 12/08 and PPP 51/08

## **LOCAL GOVERNMENT PENSION SCHEME REGULATIONS – EMPLOYERS’ DISCRETIONS**

### **1 Introduction**

- 1.1 The Local government Pension Scheme (LGPS) contains a number of discretions that the employer can, if it wishes, adopt. Some of those discretions must form part of a published written policy whether or not the employer wishes to adopt them.
- 1.2 When the LGPS Regulations changed in 2006 and again in 2007, Members were presented with reports and made decisions on those discretions the Council adopted.
- 1.3 This report is a ‘housekeeping’ report and deals with those discretions that the Council has not adopted but nevertheless require a written policy.

### **2 Summary of regulations requiring a written policy**

<b>Employer Discretion</b>	<b>Comments</b>
Whether to augment membership of an active LGPS member (maximum allowed is 10years). See paragraph 3.1	Published policy required. Carlisle CC has not done so to date.
Whether to grant additional pension to an LGPS member (by up to £5,000). See paragraph 3.2.	Published policy required. Carlisle CC has not done this to date.
Whether all or some benefits can be paid if an employee voluntarily reduces their hours and/or grade (flexible retirement). See paragraph 3.3.	Members agreed a flexible retirement policy in September 2007 (Report PPP 67/07, minute EMP. 27/07 and Report PPP 69/07, minute C.177/07)
Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement See paragraph 3.3.	Members agreed a flexible retirement policy in September 2007 (Report PPP 67/07, minute EMP. 27/07 and Report PPP 69/07, minute C.177/07)
Whether to grant application for early payment of pension benefits on or after age 55 years and before age 60 years. See paragraph 3.4	Published policy required. Carlisle CC has not done this to date.
Whether to waive, on compassionate grounds, the actuarial reduction to benefits paid early. See paragraph	Published policy required.

3.5.	
Whether to grant application from leavers between 1/4/1998 and 31/3/2008 on or after age 50/55 and before age 60. See paragraph 3.6.	Published policy required
Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for leavers between 1/4/1998 and 31/3/2008. See paragraph 3.6.	Published policy required.

### **3 Discretions that still require a written published policy**

#### **3.1 Whether to augment membership of an active LGPS member.**

This has been allowed under the LGPS for many years but now requires a written published policy. Two Regulations cover this topic and Members have already made a decision on allowing additional discretionary payments in the case of Redundancy and Early Retirement in the interests of Efficiency, which is Regulation 7 in the LGPS Compensation Regulations 2006 (Report PPP 51/08, minutes CS.89/08) so no further decision is required on this aspect.

However, the Employer can also augment pension service at any stage in an employees' employment up to six months after they have left for reasons other than redundancy and early release in the interests of efficiency and it is this aspect where the Council does not currently have a published policy. The Council has never augmented pension service within living memory to date. To do so would be expensive, have the potential to be discriminatory as it can only apply to active pension scheme members and mean that the Redundancy and Early Release Policy would need to be revisited as employees can only have one enhancement (augmentation or enhanced redundancy/early release).

It is recommended that the Council do not grant augmented service to employees under Regulation 12 for the reasons outlined above.

#### **3.2 Whether to grant additional pension to an LGPS member.**

The Council has never done so, it would be costly and have the potential to be discriminatory and it is recommended that the Council does not adopt this discretion.

#### **3.3 Flexible Retirement**

Members agreed a policy on flexible retirement in September 2007 (Report PPP 67/07, minute EMP. 27/07) which allowed the release of all pension benefits to staff taking flexible retirement within specified restrictions relating to the reduction required and future earnings. At the time of the policy decisions were made it was only possible for an employee to take all or none of their pension benefits. Since then, legislation has been amended to allow a

flexibly retired employee to take part of their benefits and the published discretion needs amending to take account of that.

The flexible retirement policy also deals with the issue of waiving any actuarial reduction so no further decision is required.

### **3.4 Whether to grant application for early payment of pension benefits on or after age 55 years and before age 60 years**

Practice within Carlisle City Council has been to consider each case on its merits in light of costs and loss of skills. Applications for early release of benefits are not normally agreed unless there is a clear business case. It is recommended that approach be continued.

### **3.5 Whether to waive, on compassionate grounds, the actuarial reduction to benefits paid early.**

The ability to waive actuarial reduction on early payment of benefits has been in pension regulations for many years. Carlisle City Council has not, within living memory, waived such a payment. It is recommended that the published policy be that 'each case will be treated on its merits'. This allows a degree of compassion to be exercised if it is felt appropriate in the circumstances.

### **3.6 Applications for early payment of benefits from leavers between 1/4/1998 and 31/3/2008.**

In past ten years Carlisle CC has not granted early payment of benefits to leavers between these years. However, Members may wish to leave the option to have each case considered on its merits thus allowing the opportunity to grant early release of benefits in some cases such as exceptional circumstances. It is also recommended that the issue of whether or not any actuarial reduction is waived be considered on its merits.

## **4 RECOMMENDATIONS**

It is recommended that Members agree:

- 1 Not to augment pension service to employees under Regulation 12 of the LGPS Benefits, Membership and contributions Regulations 2007.
- 2 The Council will not purchase additional pension service for employees.
- 3 Employees granted flexible retirement can opt to receive all or part of their pension entitlements.
- 4 Applications for early release of pension benefits from employees aged 55 to 60 years will be considered on their merit.
- 5 Carlisle City Council will not normally waive on compassionate grounds, the actuarial reduction to benefits paid early. Each case will be considered on its merit.
- 6 Carlisle City Council will not normally grant early payment of benefits to leavers between 1/4/1998 and 31/3/2008 but will consider each case on its merits. Carlisle City Council

will not normally waive any actuarial reduction on compassionate grounds to leavers between 1/4/1998 and 31/3/2008 and will consider each case on its merits.

## **5 REASONS FOR DECISIONS**

The reasons for each recommendation are contained in the main body of the report and relate to cost and the need to be able to make a compassionate decision in exceptional circumstances.

## **6 IMPLICATIONS**

- Staffing/resources – recommendations are to continue current practice so there would be no new implications.
- Financial – There are no additional financial implications associated with the recommendations to continue current practice. The financial implications for discretions adopted by the Council are considered on a case by case basis and this will continue.
- Legal Comments - Employers are required to formulate, publish and keep under review a policy statement in relation to the exercise of a number of discretions under the Local Government Pensions Scheme. Many of the discretions, as detailed in the Report are subject to a requirement of a written policy by virtue of the Local Government Pension Scheme Regulations 1997 (SI1997/1612) and the Local Government Pension Scheme (Benefit, Membership and Contributions) Regulations 2007 (SI2007/1166).
- Corporate – The recommendations enable the Council to comply with the requirements under the legislation.
- Risk Management – The recommendations will minimise any danger of challenges against individual pension decisions taken.
- Environmental – No impact.
- Crime and Disorder – No impact.
- Impact on Customers – No impact.
- Equality and diversity - Pension legislation does impact positively on older staff, deliberately so to protect this group of people. The recommendations proposed have not change in this impact, nor would we be able to.

## **7 IMPACT ASSESSMENT**

Does the policy/service impact on the following?	Impact Yes/No?	Is this impact positive or negative
Age	Yes	Pension legislation has an inbuilt positive impact on older people. These proposals do not change the impact.
Disability	No	Proposals do apply equally to all in the Pension Scheme and are a no change on current practices.
Race	No	
Gender/ Transgender	No	
Sexual Orientation	No	
Religion or belief	No	
Human Rights	No	
Health inequalities	No	
Rurality	No	

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