

Resources Department
7 Newington Barrow Way
London, N7 7EP

Report of: Corporate Director of Resources

Meeting of: Pensions Sub-committee

Date: 5th December 2022

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 accept the current recommendations in relation to the Council’s discretions and review our policies accordingly as set out in Appendix 1 and 2.
- 2.3. To approve the introduction of a new discretion of a Shared Cost Additional Voluntary Contribution Scheme (SCAVC) with a new provider AVC wise.
- 2.4. To agree to apply the same policy in respect of Regulation 30(8) discretions where the Council is the administering authority and a former employer has ceased to be a scheme employer.

3. Background

- 3.1. The Local Government Pension Scheme (LGPS) is a statutory scheme; the rules and regulations governing the scheme are laid down under Act of Parliament however there are some provisions of the Scheme that are discretionary. Discretionary powers allow employers to choose how, or if, they apply certain provisions. As an employer, the Council is required to formulate, publish and keep under review a policy statement on these discretions.
- 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 deferred pension benefits.

4. Employer Discretions

- 4.1 Regulation 60 of the Regulations requires the Council as 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/ukxi/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 Council proposes one discretion change for consideration which is the introduction of a **Shared Cost Additional Voluntary Contributions Scheme** which is permissible under Regulation 17 of the LGPS 2013. This enables the Council, where a member opts to pay AVCs to also contribute to that arrangement. This is known as a Shared Cost AVC (SCAVC). If a member chooses to participate in a SCAVC Scheme, it is facilitated via a 'salary sacrifice' arrangement. The member's salary is reduced by a fixed amount and this is paid by the Council as a contribution into the member's AVC fund. The benefits of SCAVC is that it reduces the employer and member NI Contributions in addition to providing tax savings to the member. (NB. Employer savings are only made when the employees' earnings are above the Primary NIC threshold of £12,570 therefore employees earning under this threshold will not make savings). Further information is provided in **Appendix 1**, along with a summary of the Council's other discretionary policies. **Appendix 2** outlines the 5 mandatory employer discretions.

Further reviews and updates to our discretions will be presented to the Pension Board and Pension Sub-Committee for consideration next year.

4.5 All the Appendices are subject to review in accordance with the scheme regulations.

5. **Implications**

5.1. **Financial Implications**

5.1.1. The cost of administering the LGPS is chargeable to the Pension Fund. There are financial implications arising directly from the report. The costs of exercising the discretions detailed in **Appendix 1 and 2** can give rise to pension strain costs when a member draws their pension benefits before their normal or state pension age (for whatever reason).

5.1.2. 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**

5.2.1. There are no specific legal implications in this report. 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.

5.2.2. 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 and contribution to achieving a net zero carbon Islington by 2030**

- 5.3.1. 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>

5.4. **Equalities Impact Assessment**

- 5.4.1. 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.
- 5.4.2. An Equalities Impact Assessment is not required in relation to this report, because there are no adverse impacts in terms of equalities arising from the contents of this report. The LGPS is a statutory public service pension scheme open to all Council employees.

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.

Appendices: Appendix 1 and 2

Background papers: none

Final report clearance:

Signed by:

Corporate Director of Resources

Date: 23 November 2022

Report Author: Patrick Fullerton, Pensions Manager

Tel: 020 7527 2588

Email: patrick.fullerton@islington.gov.uk

Legal comments: Julian Walshaw, (Acting) Assistant Director of Law

Tel: 020 7527 3076

Email: julian.walshaw1@islington.gov.uk