

<b>NAME OF COMMITTEE</b>	<b>Resources Committee</b>
<b>DATE</b>	<b>15 July 2014</b>
<b>REPORT TITLE</b>	<b>Local Government Pension Scheme Discretions Policy</b>
<b>Report of</b>	<b>Personnel Manager</b>
<b>WARDS AFFECTED</b>	<b>All</b>

**Summary of report:**

The purpose of this policy is to set out how the Council will apply the discretions available to it in the application of the Local Government Pension Scheme Regulations.

**Financial implications:**

Any financial cost of more than £10,000 arising from a decision taken under these discretions is subject to the approval of the Resources Committee. Where the financial cost is less than £10,000, a decision under these discretions is subject to the approval of the Head of Paid Service in consultation with the Leader.

**RECOMMENDATIONS:**

It is recommended that Council be requested to:

1. Agree the discretions as set out in the attached Policy;
2. Agree that a decision taken under the Policy with a financial cost of more than £10,000 is delegated to the Resources Committee; and,
3. Agree that a decision taken under the Policy with a financial cost of less than £10,000 is delegated to the Head of Paid Service in consultation with the Leader.

**Officer contact:**

*Andy Wilson*

[Andy.wilson@swdevon.gov.uk](mailto:Andy.wilson@swdevon.gov.uk)

01803 861154

## 1. BACKGROUND

- 1.1 The Local Government Pension Scheme Regulations 2013 (LGPS), the Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014 (LGPS TP) and the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2008 (LGPS B) requires all scheme employers to formulate, publish and keep under review a written policy statement on how they will apply their discretionary powers in relation to certain provisions in the LGPS. As the new LGPS came into force in April 2014, it is necessary to adopt a new policy statement.
- 1.2 Peninsula Pensions is the administering authority for the Devon Pension Fund and for the purposes of this document, West Devon Borough Council (the Council) is a scheme employer.
- 1.3 In addition, there are a number of further discretions that are available to the Council under the provisions of the LGPS. Where a scheme member makes a request to the Council to exercise such discretion, the Head of Paid Service will consider the request in accordance with the provisions in the paragraphs below.
- 1.4 Requests for the Council to make decisions under this policy which will involve financial cost to the Council will be considered and approved on an individual basis.
- 1.5 Where the total cost to the Council of a pension discretion decision will exceed £10,000, the costs must first be approved by the Resources Committee. Below £10,000, the costs must be approved by the Head of Paid Service in consultation with the Leader.
- 1.6 Factors to be taken into account when making decisions will include;
- Overall reasonableness in exercising the discretion;
  - Real and substantial future benefits to the Council and its tax payers;
  - Direct financial savings to be incurred;
  - Employee relations considerations.
- 1.7 The Head of Paid Service has overall responsibility for ensuring that Discretionary Compensation Payments are managed appropriately in accordance with this policy.

## 2. ISSUES FOR CONSIDERATION

### 2.1 Regulation 16 – Additional Pension Contributions

- 2.1.1 An employer can choose to pay for or contribute towards a member's Additional Pension Contract via a Shared Cost Additional Pension Contract (SCAPC)

**It is recommended that the policy of the Council is not to fund, in whole or in part, an employee's Additional Pension Contributions.**

## **2.2 Regulations 30(6) and B18 – Flexible Retirement**

2.2.1 Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up while still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade.

2.2.2 In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights.

**It is recommended that the policy of the Council is to agree to individual applications for flexible retirement where there are no financial costs to the Council and there is no detrimental effect on service delivery and in accordance with the Council's Flexible Retirement policy.**

## **2.3 Regulation 30(8) – Waiving of actuarial reduction**

2.3.1 Where a scheme employer's policy under regulation 30(6) (flexible retirement) is to consent to the immediate release of benefits in respect of an active member who is aged 55 or over, those benefits must be adjusted by an amount shown as appropriate in actuarial guidance issued by the Secretary of State (commonly referred to as actuarial reduction or early payment reduction). Employers have the power to waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to members benefits paid on the grounds of flexible retirement.

2.3.2 Employers may also waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to members' benefits for deferred members and suspended tier 3 ill health pensioners who elect to draw benefits on or after age 60 and before normal pension age.

2.3.3 Employers also have the power to waive, in whole or in part, the actuarial reduction applied to active members' benefits when a member chooses to voluntarily draw benefits on or after age 55 and before age 60.

**It is recommended that the policy of the Council is that a decision to waive any actuarial reduction in the case of flexible retirement will only be considered where there will be a financial or other benefit to the employer or, in very exceptional circumstances, on compassionate grounds.**

**It is recommended that the policy of the Council is that a decision to waive any actuarial reduction in the case of deferred members and suspended tier 3 ill health pensioners who elect to draw benefits on or after age 60 and before normal pension age will only be considered where there will be a financial or other benefit to the employer or, in very exceptional circumstances, on compassionate grounds.**

**It is recommended that the policy of the Council is that a decision to waive any actuarial reduction in the case of an active member who chooses to voluntarily draw benefits on or after age 55 and before age 60 will only be considered where there will be a financial or other benefit to the employer or, in very exceptional circumstances, on compassionate**

grounds.

