

Agenda item:

Title of meeting: Employment Committee

Date of meeting: Tuesday, 17 June 2014

Subject: Discretionary Pension Policy Statement Review

Report by: Shaun Tetley, Payroll and Pension Manager

Wards affected: None

Key decision: No

Full Council decision: No

1. Purpose of report

The introduction of the new Local Government Pension Scheme (LGPS) from 1 April 2014 requires all scheme employers to review their existing discretionary pension policy statements and publish new policy statements effective from 1 April 2014. This is required under Regulation 60(1) of the LGPS Regulations 2013 and Regulation 66 (1) of the LGPS (Administration) Regulations 2007.

This report summarises the pension policies that need reviewing and makes recommendations for the adoption of a new pension policy statement.

In addition, for information, the report also summarises the main provisions of the new LGPS and provides a comparison with the existing scheme.

2. Recommendations

- 2.1 Employment Committee approve the discretionary policy statement set out in appendix 1 of this report with effect from 1 April 2014.
- 2.2 Employment Committee note the main scheme changes arising from the introduction of the new LGPS from 1 April 2014. Appendix 2 of this report provides a summary of the changes.

3. Background

- 3.1 The cost of providing public sector pension schemes has been increasing over many years and the previous Government was concerned over their long-term sustainability. Consequently it appointed Lord Hutton of Furness to chair an independent Public Services Commission to undertake a fundamental structural review of public sector pension provision.

3.2 The main recommendations of the Commission were that:

- All public sector schemes should change from final salary pension schemes to career average revalued earnings schemes
- Scheme retirement ages should be the same as state retirement pension ages
- There should be a cost sharing mechanism introduced whereby scheme members would share future scheme cost increases in providing public sector pension schemes rather than just the employers
- Existing rights of current scheme members should be protected based on the service built up to 31 March 2014, with some additional protections for staff 'nearing retirement'

3.3 The present Government accepted the Commission's recommendations and tasked the government departments responsible for each public sector pension scheme to negotiate with the relevant employer representatives and unions on the required changes to the respective schemes.

3.4 Agreement has been reached between CLG, the Local Government Employers Organisation and the trade unions on the new LGPS that will come into force on 1 April 2014. Appendix 2 provides a summary of the main provisions of the new LGPS 2014 compared with those of the current scheme.

4.0 Discretionary Pension Policy Statements

4.1 The following paragraphs provide further detail on the various discretions that the city council is required to review together with a recommendation on the policy that should be adopted. The pension regulations require that in preparing or making revisions to 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. Although the revised discretionary policy is effective from 1st April 2014, the Regulations provide a deadline of 30th June 2014 for agreement to be made on the new policy.

4.2 Power of employing authority to award additional pension (Regulation 31)

4.2.1 This provision currently enables an employer to award an additional pension of up to £5,000 per annum to a scheme member. Under the new scheme this amount will be increased to £6,500 per annum from 1 April 2014. This provision could be used for example as a staff recruitment and retention tool. The cost of awarding additional pension would be substantial and once awarded the pension could not be taken away. It is worth noting that employees can purchase additional pension up to the value of £6,500 at their personal cost if they wish. The council's current policy is that there should be no adoption of this provision.

It is recommended that there should be no change to the council's existing policy. On this basis the discretion to award additional pension under Regulation 31 is not approved.

4.3 Power to approve a regular or lump sum additional pension contribution (APC) under Regulation 16 (2) e and Regulation 16 (4) d

4.3.1 Regulation 16 provides the facility for a LGPS member to enter into a contract to buy additional pension contributions (APCs). There are 2 types of APCs:

- A scheme member can purchase additional pension of up to £6,500
- A scheme member can elect to pay APC's to cover a period of approved unpaid leave. With effect from April 2014, approved unpaid leave is no longer pensionable unless an election is made to cover the period as pensionable

Where a scheme member elects to purchase additional pension (of up to £6,500), Regulation 16 (2) e provides the discretion for the city council to fund the contributions in whole or part.

Where a scheme member elects to pay contributions to cover a period of approved unpaid leave, Regulation 16 (4) d provides the discretion for the city council to fund the contributions in whole or part. However it should be noted that provided a member has elected to cover a period of unpaid leave within 30 days of the return to work, then the pension contributions are paid under a shared cost arrangement where the Regulations require the employer to pay 2/3rds of the cost and the employee pays 1/3rd. Elections that are made after the 30 day deadline are at full cost to the employee. However Regulation 16(4) d provides the discretion to fund the contributions in whole or part.

