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**LOCAL GOVERNMENT PENSION SCHEME DISCRETIONS**

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**Responsible Cabinet Member -**  
**Councillor Stephen Harker – Efficiency and Resources Portfolio**

**Responsible Director - Paul Wildsmith –**  
**Director of Neighbourhood Services and Resources**

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**SUMMARY REPORT**

**Purpose of Report**

1. To seek approval on the discretions the Council needs to formalise and incorporate into a Discretions Policy in line with the Regulation requirements of the revised Local Government Pension Scheme (LGPS) which came into force on 1 April 2014.

**Summary**

2. The new LGPS 2014 applies to all new and existing members of the LGPS from 1 April 2014. Awareness sessions outlining the key changes have been held and Durham Pensions Service has sent LGPS members an overview of the Regulation changes as well as how members will receive statements detailing their accrued pension benefits in the future
3. Under the regulations that govern the Local Government Pension Scheme from 1 April 2014, scheme employers are required to prepare and publish a written policy in relation to five specific choices or discretions that they have. These are:-
  - (a) Whether to grant extra annual pension up to £6,500
  - (b) Whether to make voluntary contributions towards the cost of purchasing extra pension
  - (c) Whether to permit flexible retirement for staff aged 55 or over
  - (d) Whether to 'switch on' the rule of 85 for certain members
  - (e) Whether to waive any actuarial reductions when a scheme member voluntarily draws their pension before their normal retirement age
4. The report recommends that the Council in relation to discretion (a) does not grant extra annual pension and discretion (b) does not make voluntary contributions.

With regard to discretions (c), (d) and (e) to only apply the discretion if it is in the Council's business or financial interests to do so.

## Recommendation

- It is recommended that Members approve the five key discretions as detailed in **Appendix 1** for inclusion in the LGPS 2014 and Local Provisions Policy.

## Reason

- The recommendation is supported in order to comply with the regulation requirements of the Local Government Pension Scheme 2014.

**Paul Wildsmith**  
**Director of Neighbourhood Services and Resources**

## Background Papers

Elizabeth Davison : Extension 2601

S17 Crime and Disorder	This report has no implications for crime and disorder
Health and Well Being	There are no issues relating to health and wellbeing which this report needs to address
Carbon Impact	There are no issues relating to carbon impact
Diversity	There are no specific implications for diversity
Wards Affected	The proposals affect all wards
Groups Affected	The proposals do not affect any specific group
Budget and Policy Framework	The report does not change the Council's budget or Policy framework but needs to be considered by Council as it has implication on pensions.
Key Decision	This is not an Executive decision
Urgent Decision	This is not an Executive decision
One Darlington: Perfectly Placed	There are no issues in the report relating to the Community Strategy.
Efficiency	The report outlines discretions that may be used in the financial or business benefit of the Council.

## MAIN REPORT

### Information and Analysis

7. The new LGPS 2014 applies to all new and existing members of the LGPS from 1<sup>st</sup> April 2014. Communication messages and awareness sessions and have been presented to employees over the recent months outlining the key changes to the scheme. Durham Pensions Service has also sent LGPS members an overview of the Regulation changes as well as how members will receive statements detailing their accrued pension benefits in the future.

### The LGPS 2014 Discretions

8. The Council must comply with the LGPS 2014 changes and amend the Discretionary Policy Statement and Pensions & Retirement Policy accordingly.
9. A number of discretions remain the same as the pre LGPS 2014 scheme however there are five key discretions which the Council must produce and publish a policy statement on, these are;
  - (a) Whether to grant extra annual pension up to £6,500
  - (b) Whether to make voluntary contributions towards the cost of purchasing extra pension
  - (c) Whether to permit flexible retirement for staff aged 55 or over
  - (d) Whether the 'switch on' the rule of 85 for certain members
  - (e) Whether to waiver any actuarial reductions when a scheme member voluntarily draws their pension before their normal retirement age
10. **Appendix 1**, sets out the detail of these Discretions, the Council current practice (where appropriate) and the recommended new Discretion which will apply from 1<sup>st</sup> April 2014.
11. The report recommends that the Council in relation to discretion (a) does not grant extra annual pension and discretion (b) does not make voluntary contributions. With regard to discretions (c), (d) and (e) to only apply the discretion if it is in the Council's business or financial interests to do so.

