

Employment & Appeals Committee – Meeting held on Monday, 11th August, 2014.

Present:- Councillors Brooker (Chair), Coad, Dhaliwal, N Holledge (Vice-Chair), Plenty, Sandhu and Sharif (from 6.40pm)

Apologies for Absence:- Councillor Sharif gave his apologies for being late

PART 1

10. Declarations of Interest

Councillor N Holledge declared that, as a former council employee, she received a Local Government Pension. She advised that following discussion with the Monitoring Officer this did not constitute a personal interest and that she would therefore take full part in the meeting.

11. Pension Scheme Discretion

The Assistant Director (Professional Services) introduced the report and outlined the pension policies that needed to be reviewed following the introduction of the Local Government Pension Scheme (LGPS) Regulations 2014. The Regulations required all scheme employers to review their existing discretionary policy statement and publish a new policy statement.

The report set out the options and choices available to the Council and the reasons why a particular option was being recommended by officers for each discretionary policy.

LGPS 2013 Regulation 16 – Additional Pension Contributions

As a Scheme employer, the Council has discretion to pay in whole or in part an employee's Additional Pension Contributions (APC's) to increase the value of an employee's pension.

The options outlined in the report were:

- (a) Not to fund an employee's APCs*
- (b) To consider funding an employee's APCs in exceptional circumstances and subject to the employee's difficult domestic circumstances*
- (c) To consider funding an employee's APCs in circumstances where there is a financial or practical reason for doing so.*

The officer recommendation was (a) not to fund additional pension contributions. This recommendation was based on the pension scheme already providing a 'good' level of benefits to employees and was in line with the existing Council policy.

The Committee considered the options available. Members noted that the Council had not paid APCs in the past and considered whether it was ever likely to be of financial benefit to the Council to do so. It was proposed, and agreed that Option (a) above be agreed.

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LGPS 2013 Regulation 30(6) – Flexible Retirement (see guidance note 2 in employer’s guide)

An active member who has attained the age of 55 or over and who with the agreement of their employer reduces their working hours or grade of employment may elect to receive immediate payment of all or part of their retirement pension.

As part of the policy making decision the Scheme employer must consider whether, in addition to the benefits the member may have accrued prior to 1 April 2008 (which the member must draw), to permit the member to choose to draw all, part or none of the pension benefits they built up after 31 March 2008 and before 1 April 2014 and all, part or none of the pension benefits they built up after 1 April 2014.

The options outlined in the report were:

- (a) To consider Individual applications where there is a financial or other benefit to the employer and subject to there being no detrimental impact on the service.
- (b) To only allow for the release of pension benefits built up before 1 April 2008.
- (c) To allow for all pension benefits to be released regardless of the dates of Scheme membership,
- (d) Not to accept any applications from Scheme members for flexible retirement.

The officer recommendation was **(a) to consider Individual applications where there is a financial or other benefit to the employer and subject to there being no detrimental impact on the service** which would give the council the flexibility to grant early access to pension as this could be more cost effective than redundancy. It may also help maintain specialist staff skills at reduced salary costs.

The Committee considered the options available. Members noted that both the Monitoring Officer and S151 Officer would be involved in any decision to apply this discretion and would ensure that it was applied fairly. The discretion was available pre 2008. It was proposed and agreed that option (a) above be agreed.

LGPS 2013 Regulation 30 (8) – Waiving of Actuarial Reduction

Connected to the policy discretion above 30(6) – Flexible Retirement, is discretion about waiving of Actuarial Reduction. Actuarial reduction is when benefits are reduced as members have less years of service built upon in the pension scheme.

A Scheme employer may agree to waive in whole or in part and at their own cost, any actuarial reduction so allowing the employee to enjoy the full or increased value of their accrued benefits.

The options outlined in the report were:

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- (a) To consider Individual applications where there is a financial or other benefit to the employer and subject to there being no detrimental impact on the service.
- (b) A decision to waive any actuarial reduction will be considered in exceptional circumstances subject to the employee's exceptionally difficult personal and domestic circumstances.
- (c) An actuarial reduction will always be applied where relevant and a decision to waive such a reduction will not be considered.

The officer recommendation was **(a) to consider Individual applications where there is a financial or other benefit to the employer and subject to there being no detrimental impact on the service** which would give the council the flexibility to grant early access to pension as this may be more cost effective than redundancy, even with the costs the council would have to pay to waive actuarial reduction.

