

APPOINTMENTS AND CONDITIONS OF SERVICE COMMITTEE

4 NOVEMBER 2014

Title of paper:	Arrangements for Local Government Pension Scheme Employer Discretions	
Director(s)/ Corporate Director(s):	Angela Probert, Strategic Director Organisational Transformation	Wards affected: All
Report author(s) and contact details:	Angela Probert, Strategic Director Organisational Transformation (0115 8763440) Andy Cross, Pensions Consultant (0115 8762265)	
Date of consultation with Portfolio Holder(s) (if relevant):	Councillor Graham Chapman Councillor Toby Neal	Date of consultation with Portfolio Holders(s): 9 October 2014 13 October 2014
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Relevant Council Plan Strategic Priority: (you must mark X in the relevant boxes below)		
Cut crime and anti-social behaviour		
Cutting unemployment by a quarter		
Ensure more school leavers get a job, training or further education than any other City		
Your neighbourhood as clean as the City Centre		
Help keep your energy bills down		
Good access to public transport		
Nottingham has a good mix of housing		
Nottingham is a good place to do business, invest and create jobs		
Nottingham offers a wide range of leisure activities, parks and sporting events		
Support early intervention activities		
Deliver effective, value for money services to our citizens		<input checked="" type="checkbox"/>
Summary of issues (including benefits to citizens/service users):		
This report proposes new discretions to enable the City Council to administer its employer discretions under the Local Government Pension Scheme (LGPS) as kept under review from time to time along with amendments required for the New Look LGPS 2014 scheme.		

Recommendation(s):	
1	To consider and approve the proposed employer discretions as set out in appendix A
2	To note that, if agreed, the policy statements will become effective on 1 April 2014 and applied retrospectively after ratified by this committee.
3	To recommend that where switching back on the rule of 85 does result in a pension strain that this would not normally be agreed without a business case. However in cases where no such pension strain exists this there would be a benefit to switching on the rule of 85 as the member would result in a smaller actuarially reduced benefit.
4	To recommend that for Shared Cost Additional Pension Scheme that the City Council would not contribute to this where the member chooses to purchase "extra pension".

1. BACKGROUND

- 1.1 As part of the overall review of the LGPS new arrangements came into effect on 1 April 2014 introducing a significant change to pension benefits which will accrue for service after 31 March 2014 on a Career Average Revalued Earnings (CARE) basis rather than on a final salary basis.
- 1.2 The provision of the CARE scheme together with the protections for members accrued pre 1 April 2014 final salary rights are contained in the LGPS Regulations 2013 and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014.
- 1.3 As a result of the changes scheme employers participating in the LGPS in England have to formulate, publish and keep under review a Statement of Policy on certain discretions which they have the power to exercise in relation to members of the CARE scheme.

2. REASONS FOR RECOMMENDATIONS (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 The current policy needs to be updated to ensure it remains fit for purpose, reflects good practice and is in the best interests of the City Council.
- 2.2 The LGPS changed on 1 April 2014 going forward to a Career Average scheme with protections in place for existing members as at 31 March 2014. As a result some of the discretions cease because they relate to the Final Salary scheme however new employer discretions have been established for the Career Average scheme.
- 2.3 This report sets out the changes required by the LGPS Regulations to keep our policy statements up to date. It is recommended that most of the discretions remain as they were for the 2008 scheme however two new discretions are now available:
 - switching on the 85 year rule
 - Shared Cost APC scheme

2.4 **Switching on the 85 year rule**

This new discretion applies from 1 April 2014 where a colleague retires (leaves employment) and elects to draw their pension benefits at or after age 55; their benefits would normally be actuarially reduced. The City Council can choose to apply and switch back on the 85 year rule for such colleagues thus avoiding the actuarially reduced benefit however this would ordinarily result in a cost to the City Council in doing so known as Pension Strain.

Prior to 1 April 2014 all requests for early release of pension required the permission of the City Council and where the rule of 85 applied the City Council would only have the options of either not approving the application on cost grounds or paying for the Pension strain as benefits could not be reduced.

