

**Report of: Corporate Director Resources**

<b>Meeting of</b>	<b>Date</b>	<b>Agenda Item</b>	<b>Ward(s)</b>
Pension Board	14 <sup>th</sup> March 2022		
<b>Delete as appropriate</b>		Non-exempt	

**SUBJECT: LGPS – EMPLOYER DISCRETIONS 2022****1. Synopsis**

- 1.1 The Local Government Pension Scheme Regulations requires the Pension Fund to formally publish its policy on “discretions”, review and make such revisions as are appropriate following a change in its policy.
- 1.2 This report summarises the relevant regulations and the pension policies that need to be reviewed and makes recommendations for the adoption of a new pension policy statement as required under Regulation 60. It also considers and makes recommendations concerning certain other discretions available under the LGPS.

**2. Recommendations**

- 2.1 To note the contents of the report.
- 2.2 To give consideration to requesting the Audit Committee accept the current recommendations in relation to the Council’s discretions and amend our policies accordingly summarised in Appendix 1, and detailed further in Appendices 2, 3 and 4, where the Council is the employer (including schools).
- 2.3 To agree to apply the same policy in respect of Regulation 30(8) discretions where the Council is the administering body and a former employer has ceased to be a scheme employer.

### 3. Background

- 3.1 The membership The Local Government Pension Scheme Regulations 2013 ('the Regulations') and the related Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014(the Transitional Regulations) introduced a number of discretionary powers that need to be considered by the Council. As an employer, the Council is required to formulate, publish and keep under review a policy statement on these discretions. In addition, there are a small number of other discretions which apply and are also addressed in the attached table.
- 3.2. The Council must consider the discretionary powers granted to employers in the context of both "active members" (generally current employees) who are in 2014 LGPS and also former employees ("members" of the LGPS) who left the Council prior to 31st March 2014 with preserved / deferred pension benefits
- 3.3 The Trade Unions are being consulted concerning the recommendations in this report and any comments will be reported back to the committee.

### 4. Employer Discretions

- 4.1 Regulation 60 of the Regulations requires the Council as an employer to prepare a written statement of its policy in relation to the exercise of its functions under regulations:
  - (a) 16(2)(e) and 16(4)(d) (funding of additional pension);
  - (b) 30(6) (flexible retirement);
  - (c) 30(8) (waiving of actuarial reduction); and
  - (d) 31 (award of additional pension),

and an administering authority must prepare such a statement in relation to the exercise of its functions under regulation 30(8) in cases where a former employer has ceased to be a scheme employer.

For details of the Regulations see:

<http://www.legislation.gov.uk/ukksi/2013/2356/regulation/60/made>

- 4.2 There is no longer an automatic entitlement to an unreduced pension for employees who voluntarily retire early aged between 55 and 60 whose length of service plus age is 85 or more. The Transitional Regulations provide a discretion to "switch back on" that entitlement on compassionate grounds.
- 4.3 In preparing, reviewing and making revisions to its statement under Regulation 60 the Council must have regard to the extent to which the exercise of these discretionary powers, could lead to a serious loss of confidence in the public service.
- 4.4 The discretions for consideration are detailed in **Appendix 1**, along with a summary of the Council's current policy, where applicable, and recommendations for future policy.
- 4.5 The Appendices 1 to 4 invites members to consider in respect of some of the available discretions adopting a policy to use them but only in exceptional circumstances. The advantage of this approach is that it retains flexibility to respond in cases, for example, of particular hardship. This does of course mean that there may be some cost to the Council.

## 5. Implications

### 5.1 Financial implications

There are financial implications arising directly from the report. The costs of exercising the discretions detailed in **Appendix 1** can give rise to pension strain costs when a member draws their pension benefits before their normal or state pension age (for whatever reason).

Factors that influence the strain costs include the members' age, length of service, gender and marital status. The impact on the fund is the loss of future contribution streams from the employee and the member, and paying out benefits earlier than otherwise anticipated. Generally where a strain costs arises due to an employer decision, such as waiving actuarial reductions, the strain costs will be met by the employer and not the Pension Fund.

### 5.2 Legal Implications:

Regulation 60 of the Local Government Pension Scheme Regulations 2013 requires the Council to prepare and publish a written statement of its policy in relation to various discretions available to it under the scheme and to publish that statement. The statement must thereafter be kept under review.

The Regulations require that in preparing or making revisions to its pension policy statements, the scheme employer must have regard to the extent to which the exercise of any of its policies could lead to a serious loss of confidence in the public service (Regulation 60(5)).

### 5.3 Environmental Implications:

None applicable to this report. Environmental implications will be included in each report to the Pension Board Committee as necessary. The current agreed investment strategy statement for pensions outlines the policies and targets set to April 2022 to reduce the current and future carbon exposure by 50% and 75% respectively compared to when it was measured in 2016 and also invest 15% of the fund in green opportunities. The link to the full document is [https://www.islington.gov.uk/~/\\_media/sharepoint-lists/public-records/finance/financialmanagement/adviceandinformation/20192020/20190910londonboroughofislingtonpensionfundinvestmentstrategystatement.pdf](https://www.islington.gov.uk/~/_media/sharepoint-lists/public-records/finance/financialmanagement/adviceandinformation/20192020/20190910londonboroughofislingtonpensionfundinvestmentstrategystatement.pdf)

### 5.4 Equality Impact Assessment:

There The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.

Under the Local Government Pension Scheme Regulations 2013 the Council is required to have a policy statement in relation to the exercise of the discretionary provision contained in the Act. All eligible employees working for the Council are automatically admitted to the LGPS, unless they opt-out. However, care needs to be taken in the exercise of discretions that equality characteristics as outlined in the Equality Act 2010 are taken into account.

## **6. Conclusion and reasons for recommendations**

6.1 There is a legal requirement for the Council to regularly review its discretionary pension policy. In formulating and reviewing the policy statement the Council must have regard to the extent to which the exercise of its discretionary powers could lead to a serious loss of confidence in the public service.

### **Background papers:**

None.

Final report clearance:

### **Signed by:**

Dave Hodgkinson  
Corporate Director of Resources

Date 2 March 2022

### **Received by:**

Head of Democratic Services

Date

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