

THE LOCAL GOVERNMENT PENSION SCHEME DISCRETIONS
WDA/23/14

Recommendation

It is recommended that Members:

1. Review the discretions set out in the report at section 3;
2. Determine the discretions individually as recommended at section 3; and
3. Grant delegated powers of the Authority to the Chief Executive to formulate a policy statement setting out how the recommendations approved by Members will be applied to employees who are members of the Local Government Pension Scheme.

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THE LOCAL GOVERNMENT PENSION SCHEME DISCRETIONS
WDA/23/14

Report of the Treasurer

1. Purpose of the Report

- 1.1 The Local Government Pension Scheme (LGPS) contains a number of discretionary elements which give employers the option to determine how those elements of the scheme should be applied to their employees who are Members of the scheme.
- 1.2 This report identifies for Members each of the discretionary elements of the scheme, and recommends whether to apply the individual discretion or not. Members are being asked in this report for their approval to the individual discretions.
- 1.3 The report also confirms the need for a Policy on how those discretions which are approved should be applied to the Authority's employees who are members of the LGPS

2. Background

- 2.1 All of the staff employed by the Authority are entitled to become members of the LGPS and the majority (32 out of 34) staff are members of the scheme. The scheme has agreed contribution rates for members of staff and for the Authority as employer, and provides for pension benefits to be accrued which are then to be paid to scheme members upon their retirement.
- 2.2 The pension scheme has contained a number of discretionary elements for some time; which meant that each employer could choose whether to adopt additional elements of the scheme or not. In the Authority's case a number of these discretions were adopted in 1999 (WDA/45/99) and have remained in place.

Merseyside Waste Disposal Authority
25th July 2014

- 2.3 In April 2014 the LGPS was amended from its previous basis as a 'Final Salary Scheme' and going forward is now a 'Career Average Scheme'. As a part of the other changes to the scheme a number of additional discretions were introduced that each employer could choose to adopt, or choose not to adopt.
- 2.4 When decisions are made about which elements of the scheme are adopted by each employer, the employer (in this case the Authority) is obliged to confirm to the pension fund administrator which discretions are being adopted and how they are to be applied to their employees. This Policy Statement will be prepared following Members' consideration and approval of the discretions that are to be applied for MRWA staff who are members of the LGPF. For some of the 'discretions' it is compulsory for them to be included in the policy statement, others are non-compulsory.
- 2.5 The discretions that the Authority adopts enable those discretions to be considered by the Authority on a case by case basis. This consideration will be dependent upon the circumstances of both the case and of the Authority at the time and will be made either by the Authority or by the Chief Executive where delegated powers exist.
- 2.6 As already set out, the majority but not all the Authority's staff are members of the LGPS. In order to avoid the risk of any discrimination, the Authority also allows employees who are not members of the LGPS to seek to reduce their hours or grade in preparation for retirement. However, there is no entitlement to receive a pension from the LGPS as they are not scheme members. As with LGPS discretions each will be considered on a case by case basis dependent upon circumstances at the time.

3. Decisions on discretions

- 3.1 The report is unusual in that it seeks Members' approval for individual discretions and therefore this section of the report has been prepared so that Members are able to identify each discretion and to consider them separately.
- 3.2 The table which follows sets out a summary of each discretion, the issues to consider, the recommendation of officers and a section for recording each individual decision. The full details of each discretion are attached at Appendix 1 to this report.

Discretion	Issues to consider	Recommendation	Approved by Members? Yes/No
Compulsory			
Regulation 12: Increase the total membership of an active member	This potentially increases the number of years an employee who is an active member of the pension scheme has in the scheme (by up to a maximum of 10 years), and is particularly relevant in the event of a redundancy where an employee's pensionable service may be enhanced. The Authority currently has this provision within its conditions of service	Continue to apply the discretion to increase the number of years an employee has in the scheme	
Regulation 13: award additional pension up to a	This allows the Authority to increase an employee's pension by up to £5,000 a year, in addition to adding to the	It is recommended not to adopt this	

