

EMPLOYMENT COMMITTEE**30 JUNE 2016****LOCAL GOVERNMENT PENSION SCHEME****REPORT OF THE DIRECTOR OF CORPORATE RESOURCES****Purpose of Report**

1. The purpose of this report is to seek the Committee's agreement to the policy decisions afforded to the County Council as a scheme employer under the provisions of the Local Government Pension Scheme (LGPS).

Background

2. The pension regulations require the County Council to formulate, publish and keep under review its policies in respect of certain areas of the Scheme where it may exercise its discretion. There are five such discretions which are set out below under the heading "Discretionary Policies required to be published".
3. Following the introduction of the new LGPS on 1 April 2014, some of the previous discretions have been removed whilst new ones have been implemented or are similar to previous discretions.
4. Whilst there is no requirement to have a written policy on all discretions, the Council has also set out a further five written policies in order to provide clarity for LGPS members.
5. In respect of all discretionary policies, these were agreed by the Committee at its meeting on 12 June 2014, and although no changes are proposed in this report, it is good practice to keep them under review.
6. Legislation to cap public sector exit payments is expected to come into effect on or around 1 October 2016. The cap includes all payments (including the capital cost of pension release) in relation to all exits from employment. Due to the likely threshold, and the fact that the capital cost of pension release is included in the calculation, it is likely that a number of individuals at a management level may in the future be impacted by this change. The proposals are covered by a separate report to the Committee, and once all the implications are known, a more detailed report will be submitted to a future Committee, as the changes will also mean that a revised pay policy will have to be agreed. The proposals suggest that employees will be able to cover any excess costs themselves, in order to access unreduced pension benefits. Current LGPS regulations only allow the employer to pay the pension strain cost. Pension scheme regulations and Leicestershire County Council's (LCC) LGPS discretionary policies will therefore need to be amended to enable the

individual to cover costs.

7. It is therefore recommended that the following is added to the list of discretionary policies from 1 October 2016 (or if delayed, when the new regulations come into force by virtue of the Enterprise Act 2016).

<u>Regulation</u>	<u>Discretion</u>	<u>Policy</u>
Changes relating to the Enterprise Bill – when enacted.	Whether agreement will be reached between the employer and scheme member as to the mechanism for the member paying the strain (or a proportion) on the fund costs – to allow unreduced pension benefits to be paid where the £95k cap is exceeded.	LCC will liaise with each scheme member to arrange the appropriate method of making payment of the strain on the fund costs, where the member decides to do so.

Discretionary Policies Required to be Published

8. The discretionary policies below are required to be published by the pension regulations:-

- (i). LGPS Regulations - Regulation 31: Power of employer to award additional pension:-

Explanation	Employer's Policy
An employer may resolve to award a member additional pension of not more than £6,500 (figure as at 1 April 2014) a year within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency.	The Council will not normally agree to award an additional pension under this regulation.

- (ii). LGPS Regulations 2013 - Regulation 16(2)(e) and 16(4)(d): Funding of additional pension contributions (shared cost):-

Explanation	Employer's Policy
An active member in the main section of the scheme who is paying contributions may enter into arrangements to pay additional pension contributions (APCs) by regular contributions or a lump sum. Such costs may be funded in whole or in	The Council has not adopted this discretion.

<p>part by the member's Scheme employer.</p> <p>The employer will need to determine a policy on whether it will make a contribution towards the purchase of extra pension.</p> <p>This does not relate to cases where a member has a period of authorised unpaid leave of absence and elects 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 <u>MUST</u> contribute 2/3rds of the cost (Regulation 15(5) of the LGPS Regulations 2013.</p>	
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(iii). LGPS Regulations 2013 - Regulation 30 (6): Flexible Retirement:-

Explanation	Employer's Policy
<p>An active member who has attained the age of 55 or over who reduces working hours or grade of an employment may, with the Scheme employer's consent, elect to receive immediate payment of all or part of the retirement pension to which that member would be entitled in respect of that employment if that member were not an employee in local government service on the date of the reduction in hours or grade, adjusted by the amount shown as appropriate in actuarial guidance issued by the Secretary of State.</p> <p>As an employer you need to determine the conditions under which you would approve a flexible retirement taking place.</p>	<p>The Council has agreed to release pension where there is no cost and not to waive any reduction.</p> <p>Members must reduce their hours by a minimum of 40% and/or reduce their grade.</p> <p>The Council may however allow the release of pension where there is a cost or waive reduction in a potential redundancy situation, where a reduction may occur through redeployment, or in other exceptional circumstances.</p> <p>In all circumstances, there must be an agreed business case.</p>

(iv). LGPS Regulations 2013 - Regulation (paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014): Switching on rule of 85:-