2.5 **Shared Cost APC (SCAPC) scheme**

This new discretion from 1 April 2014 applies to whether the City Council chooses to contribute to the cost of any "extra pension". Colleagues in the scheme can choose to buy extra annual pension up to £6,500 in year 14/15. The City Council would be required to state its position on whether they would contribute to this. It should be noted that this does not apply to the purchase of "lost pension" through unpaid child related leave (maternity, paternity or adoption leave) or authorised unpaid leave as different arrangements apply for SCAPC in these situations.

3. **OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

No other recommendations that would be economically viable.

4. **FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY/VAT)**

4.1 A decision to use the discretion to switch on the 85 year rule would only be made if it results in financial benefits for the Council. The decision to switch on the 85 rule is delegated to the Chief Executive and supported by a business case for each individual case. The financial implications of each business case will have to be considered on its own merits.

4.2 A decision for the Council to contribute towards the cost of additional pension contributions would need to be made the Appointments and Conditions of Service supported by a business case. The financial implications of each business case will have to be considered on its own merits.

5. **RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS AND CRIME AND DISORDER ACT IMPLICATIONS)**

5.1 **Legal Implications:**

It is confirmed that the position as laid out in this report and Appendix A reflects the statutory position as detailed in the Local Government Pension Scheme Regulations and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014

6. **EQUALITY IMPACT ASSESSMENT**

An EIA has been completed and is attached at Appendix C

7. **LIST OF APPENDICES**

Appendix A Proposed LGPS Discretions Policy Statement from 1 April 2014

Appendix B Comparison of 2008 and 2014 scheme discretions.

Appendix C Equality Impact Assessment

8. **LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION**

None

9. **PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT**

The LGPS Regulations 2013.

The LGPS (Transitional Provisions and Savings) Regulations 2014

Policy Discretions for the 2014 LGPS Scheme

The City Council has produced the following policy statement as required by the Local Government Pension Scheme (LGPS).

1) Early release of Pension Benefits

Pre 1 April 2014 ex members

Retirements below age 60 require permission from the City Council.

An ex employee who opts to retire at or after age 60 but before the normal retirement age of 65 will have their pension benefits reduced on an actuarial basis to take account of the fact that pensions will be drawn earlier and for longer. The City Council is unlikely to agree to ignore the actuarial reduction. (Note that there are protections available under the old '85 year rule' for employees who were members of the LGPS before 1 October 2006.)

Where permission to retire is required, the Chief Executive will consider requests for early retirement for employees below second tier level[1] once a business case has been made that shows what possible net savings would be made taking into account the potential costs on the pension fund, the needs of the service and whether there would be operational benefits to be made that would facilitate a re-organisation.

Post 1 April 2014 members voluntarily drawing pension benefits

Power of employing authority to “switch on” the 85 year rule for post 1 April members

Where a scheme member retires (leaves employment) and elects to draw their benefits at or after age 55 and before age 60 those benefits will be actuarially reduced unless the City Council agrees to meet the full or part cost of those reductions as a result of the member otherwise being protected under the 85 year rule as set out in previous regulations.

To avoid the member suffering the full reduction to their benefits the City Council can “switch on” the 85 year rule protections thereby allowing the member to receive fully or partially unreduced benefits but subject to the City Council paying the pensions strain (capital) cost to the Pensions Fund.

Decisions on whether to agree to this for employees below second tier would be delegated to the Chief Executive supported by a business case although it is unlikely that the City Council would ordinarily agree to “switch on” the rule of 85 in such instances.

Waiving of Actuarial reductions

The City Council is unlikely to ignore actuarial reductions. Decisions on whether to waive the actuarial reduction agree would be delegated to the Chief Executive supported by a business case.

2) Power of employing Authority to award additional pension at whole cost to the employer.

Decisions on whether to award additional pension below second tier level will be delegated to the Chief Executive supported by a business case. Decisions to award additional pension for first and second tier officer shall be made at the discretion of the Appointments and Conditions of Service committee supported by a business case.

3) Shared Cost Additional Pension Scheme (SCAPC)

From 1 April 2014. Colleagues can voluntarily choose to make Additional Pension Contributions; there is the option for the employer to share this cost under the Shared Cost Additional Pensions Contributions (SCAPC)
The City Council will consider awarding additional pension by way of a business case to Appointments and Conditions of Service Committee.