Discretion	Issues to consider	Recommendation	Approved by Members? Yes/No
maximum of £5,000 a year (in addition to any increase in Membership – added years)	<p>Membership (or years in the scheme)</p> <p>The Authority does not have this provision in its conditions of service</p>	provision.	
Regulation 18: flexible retirement	<p>This discretion enables an employee who is over 55 and is a member of the LGPS and who chooses under the Flexible Retirement Policy to reduce their hours, but to continue working. In this circumstance the employee can access a part of their pension at the same time as they continue working.</p> <p>The Authority has a decision on the discretion about whether to waive the reduction that would normally apply to the employee's pension as a result of taking their pension early i.e. the actuarial reduction.</p> <p>The Authority's current position is that it does not waive the reduction in the employee's pension as a result of taking the pension early; this is set out in the Flexible Retirement Policy and is referred to as the actuarial</p>	<p>Continue to apply the existing discretion under the Flexible Retirement Policy of reducing hours; and</p> <p>Continue to not waive the reduction that would apply i.e. do not adjust the employee's pension in respect of actuarial reductions for taking the pension early.</p>	

Discretion	Issues to consider	Recommendation	Approved by Members? Yes/No
	reduction.		
Regulation 30: Early payment of pension	<p>This allows the employer to permit a scheme member (active or deferred i.e. an employee or someone who is no longer an employee) aged between 55 and 65 to receive their accrued benefits early, and waive any reduction that may normally apply due to the early payment of benefits.</p> <p>The Authority currently applies this discretion and will assess its application on an individual basis.</p> <p>Should the Authority continue to apply this discretion it may make it more flexible in the event that there was a need for further redundancies and early retirements, however, it is not without costs. The matters to consider are as follows:</p> <p>1) Adopt this regulation or not; then:</p> <p>2) if adopted – for current Members of the scheme:</p> <p>a) waive the reduction to benefits that normally applies to the early payment of pensions</p> <p>b) do not waive the reduction to benefits</p>	<p>The Authority currently adopts this regulation as follows:</p> <p>1) adopted</p> <p>2)a) the reduction in benefits is waived adopted for current scheme members</p> <p>2)b) this is not adopted – benefits reductions are waived</p> <p>3)a) not adopted currently for deferred Members</p> <p>3)b) benefits reduction not waived</p>	<p>1</p> <p>2a)</p> <p>2b)</p> <p>3a)</p> <p>3b)</p>

Discretion	Issues to consider	Recommendation	Approved by Members? Yes/No
	<p>3) if adopted – for deferred Members of the scheme:</p> <p>a) waive the reduction to benefits that normally applies to the early payment of pensions</p> <p>b) do not waive the reduction to benefits</p>	<p>Recommend – continue to adopt option 1 and 2)a)</p> <p>Do not adopt for deferred Members.</p>	
Non Compulsory			
<p>Regulation 9: gives the employer discretion to determine how and when an employee's contribution rate is calculated</p>	<p>The Authority currently reviews the pensionable contribution of employees at each pay period. The average of the pensionable pay to date is annualised and a pension contribution rate is calculated according to that level of pensionable pay.</p> <p>This method of calculation takes into account any contractual changes that may occur throughout the year, including any pay awards granted (including any potential arrears). As such the contribution of employees (scheme members) may vary during the year.</p> <p>This discretion is already applied</p>	<p>Continue to apply this discretion</p>	

Discretion	Issues to consider	Recommendation	Approved by Members?
			Yes/No
Regulation 22 (8): Membership aggregation	<p>Employees joining the Authority normally have a 12 month period to decide to aggregate their accumulated pension rights from former employment into the LGPS. This regulation allows the employer (the Authority) to extend that period beyond 12 months. This regulation applies to former and deferred members of the LGPS.</p> <p>The Authority does not currently extend the discretionary period beyond 12 months. By providing access to the pension fund the Authority has fulfilled its duty of care to the employee. There is no strong reason for extending the period beyond 12 months.</p>	It is recommended not to extend the period for aggregation of pension benefits beyond the existing 12 months	
Regulation 22 (2): Increase time limits for payment of absence contributions	<p>This provision allows the employer the discretion to extend the 30 days time limit for an employee who has been away from work as a result of maternity, paternity, adoption leave, industrial action or unpaid leave of absence to apply to pay voluntary pension contributions to prevent any gap in membership.</p> <p>The Authority currently does not allow a late application by employees to pay voluntary contributions</p>	Not to adopt this provision.	