### Financial Implications Associated with Discretions

12. The Council's current practice and policy (pre. LGPS 2014) has been not to increase pension benefits or waiver reductions.
13. Decisions to waiver reductions are likely to incur additional costs for the Council; however, whilst each case is different, it may make business sense in some cases to consider these options. As such it is proposed to approve some discretions with the ability to review on a case by case basis, rather than a policy which provides no scope for review.

14. In terms of costs, the implementation of LGPS 2014 only applies from 1<sup>st</sup> April 2014, all previous service is protected and the former Regulations apply. Estimates and costs for employees will be split into pre and post LGPS 2014 and where appropriate some members will have protection under the 2008 Regulations for service built up prior to 31 March 2008.
15. The Council already has a robust process for approving early retirements as well as efficiency cases (redundancy) with the Chief Officers Executive making the final decision. Whilst cost is not the predominant influence in any approval it is certainly a key issue alongside being mindful of service continuity, losing key business skills and balancing employee wishes and motivation.
16. As noted in the Council's Pay Policy any termination of employment / severance payment that equates to be a single payment in excess of £100,000 full Council will be given an opportunity to vote prior to the package being approved.

### **Consultation**

17. No consultation has been carried out in relation to the content of this report.

## DARLINGTON BOROUGH COUNCIL

## STATEMENT OF POLICY REGARDING THE EXERCISE OF DISCRETION WITH REGARD TO THE APPLICATION OF THE LOCAL GOVERNMENT PENSION SCHEME REGULATIONS 2014

Further details associated with the following discretions will appear in the Council's revised LGPS 2014 and Local Provision Policy (April 2014) following approval by Council

Discretion	Pre April 2014 Provision	Post April 2014 Recommendation	Comments
Whether to grant additional pension to a member (up to £6,500 a year) [R31]	Although this is a new Regulation, formerly the Council's stance has been not to award any additional pension on any grounds	<b><u>It is recommended the Council should not consider granting additional pension to a member on any grounds.</u></b>	The Council's previous stance has been not to award additional pension.
Whether, where an active scheme member wishes to purchase extra annual pension of up to £6,500 by making Additional Pension Contributions (APCs), to voluntarily contribute the cost of purchasing of that extra pension via a Shared Cost Additional Pension Contribution (SCAPC)	It has not been practice for the Council to award additional pension under the previous LGPS Regulations	<b><u>It is recommended the Council should not contribute toward such costs.</u></b> These are member additional pension top ups, there is no obligation for the employer to contribute.	This is a separate discretion to the cases where a member has a period of authorised unpaid leave of absence and chooses within 30 days of return to work to pay a Shared Cost APC to cover the amount of pension 'lost' during that period of absence, in these cases the employer must contribute 2/3rds of the cost to a Shared Cost APC; there is no discretion.
Whether all or some pension benefits can be	The Council has in place a flexible	<b><u>It is recommended the Council maintains the provisions in its current flexible</u></b>	It is proposed that the Council current flexible retirement Policy will be carried