## **2.4 Regulation 31 – Award of additional pension**

- 2.4.1 A scheme employer may resolve to award an active member or a former active member if it is within 6 months of a dismissal by reason of redundancy or business efficiency, an additional annual pension of not more than the additional pension limit. The pension limit is increased each April under the Pensions (Increase) Act 1971. The limit at 1st April 2014 is £6,500.
- 2.4.2 The Council has the option of awarding an additional pension to an employee who would otherwise be eligible for a lump sum compensation payment under the Council's Discretionary Compensation policy, as formulated in the Council's Redundancy and Interest of Efficiency policy. Where the employee agrees to forgo the lump sum payment (in excess of any statutory redundancy compensation) that would otherwise have been paid, the Council could award additional pension actuarially equivalent in value to the lump sum compensation payment, provided that the additional annual pension would not exceed the statutory limits.

**It is recommended that the Council does not use the discretion to award additional pension, including in circumstances where an employee would agree to forego a lump sum payable under the Council's Discretionary Compensation policy.**

## **2.5 Regulation B12 – Power to increase total membership of active members**

- 2.5.1 An employer may agree to increase the total membership of an active member who is leaving on grounds of redundancy or in the efficiency of the service on or before 31st March 2014. The maximum award (including additional membership in respect of different employments) must not exceed 10 years.
- 2.5.2 An employer may also agree to award augmented service to a member up to 6 months after they have left employment provided that their termination of employment was on grounds of redundancy/efficiency and date of leaving was before 1st April 2014.
- 2.5.3 NB: This is a time limit discretion which expires on 30th September 2014 for those whose employment is terminated on 31st March 2014.

**It is recommended that the policy of the Council is that it does not exercise its power to increase total membership of the scheme.**

## **2.6 Regulation TP Schedule 2 – Power to 'switch on' the 85 Year Rule**

- 2.6.1 Where a scheme member retires or leaves employment and elects to draw their benefits at or after the age of 55 and before the age of 60, those benefits will be actuarially reduced unless their scheme employer agrees to meet the full or part cost of those reductions by 'switching on' the 85 year rule protections thereby allowing the member to receive fully or partly unreduced benefits but subject to the Scheme employer paying a strain (capital) cost to the Pension Fund.

2.6.2 NB: Where a scheme member retires or leaves employment and is over the age of 60 and meets the 85 Year Rule, their benefits are released without actuarial reduction and there is no cost to the Council.

**It is recommended that the policy of the Council is that a decision to 'switch on' the 85-year rule (for scheme members aged between 55 and 60) is only made where there would be a financial or other benefit to the Council.**

## **2.7 Regulation B30 – Choice of early payment of pension**

2.7.1 A scheme employer may allow the early payment of deferred benefits to former members of the LGPS between the ages of 55 and 59.

**It is recommended that the policy of the Council is that a decision to allow the early release of deferred benefits to former members of the LGPS who are aged 55 and 59 will only be considered where there will be a financial or other benefit to the employer or, in very exceptional circumstances, on compassionate grounds.**

## **2.8 Regulation B30A – Reinstatement of suspended tier 3 ill health pension**

2.8.1 A scheme employer can grant an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60. In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights.

**It is recommended that the policy of the Council is that a decision to grant an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60 will only be considered where there will be a financial or other benefit to the employer or, in very exceptional circumstances, on compassionate grounds.**

## **3. LEGAL IMPLICATIONS**

3.1 The recommended Policy will meet the Council's obligations under the Local Government Pensions Scheme.

## **4. FINANCIAL IMPLICATIONS**

4.1 The Policy requires any decision that has a financial implication in excess of £10,000 to be subject to the approval of the Resources Committee. A decision that has a financial implication of less than £10,000 is subject to the approval of the Head of Paid Service in consultation with the Leader.

4.2 It is a requirement that the financial implications must be considered when a decision is taken under any of the discretionary powers contained within this Policy.

## **5. RISK MANAGEMENT**

5.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template.

## 6. OTHER CONSIDERATIONS

<b>Corporate priorities engaged:</b>	
<b>Considerations of equality and human rights:</b>	There are no equality or human rights considerations
<b>Biodiversity considerations:</b>	There are no biodiversity considerations
<b>Sustainability considerations:</b>	There are no sustainability considerations
<b>Crime and disorder implications:</b>	There are no crime and disorder considerations
<b>Background papers:</b>	
<b>Appendices attached:</b>	LGPS Discretion Policy

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Financial	That the cost of exercising a discretion is not in the interests of council tax payers	2	1	2	↔	A decision with a financial cost of more than £10,000 is delegated to the Resources Committee and less than £10,000 is delegated to Head of Paid Service and the Leader	Head of Paid Service