Discretion	Issues to consider	Recommendation	Approved by Members? Yes/No
Regulation 17: shared cost AVC scheme	<p>This discretion allows the Authority to establish a Shared Cost Additional Voluntary Contributions scheme, such that where an employee wishes to make additional voluntary contributions to the scheme the costs of the AVCs are also paid for by the Authority.</p> <p>The Authority does not currently adopt this discretion</p>	Not to adopt this discretion.	
Regulation 91, 92 & 93: Forfeiture of pension rights	<p>This provision permits an employer the discretion to allow the forfeit of all or part of a scheme member's pension benefits in the case of a conviction for a criminal offence, and/or for a negligent or fraudulent act.</p> <p>This discretion is currently adopted by the Authority as it allows some recompense and financial redress for the Authority in the case of fraud, theft and grave misconduct.</p>	Continue to adopt this discretion	
Regulation 74; Appointment of specified person to deal with internal disputes	Where a member disagrees with any LGPS decision made by the employer they may use a two stage dispute procedure. The first stage of the dispute is handled by an independent person (the specified person) appointed by the Authority, either from the Authority or external. The person should be someone who has no part in making pension decisions and who is completely at 'arms-length'	Appoint the Chief Executive, or their nominee, as the 'Specified Person'.	

Discretion	Issues to consider	Recommendation	Approved by Members? Yes/No
	<p>from those who would take the decision. The role is usually undertaken by the Chief Executive.</p> <p>The Authority is not a large employer, therefore if it decides to appoint the Chief Executive as the 'specified person' it should recognise there may be occasions where the Chief Executive may be involved in the dispute, and so should also allow for the Chief Executive to nominate another officer who is at 'arms-length' to be appointed on a case by case basis.</p> <p>The second stage is dealt with by a person appointed by the fund.</p>		
Regulation 100: inward transfer of pension rights	<p>This regulation concerns the transfer of pensions benefits in respect of an employee whose former employment and pension benefits were accumulated in non-LGPS schemes. The regulation allows the Authority the discretion to allow employees longer than 12 months to decide whether to transfer their accumulated pension benefits into the LGPS as part of their current employment.</p> <p>The Authority currently does not allow transfer decisions to</p>	Not to adopt the regulation.	

Discretion	Issues to consider	Recommendation	Approved by Members? Yes/No
	be made after 12 months of employment.		
Regulation 31: Early payment of pension – Ill Health	<p>This provision applies to employees who have left their employment early through ill health and allows the employer to allow a scheme member who has had their ‘tier 3’ ill health benefits suspended (as they normally only run for three years) to be put back into payments before their 60th birthday. It also allows the employer to waive any reduction that may normally apply due to the early payment of the benefits.</p> <p>Adoption of this discretion allows the employer to recognise that employees who fall ill may suffer a relapse and therefore may not be able to undertake gainful employment, prior to them normally being able to access their pension. The employee is given access to benefits which are not reduced by means of being paid early.</p> <p>The Authority currently adopts this discretion</p>	Continue to adopt this discretion	

4. Risk Implications

- 4.1 There is no significant additional risk to the Authority from adopting these discretions.
- 4.2 The Authority will need to follow up on its decisions over the discretions by producing a Policy Statement on how it intends to exercise its discretions under the LGPS regulations. If the Policy Statement is delayed the Authority risks legal challenge from any scheme member affected by the delay.

5. HR Implications

- 5.1 There are no immediate HR implications, however, an annual review of the Authority's Policy Statement must be undertaken to ensure that it is current or appropriately amended in line with further changes to the LGPS regulations.

6. Environmental Implications

- 6.1 There are no environmental implications associated with this report

7. Financial Implications

- 7.1 There are no immediate financial implications associated with this report. Current policy may generate additional costs in early retirement situations, the precise nature of which would depend upon the circumstances at the time, when they would be considered in full as part of any decision on early retirement.

8. Conclusion

- 8.1 The Local Government Pension Scheme (LGPS) has changed recently. As a result of the changes the Authority is required to consider whether or not to adopt a number of compulsory and non-compulsory discretions over the way it manages its membership of the scheme and the benefits to its employees, past present and future.
- 8.2 Each of the separate discretions are considered at section 3 of the report and Members are asked to make a decision on each discretion, this will be the Authority's approved position.

- 8.3 When the Authority has set out its position on each of the discretions a Policy Statement on the exercise of those discretions will be prepared, as required by the LGPS.

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The background documents to this report are open to inspection in accordance with Section 100D of The Local Government Act 1972 - Nil.