Explanation	Employer's Policy
<p>A member who has not attained normal pension age but who has attained the age of 55 or over, may elect to receive immediate payment of a retirement</p>	<p>The Council will not apply either discretion, unless there is a business case to support this as an alternative to a</p>

<p>pension in relation to an employment if that member is not an employee in local government service in that employment, reduced by the amount shown as appropriate in actuarial guidance issued by the Secretary of State.</p> <p>In these circumstances (other than flexible retirement) the 85 year rule does not automatically apply to members who would otherwise be subject to it who choose to voluntarily draw their benefits on or after age 55 and before 60.</p> <p>The employer has the discretion to “switch on” the 85 year rule for such member (paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014.</p> <p>If the employer does agree to switch back on the rule of 85, the cost of any strain on the fund resulting from the payment of benefits before age 60 would have to be met by the employer.</p>	<p>redundancy situation.</p>
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- (v). LGPS Regulations 2013 - Regulation (paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014): Waiving of actuarial reduction:-

Explanation	Employer’s Policy
<p>An employer has the discretion, under a number of retirement scenarios, to waive actuarial reductions on compassionate grounds.</p> <p>The cost of which would fall upon the employer.</p> <p>n.b. “Compassionate grounds” is not defined in the regulations.</p>	<p>The Council will not apply this discretion, unless there are exceptional circumstances.</p> <p>The Employment Committee and the Director involved will consider any cases and will decide whether the actuarial reductions should be waived. In all cases the financial position of the County Council must be considered.</p>

Additional Discretionary Policies

9. There are a number of other discretions which Scheme employers may exercise

under the LGPS Regulations 2013. In order to provide clarity for members, the County Council has a written policy in place for an additional five discretionary policies. These are set out below:-

- (i). LGPS Regulations 2013 – Regulation 17 - Shared Cost Additional Voluntary Contribution Facility:-

Explanation	Employer's Policy
This discretion allows the Employer to maintain and contribute to an employee's Additional Voluntary Contribution Scheme.	The Council has not adopted this discretion. This will not have any effect on the existing AVC facility available where the employee only is able to make such contributions.

- (ii). LGPS Regulations 2013 - Regulation 100 (6) – election transfer within 12 months:-

Explanation	Employer's Policy
This discretion allows the Employer to extend the 12 month limit a member has in which to elect to transfer other pension rights into the LGPS. This has to be with the agreement of the Administering Authority.	The Council as the Administering Authority will not normally allow an extension of the 12 month limit. Extenuating circumstances may apply and this would include:- <ul style="list-style-type: none"> • Where evidence exists that an election was made within 12 months but his was not received by the administering authority; • Where evidence exists that the member was not aware of the 12 month limit due to maladministration.

- (iii). LGPS Regulations 2013 - Regulation 22 (7) and (8) – election to aggregate within 12 months of commencement:-

Explanation	Employer's Policy
This discretion allows the Employer to extend the 12 month time limit a member has within which they must elect not to have deferred benefits aggregated with their new LGPS employment.	The Council will not normally extend this 12 month time limit. Extenuating circumstances may apply and this would include:- <ul style="list-style-type: none"> • Where evidence exists that an election was made within 12 months

	<p>but his was not received by the administering authority;</p> <ul style="list-style-type: none"> • Where evidence exists that the member was not aware of the 12 month limit due to maladministration.
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(iv). LGPS Regulations 2013 - Regulation 9 – allocation of contribution band:-

Explanation	Employer's Policy
<p>This discretion allows the Employer to determine which contribution band is allocated on joining the scheme and at each April. It also determines the circumstances when an employee's band may be reviewed.</p>	<ul style="list-style-type: none"> • Base pay on actual pay in April plus previous year's overtime; • Run an exercise half yearly as a check and re-band up or down where necessary; • Re-band on all contractual changes, but not ad hoc hours changes and re-band upon a pay award.

(v). LGPS Regulations 2013 - Regulation 21 – assumed pensionable pay:-

Explanation	Employer's Policy
<p>This discretion allows the Employer to determine whether to include in the calculation of assumed pensionable pay the amount of any "regular lump sum payment".</p> <p>This is in cases where an employee's pay needs to be calculated where their pay has been reduced due to certain absences in order that they are not unduly advantaged or disadvantaged.</p>	<ul style="list-style-type: none"> • To determine in individual cases where necessary to establish in a fair, equitable and justifiable way what the members likely pay would have been but for the absence, and in cases where this pay is to be used for future enhancements whether that level of pay would have been received every year to normal retirement age.

Recommendations

10. That the Committee be asked to approve the Policy decisions set out in paragraphs 7 to 9 above, noting that the discretion relating to the Exit Payment Regulations is currently provisional until the Enterprise Act 2016 comes into force.

Background Papers

11. None.

Officer to Contact

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Equal Opportunities Implications

12. Possible implications as a result of the capping of exit payments. An assessment to be carried out once sufficient detail is known.

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