4) Flexible Retirement

This discretion was first adopted under the 2008 Regulations and is subject to the relevant section contained within the People Management Hand Book

5) Contributions

The City Council will decide any question about what contribution rate a member is liable to pay on

- a) first joining the scheme
- b) On 1 April each year with a review on 1 October each year to ensure the band is as expected.
- c) Upon each subsequent contractual change in pay.
- d) Upon a change of hours either reducing or increasing.

6) Injury Allowances

a) Any discretionary payments made to colleagues and or ex colleagues where an industrial injury has occurred are dealt with through the Corporate Liability Insurance and group Personal Accident scheme in operation.

b) The City Council will not formally adopt a separate Injury Allowance Scheme.

7) Transfers in of Earlier Periods of Service - Late Applications

A request for a transfer of previous pension rights from another scheme or previous service within the LGPS or arrangement into the LGPS must be made within 12 months of joining/re-joining the scheme.

The City Council's policy is to accept transfers in applied for outside the period of 12 months, provided that, at the time the transfer is being considered, there is no cost to the Council.

[1] Discretionary decisions in respect of first and second tier officers can only be taken by the Appointment and Conditions

Appendix B

Comparison of proposed 2014 discretions with existing 2008 discretions

LGPS Regulation	Discretion	Discretion under 2008	Discretion under 2014
Regulation 12	Augmentation of membership	Yes	Yes
Regulation 13	Awarding additional pension	Yes	Yes
Regulation 16	Shared Cost Additional Pension Scheme	N/A	Yes
Regulation 18	Flexible retirement	Yes	Yes
Regulation 30	Allowing early payment of benefits + waiving of actuarial reduction	Yes	Yes
Regulation 30(a)	Waiving actuarial reduction for ex colleagues	Yes	Yes
Regulation TPSch 2	Power of employing authority to 'switch on' the 85 year rule	N/A	Yes

Appendix C

Local Government Pension Scheme 2014, Discretionary Decisions

This is an initial desk-based Equality Impact Assessment (EIA) screening of the Employer discretions of the revised Local Government Pension Scheme 2014 which was changed by the LGPS (Transitional Provisions and Savings) Regulations 2014. Local Government Employers need to produce a policy statement setting out how they will exercise those discretions.

Information used to analyse the effects on equality

The LGPS discretions could impact on all members of the LGPS. The most significant impact will be on older employees who may wish to access their pension from age 55.

Data on the membership of the LGPS was used for this EIA which includes breakdown by gender, age, ethnicity and disability. Religion and sexual orientation were not included due to the low numbers.

	Could particularly benefit (X)	May adversely impact (X)	How different groups could be affected: Summary of impacts	Details of actions to reduce negative or increase positive impact (or why action not possible)
People from different ethnic groups	<input type="checkbox"/>	<input type="checkbox"/>	In undertaking this EIA there is no indication that this scheme will adversely impact on any of the protected groups. This is because the exercise of each discretion is based on a business case which is transparent and objective.	All decisions will be recorded, monitored and included in the annual early retirement monitoring report.
Men, women (including maternity/pregnancy impact), transgender people	<input type="checkbox"/>	<input type="checkbox"/>		
Disabled people or carers	<input type="checkbox"/>	<input type="checkbox"/>		
People from different faith groups	<input type="checkbox"/>	<input type="checkbox"/>		
Lesbian, gay or bisexual people	Data not collected			
Older or younger people	√	<input type="checkbox"/>		
Other (e.g. marriage/civil partnership, looked after children, cohesion/good	Not applicable		By their very nature, as they are related to the pension scheme the exercise of these discretions could benefit older employees who are able to access their pension from age 55.	

relations, vulnerable children/adults)			
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Outcome(s) of equality impact assessment:

No major change needed Adjust the policy/proposal Adverse impact but continue Stop and remove the policy/proposal

Arrangements for future monitoring of equality impact of this proposal / policy / service:

See details of actions

Approved by (manager signature): Della Sewell, Employee Relations Manager
September 2014

Date sent to equality team for publishing: Send document or link to equalityanddiversityteam@nottinghamcity.gov.uk