Discretion	Pre April 2014 Provision	Post April 2014 Recommendation	Comments
<p>paid if a member aged 55 or over reduces their hours/grade and continues to work (“flexible retirement”), and whether to waive some or all of any actuarial reduction that applies on flexible retirement. [R30(6) &amp; R30(8)]</p>	<p>retirement policy which considers applications made under Regulation 30 ‘Flexible Retirement’. Each case is considered on its merits and will only agree requests if it is in the Council’s economic and / or operational interest to do so. A criterion has already been established and is detailed in the next column. The LGPS 2014 Regulations do not introduce any further requirements for consideration.</p>	<p><b><u>retirement policy which is noted below with the additional ability to waiving some or all of the actuarial reduction that applies if it is in the Councils financial or business interest to do so.</u></b></p> <p>The Council considers applications made under Regulation 30 ‘Flexible Retirement’ on the merits of each case and will only agree requests if it is in the Council’s economic and / or operational interest to do so. Consideration for each case will be on the following factors;</p> <ul style="list-style-type: none"> <li>• Making an application does not give employees an automatic right to flexible retirement but the Council will give any such requests serious consideration.</li> <li>• impact of any additional costs on the Council</li> <li>• impact on ability to meet customer demand</li> <li>• ability to reorganise work amongst existing employees</li> <li>• ability to recruit additional staff</li> <li>• impact on quality</li> <li>• impact on performance</li> <li>• availability of work during the periods the employee proposes to work any relevant planned structural change</li> </ul> <p>In order to be eligible, employees need to be aged 55 or over (or be approaching age 55 and would meet the age requirement by the</p>	<p>forward to the new Discretions Policy although one minor amendment will be made relating to ‘<i>waiving some or all of the actuarial reduction that applies to flexible retirement</i>’. The Council’s former policy did not waiver any actuarial reductions, however it is recommended that this discretion follows all new discretions relating to waiving actuarial reductions and this is considered on a case by case basis where it is in the economic interests of the Council to do so. This will align this discretion with Regulation 31 of the LGPS 2014.</p>

Discretion	Pre April 2014 Provision	Post April 2014 Recommendation	Comments
		<p>time they wish flexible retirement to start) and have at least three months' total membership of the LGPS (or have brought a transfer value into the LGPS).</p> <p>In terms of Darlington Borough Council's (DBC's) application of this provision, employees will need to apply for a minimum 20% cut in hours, or a minimum reduction of one full grade, before flexible retirement will be considered.</p> <p>It is not the Council's policy to waiver, in whole or part, actuarial reduction on benefits which a member voluntarily draws before normal retirement age, unless it is in the Council's financial or business interests to do so.</p>	
<p>Whether to allow the rule of 85 to be "switched on" for members who would normally meet the rule but who will not if they draw the benefits age 55-59 [TPSch2, para 1(1)(c)]</p>	<p>This is a new discretion – the ability to 'switch on' this discretion was not a feature of the 2008 Regulations.</p>	<p><b><u>It is recommended the Council should not normally consider 'switching on' and exercising the Rule of 85 discretion unless it is in the financial and or business interests of the service / Council.</u></b> This decision will be taken by Chief Officers Executive (COE). The decision will take into account all relevant facts available at the time of the approval process.</p>	<p>There is no Rule of 85 benefits in the new LGPS scheme. This Regulation refers to the Council's policy on whether to 'turn on' the '85 year rule' (<i>the standard Regulation discretion status is 'off'</i>) to the pre-1st April 2014 membership. The switching on of the discretion is a benefit to members voluntarily drawing benefits on or after 55 and before age 60.</p> <p>This discretion follows a low risk approach and the stance taken by the majority of Council's.</p>

Discretion	Pre April 2014 Provision	Post April 2014 Recommendation	Comments
<p>Whether to waiver any actuarial reductions when a scheme member voluntarily draws their pension benefits before their Normal Pension Age</p>	<p>New Discretion although pre April 2014 practice has been not to waiver any actuarial reductions applicable on any grounds</p>	<p><b><u>It is recommended the Council should not normally consider exercising granting of additional pension to a member unless it is in the financial and or business interests of the service / Council.</u></b> This decision will be taken by Chief Officers Executive (COE). The decision will take into account all relevant facts available at the time of the approval process.</p>	<p>This discretion could be in relation to a current employee retiring or a former employee drawing their deferred benefits before their Normal Pension Age. Depending on when the individual was in the scheme, when they earned their benefits and when they reach age 60, as a Council we have the ability to waiver early retirement reduction on compassionate or any other grounds.</p> <p>In line with other similar discretions which allows the Council to waiver reductions it is recommended that the Council's policy is to not normally exercise the discretion but if it is in the economic interests of the Council to do so we have the ability to exercise a waiver.</p> <p>This discretion follows a low risk approach and the stance taken by the majority of Council's.</p>