The Committee considered the options available. Members supported consideration of individual applications where there was a financial benefit to the employer subject to there being no detrimental impact on the service but were concerned about the use of the discretion for "other" benefit to the Employer. The Assistant Director (Professional Services) outlined a number of scenarios where there might be such benefit to the employer. Members discussed whether the Committee itself could make decisions on any cases that there was not a clear financial benefit to the Council but accepted that it would not be appropriate for the Committee to be making decisions on individual applications.

It was proposed that the words 'or other' be removed from recommendation (a). Following a vote it was agreed by 4 votes to 1 vote against and 2 abstentions:

- (a) To consider Individual applications where there is a financial benefit to the employer and subject to there being no detrimental impact on the service.

LGPS 2013 Regulation 31 – Award of Additional Pension

Regulation 31 gives a Scheme employer the power to award an active member of the Scheme, or a member who was active but dismissed by reason of redundancy or business efficiency, additional pension up to a value £6,500.

The options outlined in the report were:

- (a) To consider using this discretion in cases of redundancy and business efficiency subject to the financial implications for the employer.
- (b) To consider using this discretion on compassionate grounds due to the member's exceptionally difficult personal or domestic circumstances.
- (c) To consider using this discretion where a sufficient benefit to the employer can be justified.
- (d) Not to apply this discretion.

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The officer recommendation was **(d) not to apply this discretion** which was based upon cost and no overall business benefit to the council and was in line with Council practice in recent years.

The Committee considered the options available. It was proposed and agreed that option (d) be agreed.

LGPS (Transitional Provisions and Savings) 2014 Schedule 2; (2) and (3) – Switching on the 85-year Rule

The 85 year rule that existed under former Scheme Regulations, states that where a Scheme member's age in whole years when added to their Scheme membership in whole years equals 85, then that is the point from which their pension benefits can be released without actuarial reduction being applied, i.e. the employee receives their full benefits as if they had retired later. For example, an employee aged 60 with 25 years of Scheme membership would meet their 85 year rule date. Under the 85 year rule employees under 55 whose service and age added up to 85 would also meet the 85 year rule and could benefit from their situation being considered.

The new Regulations provide employers with the discretion to reintroduce the 85 year rule (referred to as 'switching back on' the 85 year rule) to waive the reductions to the member's benefits and meet the extra costs arising due to early release of benefits.

The options outlined in the report were:

- (a) To consider each occurrence as it arises subject to the financial implications for the employer.
- (b) To consider 'switching on' the 85 year rule for individual applications where there is a financial or other benefit to the employer.
- (c) Any decision to 'switch on' the 85 year rule will be considered on compassionate grounds in exceptional circumstances subject to the employee's exceptionally difficult personal and domestic circumstances.
- (d) Under no circumstances will the Scheme employer agree to 'switch on' the 85 year rule.

The officer recommendation was **(b) to consider 'switching on' the 85 year rule for individual applications where there is a financial or other benefit to the employer** as the costs to the council of waiving actuarial reduction for a staff member opting to leave the council under the 85 year rule may be less than cost to the council of making that individual redundant.

The Committee considered the options available. Members debated whether 'or other' should be deleted from the proposal. Some Members argued that the Council's discretion should not be restricted to purely financial benefit but others felt that the Council needed to safeguard its position and the policy needed to be both transparent and applied equitably.

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It was proposed that the words 'or other' be removed from recommendation (b). Following a vote it was agreed by 6 votes to 1 vote against [Councillor Coad requested that her dissent be recorded]:

- (b) To consider 'switching on' the 85 year rule for individual applications where there is a financial benefit to the employer.

LGPS 2013 Regulation 9(1) (3) – Contributions

Each year a Scheme employer is required to assess each of its Scheme members' actual pensionable pay as at 1st April. The discretion under Regulation 9(1) (3) provides a Scheme employer with the opportunity to apply a different contribution rate if an employee's salary changes during the financial year.

The options outlined in the report were:

- (a) To set employee contribution rates at 1st April each year and make no changes throughout the year.
- (b) To make changes to employee contribution rates throughout the year from the effective date of any change in employment or material change to the rate of pensionable pay received.
- (c) To consider a change to an employee's rate of pay where the employee requests a review as a result of a change in employment or material change in pensionable pay.

The officer recommendation was **(b) to make changes to employee contribution rates throughout the year from the effective date of any change in employment or material change to the rate of pensionable pay received** to ensure that the right levels of contributions to the pension scheme were being made by staff and reduce costs to the Council.

The Committee considered the options available. It was proposed and agreed that option (b) be agreed.