The decision to purchase APCs under the above regulations is a personal employee decision and is designed to increase their pension benefits on retirement. On this basis it does not seem appropriate that the Portsmouth Council taxpayer contributes towards increasing the pension benefits of an employee.

It is recommended that the city council makes no contribution towards Additional Pension Contributions under Regulation 16 (2) e and Regulation 16 (4) d (other than under the shared cost arrangement where there is no discretion).

4.4 Power to approve the payment of pension benefits for staff over the age of 55 under the flexible retirement provisions contained in Regulation 30 (6)

4.4.1 The city council already has a policy covering flexible retirement and this requires applications from staff to be approved by the Head of Service. The policy requires a permanent reduction in hours (and or) pay of at least 50% for full time staff (with a proportionate reduction for part-time staff).

It is important to note that applications for flexible retirement from staff between the ages of 55 and 60 normally incur an employer pension strain charge. Applicants in this age range will not be approved unless a robust business case demonstrates that savings will accrue to offset the pension strain charge and this requires the approval of the Head of Financial Services.

It is recommended that the city council makes no change to the existing policy covering flexible retirement and that the policy is re-adopted under Regulation 30 (6).

4.5 Power to waive the actuarial pension benefits reduction under Regulation 30 (8) that affects some staff who apply for flexible retirement

- 4.5.1 The pension scheme benefits for a member of staff taking flexible retirement may be subject to an actuarial reduction depending on the age or service. Scope exists for the employer to waive the reduction resulting in the benefits being paid in full. However the pension strain cost associated with exercising this discretion would fall on the city council. Flexible retirement allows an employee to access their pension benefits and continue working (on reduced hours). Prior to the application and approval of flexible retirement the scheme member is provided with an estimate of pension benefits. This will include any actuarial reduction and the member will be aware of the financial consequences to allow them to consider whether retirement is still affordable. As the cost to waive any actuarial adjustment would need to be funded by the employer, this does not appear to be an appropriate use of council tax payers' money.

It is recommended that the city council does not exercise the discretion to waive any actuarial reduction for staff under Regulation 30 (8).

4.6 Power to waive the actuarial reduction under Regulation 30 (8) that affects staff who apply for early retirement from age 55

- 4.6.1 Under the current scheme (pre 1 April 2014), an employer has the discretion to allow an employee to retire voluntarily between the ages of 55-59 and receive immediate payment of their pension benefits. From the age of 60 the employer's permission is not required.
- 4.6.2 The council's current policy is to refer applications to members of the Employment Committee to consider individual cases on their merits in accordance with the provisions of the council's early retirement scheme. In most cases the council will have to pay a pension strain charge, which can be significant, and as a result we have had no applications under this provision for a number of years. In addition to the employer pension strain charge, the employee's pension scheme benefits may be subject to actuarial adjustment (unless the 'rule of 85' is met) and the employer can waive this reduction in exceptional circumstances.
- 4.6.3 Under the new scheme, employees aged between 55 and 59 will no longer need their employer's permission to retire and receive immediate payment of their pension benefits. However the pension benefits payable would still be subject to a reduction to allow for early payment and employers can exercise a discretion to waive the reduction but in most cases this would incur an employer charge.

- 4.6.4 As the new LGPS scheme provides member flexibility to retire between the ages of 55 - 59 there will be no need in future for scheme members to apply to the Employment Committee for early retirement in this age range. However as the pension benefits will in most cases be subject to an actuarial pension reduction, discretion exists for the employer to waive this reduction. It is proposed that this discretion is not applied for the following reasons:
- Approval of this discretion would incur a potentially significant employer pension strain charge
 - As LGPS members can now retire from age 55 and will be aware of the financial implications on their pension scheme benefits if they choose to retire 'early', it is their personal choice to decide whether to exercise this option.
 - If we were to exercise this discretion selectively, it would be difficult to ensure consistency of application

It is recommended that the power to waive the actuarial reduction under Regulation 30 (8) that affects staff who apply for early retirement from age 55 is not approved.

4.7 Power to approve the early payment of pension benefits before normal retirement age at the request of a former employee (a deferred pensioner) under Regulation 30 (8)

- 4.7.1 The council's current policy is to allow early payment of pension benefits to former employees where there is no cost to the council. It is recommended that there should be no change to the council's existing policy on this provision.

