

THE LOCAL GOVERNMENT PENSION SCHEME DISCRETIONS
WDA/24/21

Recommendation

It is recommended that Members:

1. Review the current Pension Discretion Policy Statement attached at Appendix 1;
2. Agree not to adopt the discretion under Regulation 21(4)(a)(iv) 21(4)(b)(iv) 21(5) - Calculating Assumed Pensionable Pay as detailed in paragraph 2.7 of the Report
3. Adopt the discretions under Regulation 10(6) - Aggregation of Deferred Benefits and Regulation 7 - Assumed Pensionable Pay on a case-by-case basis as detailed in paragraph 2.7 of the Report.
4. Grant delegated powers to the Chief Executive to update the proposed Pension Discretions Policy Statement attached at Appendix 2.

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Report of The Business Services Manager

1. Purpose of the Report

- 1.1 As an employer, the Authority is under a legal duty to prepare and publish a written statement of its policy relating to certain discretionary powers under the Regulations which apply to the Local Government Pension Scheme (“the LGPS”)
- 1.2 Members are requested to review the current Pension Discretion Policy Statement attached at Appendix 1.
- 1.3 In addition, Members are requested to consider not adopting Regulation 21(4)(a)(iv) 21(4)(b)(iv) 21(5) - Calculating Assumed Pensionable Pay, but to adopt Regulations 10(6) - Aggregation of Deferred Benefits and Regulation 7 - Assumed Pensionable Pay, which are the additional non- compulsory discretions that were introduced by the LGPS in 2018 which are detailed in paragraph 2.7 of this report.
- 1.4 This report identifies the relevant Regulations that gives the Authority the discretionary power and describes how the discretion would be exercised. Members are asked to review the discretions in Appendix 2.
- 1.5 Should the additional recommendation of the 3 discretions in Appendix 2 be agreed, Members are asked to Grant delegated powers to the Chief Executive to update the current Pensions Policy Statement and approve the new version attached at Appendix 2.

2. Background

- 2.1 All staff employed by the Authority are entitled to become members of the LGPS.

- 2.2 The Authority has a Pension Discretion Policy Statement (attached at Appendix 1). The Policy Statement was adopted in 1999 (WDA/45/99) and was reviewed and updated in 2014 (WDA/23/14).
- 2.3 In 2014 Members agreed to adopt 5 compulsory regulations and 8 non-compulsory regulations, details of which are attached in the current Pensions Policy Statement in Appendix 1.
- 2.4 The Pensions Policy Statement should be reviewed periodically to capture any changes or amendments in the Regulations.
- 2.5 Since the last Policy review some Regulation numbers have been amended whilst some Regulations were removed. This report provides the updated list of both compulsory and non-compulsory regulations and associated discretions that requires Authority approval by Members.
- 2.6 In 2018 Regulation 100 (6), which was previously a non-compulsory regulation was changed to become a compulsory regulation. This allows the normal time limit for acceptance of a transfer value to be extended beyond 12 months from joining the LGPS in all cases.
- 2.7 In addition, there have been 3 new non-compulsory regulations included which are:

- **2018 – Regulation 21(4)(a)(iv) 21(4)(b)(iv) 21(5) - Calculating Assumed Pensionable Pay.** Employers when calculating assumed pensionable pay (APP) can choose to include the amount of any ‘regular lump sum payment’ received by the member in the 12 months preceding the date the absence began or the ill health retirement or death occurred. This recommendation would not be applicable to our Authority as lump sum payments and performance related bonus payments do not form part of our pay and condition’s structure.

It is recommended that Members do not to adopt this discretion.

- **Regulation 10(6) - Aggregation of Deferred Benefits.** Employers can extend the 12-month time limit within which a member (who has not elected to be treated as a member who, in the same employment, was contributing to the Scheme on both 31 March 2014 and 1 April 2014) who has a deferred LGPS benefit in England or Wales following the cessation of

employment before 1 April 2014, to elect to aggregate their deferred benefits with their new LGPS employment that commenced on or after 14 May 2018, to purchase earned pension. This discretion relates to Employees who have been members of the LGPS before and are looking to aggregate their pension benefits.

It is recommended that Members adopt this discretion but make a decision on a case-by-case basis with supporting information provided by the pension fund at the time of the Employee's request.

- **Regulation 7 - Assumed Pensionable Pay.** Employers can choose to substitute a higher level of pensionable pay when calculating Assumed Pensionable Pay (APP), having had regard to the level of pensionable pay received by the member in the previous 12 months. An example of this would include an employee who has taken on additional duties above their current grade and is being paid for those extra duties.

It is recommended that Members adopt this discretion but make a decision on a case-by-case basis.

- 2.8 Non-compulsory Regulations are those for which it is not mandatory for employers to hold within a policy, however 'best practice' suggests that, in the interests of transparency, employers include them in their published pension policy.
- 2.9 The Authority is obliged to confirm to the pension fund administrator which Regulations Members wish to adopt and how they are to be applied to their employees.
- 2.10 The discretions adopted under the Regulations enable the Authority to consider each discretion 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.
- 2.11 The Authority allows employees who are not members of the LGPS to seek to reduce their hours or grade in preparation for retirement, which avoids the risk of any discrimination, however there is no

entitlement to receive a pension from the LGPS. As with LGPS discretions each request by non-scheme members will be considered on a case-by-case basis.

3. Risk Implications

- 3.1 Failure to update the Discretions Policy Statement may risk legal challenge from any scheme member affected by the delay.

4. HR Implications

- 4.1 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.

5. Environmental Implications

- 5.1 There are no environmental implications associated with this report

6. Financial Implications

- 6.1 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.

7. Conclusion

- 7.1 Members are required to review the current Pensions Policy Statement attached at Appendix 1.
- 7.2 Members are recommended to consider and agree not adopting Regulation 21(4)(a)(iv) 21(4)(b)(iv) 21(5) - Calculating Assumed Pensionable Pay, but to adopt Regulations 10(6) - Aggregation of Deferred Benefits and Regulation 7 - Assumed Pensionable Pay, which are the additional non- compulsory discretions that were introduced by the LGPS in 2018. The revised list of 6 compulsory regulations and 8 non-compulsory regulations are detailed in Appendix 2.
- 7.3 The Authority's Policy Statement on the exercise of its pension discretions will be updated, as required by the LGPS.

7.4 Details of which discretions have been adopted will then be sent to the pension fund as requested.

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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.