LGPS 2013 Regulation 17(1) – Shared Cost Additional Voluntary Contributions

Employees members may enter into arrangements to pay additional voluntary contributions to increase the value of their pension. The Scheme employer needs to determine whether or not it will make contributions to such an arrangement on behalf of its active members.

The options outlined in the report were:

- (a) To consider using this discretion where a sufficient benefit to the employer can be justified.
- (b) Not to apply this discretion.

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The officer recommendation was **(b) not to apply this discretion** as the pension scheme already provided a 'good' level of benefits to employees and the Council has not historically funded AVC's.

The Committee considered the options available. It was proposed and agreed that option (b) be agreed.

LGPS 2013 Regulation 22 (7) 22 (8) – Merging of Deferred Member Pension Accounts with Active Member Pension Account and LGPS 2013 Regulation 100(6) – Inward Transfers of Pension Rights

These two discretions relate to the arrangements and timescales for making decisions regarding bringing together pensions from a previous employer. Current arrangement allows a period of 12 months for an employee to make decisions regarding the arrangements for previous pensions. This discretion would extend that 12 month period.

The officer recommendation was to **not extend the 12 month period**. It was proposed and agreed not to extend the 12 month period.

Regulation 21(5) – Assumed Pensionable Pay

Assumed pensionable pay is calculated when a member: enters a period of reduced contractual pay or no pay due to sickness or injury; or is absent during a period of paid child-related leave; or is absent on reserve forces service leave; or retires with an entitlement to a Tier 1 or Tier 2 ill health retirement; or dies in service.

The Council needs to decide whether or not to include in the calculation of assumed pensionable pay, any 'regular lump sum payment' received by the member in the 12 months preceding the date that any of the circumstances listed above occurred. Regular lump sum payments would include honorarium allowances and overtime payments.

The options outlined in the report were:

- (a) Each case will be examined at the appropriate time.
- (b) No 'regular lump sum payments' will ever be included in the calculation of assumed pensionable pay.
- (c) 'Regular lump sum payments' will always be included in the calculation of assumed pensionable pay.

The officer recommendation was **(c) 'Regular lump sum payments' will always be included in the calculation of assumed pensionable pay** to ensure the scheme remains fair and transparent and staff receive benefits that are proportionate to the role they have carried out for the organisation.

The Committee considered the options available. It was proposed and agreed that option (c) be agreed.

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The Committee requested a report to a future meeting outlining the use of honorariums within the Council.

Regulation 14 of the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011

Members were advised that there were a number of discretions relating to paying further pensions to staff as a result of injury or diseases contracted in the course of carrying out their employment.

The Council had already made provisions in relation to injury through its Personal Accident Insurance Policy which already carries a high level of cover sufficient to compensate an employee or their family should this situation arise. It was therefore felt that no further discretions are necessary. Members were advised that this discretion would be reviewed should the Council's insurance cover relating to death or injury change and affect the level of benefits provided.

It was proposed and agreed not to apply Regulation 14 discretion.

RESOLVED:

- (a) LGPS 2013 Regulation 16
Not to fund an employee's Additional Pension Contributions.
- (b) LGPS 2013 Regulation 30(6)
To consider Individual applications where there is a financial or other benefit to the employer and subject to there being no detrimental impact on the service.
- (c) LGPS 2013 Regulation 30(8)
To consider Individual applications where there is a financial benefit to the employer and subject to there being no detrimental impact on the service.
- (d) LGPS 2013 Regulation 31
Not to apply this discretion.
- (e) LGPS (Transitional Provisions and Savings) 2014 Schedule 2; (2) and (3)
To consider 'switching on' the 85 year rule for individual applications where there is a financial benefit to the employer.
- (f) LGPS 2013 Regulation 9(1) (3)
To make changes to employee contribution rates throughout the year from the effective date of any change in employment or material change to the rate of pensionable pay received.
- (g) LGPS 2013 Regulation 17(1)
Not to apply this discretion.
- (h) LGPS 2013 Regulation 22 (7) 22 (8)
Not to extend the 12 month period.

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- (i) LGPS Regulation 21(5)
'Regular lump sum payments' will always be included in the calculation of assumed pensionable pay.
- (j) LGPS Regulation 14
Not to apply this discretion.

12. Date of Next Meeting - Monday 20th October 2014

The date of the next meeting was confirmed as 20th October 2014.

Chair

(Note: The Meeting opened at 6.30 pm and closed at 8.10 pm)