It is recommended that the power to approve the early payment of pension to a deferred pensioner under Regulation 30 (8) be approved provided that no pension strain charge falls on the council.

5.0 Non-compulsory items for inclusion in the Discretionary Policy Statement

- 5.1 There are a number of other matters that require employer decision and although it is not mandatory to include these in the Discretionary Policy Statement, it is recommended that these are included to avoid any potential appeals under the Internal Disputes Resolution Procedure.
- 5.2 **Power to extend the period to allow scheme members not to aggregate service under Regulation 22 (7b) and (8b)**
- 5.2.1 Regulation 22(7b) covers the situation where LGPS members have more than one LGPS pension account with Portsmouth City Council. The Regulation states that where one or more of the employments end with an entitlement to a deferred pension, but the member has a continuing employment with PCC, then the deferred pension account must be aggregated with one of the continuing pension account(s). The Regulations automatically aggregate pension accounts within 12 months unless the scheme member has specifically requested that the pension accounts are kept separate. Regulation 22 (7b) provides discretion for the employer to allow an employee to extend the period beyond 12 months. It is recommended that we do not extend the 12 month deadline because it will be very difficult for PCC to quantify

what costs will accrue on early retirements. The reason for this is that if we want to terminate employment at some date in the future and a member has disconnected service, they could connect the service at the point of termination and this would lead to additional pension strain costs completely out of our control.

It is recommended that the power to allow a scheme member not to aggregate service beyond a period of 12 months under Regulation 22 (7b) is not approved.

5.2.2 Regulation 22 (8b) covers the situation where a deferred LGPS member recommences employment and joins the LGPS and therefore becomes an active member again. The Regulations automatically aggregate pension accounts within 12 months unless the scheme member has specifically requested that the pension accounts are kept separate. Regulation 22 (8b) provides discretion for the employer to allow an employee to extend the period beyond 12 months. It is not recommended that this discretion is exercised as this could result in additional pension strain charges being imposed on the city council. Where an employee has deferred pension rights and is made redundant or retired on efficiency grounds at some stage in the future, if we were to exercise this discretion they could join the deferred service and the active service together and would be eligible for early payment of both sets of benefits. This could lead to a potential significant increase in pension strain costs completely outside of the control of the council.

It is recommended that the power to allow a scheme member not to aggregate a deferred pension account with an active pension account beyond a period of 12 months under Regulation 22 (8b) is not approved.

5.3 Power to accept inward transfers under Regulation 100

5.3.1 Regulation 100 covers the inward transfer of pension rights. When a new member of staff either commences with the city council or joins the LGPS, they have a period of 12 months to decide whether they want to transfer other pension rights into the LGPS. Regulation 100 gives the employer discretion to extend the period beyond 12 months. This discretion is not currently exercised and it is proposed that we make no change to the current policy. The reason for this is that it could result in a considerable increase in employer pension strain charges if the member of staff was to be made redundant or retire on efficiency grounds at some stage in the future. If we were to exercise the discretion a member of staff could on being made redundant (or efficiency retirement) request a transfer of pension rights from a previous employment. This would result in an increase in their LGPS benefits and as a result would increase the pension strain charge payable by the council.

It is recommended that the power to extend the period of accepting the transfer of inward pension rights beyond 12 months under Regulation 100 is not approved.

5.4 Assessment of pension deduction tier

- 5.4.1 The LGPS Regulations require the City Council to assess which pension deduction tier (i.e. employee pension contribution band) the employee should be entered into on 1 April 2014. The Regulations are not prescriptive in terms of how the assessment should be made and to avoid any appeals, it is good practice to document the method to be used not only for the initial assessment in April 2014 but also when pay varies during the year.
- 5.4.2 There have been discussions with a number of other employers both locally and nationally to ensure that the method of assessment is fair and equitable. Having considered all of the options available it is proposed that the following assessment rules are adopted.
- The initial assessment will be made in April 2014 and staff in the LGPS will receive a letter to explain the assessment method
 - Annual contractual pay will be used to determine the pension tier percentage to be deducted
 - Non contractual pay will be disregarded in the assessment. This is in line with the majority of other employers and is being disregarded due to the amounts of additional pay being relatively low. In addition it is worth noting that as the pension tier bands are wide, additional non contractual pay is unlikely to result in a tier change
 - A further assessment will be made at every payroll run to determine whether the contractual pay has varied (up or down) to the extent that it requires a revised pension deduction tier to be processed
 - Where the reassessment identifies the need to vary the pension deduction tier this will be processed in the following month to allow sufficient time for a letter to be sent to the LGPS member to explain why the deduction will be varied. This will also avoid mid-month changes. The only exception to this is that if the contractual change dates from the first of the month, in which case the change will be made in the same month
 - Staff employed on casual or zero hour contracts will be entered into the lowest pension deduction tier but this will be reviewed if it is clear that their level of remuneration deems this action inappropriate
 - Staff are able to appeal against the assessment under a process known as the Internal Disputes Resolution Procedure and this will be explained in the notification letter in April 2014 and any subsequent reassessment letter

6. Equality impact assessment (EIA)

A preliminary EIA has been undertaken and no negative impact on any of the equality groups has been identified.

7. Head of Legal Services comments

There are no legal implications arising from this report.

8. Head of Finance's comments

All of the relevant financial implications are contained within the body of the report.

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Signed by:

Appendices:

Appendix 1 - Discretionary Compensation & Benefits Policy Statement for Portsmouth City Council Employees (including annex1)

Appendix 2 - LGPS 2014/2008 Comparison and Employee contribution rate comparison

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
LGPS Regulations 2013	http://www.lgpsregs.org/index.php/regs-legislation/timeline-regulations-2014

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by:



Discretionary Compensation & Benefits Policy Statement for Portsmouth City Council Employees

The introduction of the new Local Government Pension Scheme (LGPS) from 1 April 2014 requires all scheme employers to review their existing discretionary pension policy statements and publish new policy statements effective from 1 April 2014. This is required under Regulation 60(1) of the LGPS Regulations 2013 and Regulation 66 (1) of the LGPS (Administration) Regulations 2007.

This discretionary pension policy has been approved by Employment Committee and for completeness contains both the compulsory and non-compulsory discretions.

Portsmouth City Council will:

- Not exercise the discretion to award additional pension under Regulation 31
- Not exercise the discretion to make any employer contribution to regular or lump sum additional pension contribution (APC) under Regulation 16 (2) e and Regulation 16 (4) d
- Exercise the discretion to approve the payment of pension benefits for staff over the age of 55 under the flexible retirement provisions contained in Regulation 30 (6). Approval will be subject to the member of staff meeting the additional flexible retirement conditions contained in the HR policy entitled 'Flexible Retirement Policy'
- Not exercise the discretion in Regulation 30 (8) to waive any actuarial reduction in a scheme members LGPS benefits in cases of:
 - Flexible retirement
 - Voluntary retirement
- Exercise the discretion to approve the early payment of pension benefits before normal retirement age at the request of a former employee (a deferred pensioner) under Regulation 30 (8) provided that no pension strain charge accrues
- Only accept elections *not* to combine pension rights from previous local government employment with a current period of membership, which are made within 12 months of re-joining the scheme under Regulation 22 (7b)
- Only accept elections *not* to combine a deferred pension account with an active pension account, which are made within 12 months of re-joining the scheme under Regulation 22 (8b)

- Not exercise the discretion to extend the period of accepting the transfer of inward pension rights beyond 12 months under Regulation 100
- Calculate your redundancy pay using the Government statutory redundancy table to assess the number of weeks of redundancy pay. This will use actual week's pay and continuous local government service to calculate the total redundancy pay rather than using the Government statutory maximum weekly rate of redundancy pay
- Not enhance your statutory redundancy pay up to the maximum 104 weeks pay under Regulation 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006.
- Consider the award of compensation, in cases of early retirement on the grounds of efficiency of the service. Compensation would be calculated on your actual weeks pay and continuous local government service using the Government statutory redundancy pay table. Where compensation is agreed under this discretion your actual weekly rate of pay will be used instead of the Government statutory maximum weekly rate of redundancy pay. The decision to award compensation will be made by the Employment Committee following the recommendation of the relevant Strategic Director in consultation with the Head of Human Resources and Head of Financial Services
- At the end of a period of re-employment, reduce, according to a set formula, the added year's element of your pension to ensure you would be no better off in pension terms than if you had remained in the original job. Details of the formulas are available from the Hampshire Pension Services (Hampshire County Council)
- Assess your pension deduction using the rules set out in annex 1 at the foot of this Discretionary Compensation & Benefits Policy Statement
- Inform you if our policy on Discretionary Compensation and LGPS Benefits changes in the future by updating this policy statement and publishing it

If you have any questions or need further information please contact your HR Manager or the Financial Services Pensions Team.

Updated April 2014

Annex 1

Assessment of Pension Deduction Rate

Portsmouth City Council will apply the following policy in the assessment and review of the Local Government Pension Scheme (LGPS) pension deduction rate.

- The initial assessment will be made in April 2014 and staff in the LGPS will receive a letter to explain the assessment method. The letter will contain a table showing the pension deduction percentage rates and salaries and will explain the appeal process

- The annual contractual pay will be used to determine the pension tier deduction rate that will be applied
- Non contractual pay will be disregarded in the assessment. This is in line with the majority of other employers and is being disregarded due to the amounts of additional pay being relatively low. In addition it is worth noting that as the pension tier bands are wide, additional non contractual pay is unlikely to result in a tier change
- A further assessment will be made at every monthly payroll run to determine whether the contractual pay has varied (up or down) to the extent that it requires a revision to be made to the pension deduction
- Where the reassessment identifies the need to revise the pension deduction (up or down), this will be processed in the following month to allow sufficient time for a letter to be sent to the LGPS member to explain why the deduction will be varied. This will also avoid mid-month changes. The only exception to this is that if the contractual change dates from the first of the month, in which case the change will be made in the same month. Where a retrospective increase or decrease is made, the re-assessment will only take place in the month the variation is processed. Any arrears or recovery of pay made in that month will have pension contributions calculated on the appropriate pension deduction percentage rate.
- Staff employed on casual or zero hour contracts will be entered by default into the lowest pension deduction tier but this will be reviewed if it is clear that their level of remuneration deems this action as inappropriate
- Staff are able to appeal against the assessment under a process known as the Internal Disputes Resolution Procedure and this will be explained in the notification letter in April and any subsequent reassessment letter

LGPS 2014/2008 Comparison

	Proposed LGPS 2014	LGPS 2008
Scheme design	Career Average Revalued Earnings (CARE)	Final Salary
Pension age	State Pension Age (minimum 65)	65
Accrual Rate	1/49 th	1/60 th
Revaluation Rate	Inline with price index - currently Consumer Price Index (CPI)	Based on final salary
Employee Contribution Rate	Tiered contributions in line with salary - average 6.5% (see following table)	Tiered contributions in line with salary - average 6.5% (see following table)
Contribution flexibility	Option to pay 50% contributions for 50% benefit	No
Early/late retirement	55-75 on an actuarially neutral basis	55-75 on an actuarially neutral basis
Pension in payment adjustment	Inline with a price index - currently CPI	CPI (RPI for pre 2011 increases)
Optional lump sum commutation rate	£12 lump sum for £1 pension	£12 lump sum for £1 Pension
Death in service lump sum	3 x pensionable pay	3 x pensionable pay
Death in service surviving partner benefits	1/160 th accrual	1/160 th accrual
Ill health retirement	Tier 1 - immediate payment with membership enhanced to Normal Pension Age Tier 2 - immediate payment of pension with 25% membership enhancement to Normal Pension Age Tier 3 - temporary payment of pension for up to 3 years	Tier 1 - immediate payment with service enhanced to Normal Pension Age (65) Tier 2 - immediate payment of pension with 25% service enhancement to Normal Pension Age (65) Tier 3 - temporary payment of pension for up to 3 years
Vesting period	2 years	3 months
Transitional protection	Accrued rights protected and past benefits linked to final salary when members leave the scheme - Protection underpin for members aged 57 to 59 - Rule of 85 protection (as in 2008 Scheme)	N/A

Employee contribution rate comparison

<i>Pensionable allowance range</i>	<i>Contribution rate 2014 Scheme (%)</i>
Up to £13,500	5.5
£13,501 to £21,000	5.8
£21,001 to £34,000	6.5
£34,001 to £43,000	6.8
£43,001 to £60,000	8.5
£60,001 to £85,000	9.9
£85,001 to £100,000	10.5
£100,001 to £150,000	11.4
£150,001 or more	12.5

<i>Pensionable allowance range</i>	<i>Contribution rate 2008 Scheme (%)</i>
Up to £13,500	5.5
£13,501 to £15,800	5.8
£15,801 to £20,400	5.9
£20,401 to £34,000	6.5
£34,001 to £45,500	6.8
£45,501 to £85,300	7.2
£85,301 or more	7.5