

**REPORT TO PERSONNEL COMMITTEE**  
**2 February 2010**  
**Report of the Deputy Chief Executive**

ITEM 5 Council Discretions under the Local Government Pension Regulations.

Purpose of Report

To review the Statement of Policy on discretions allowable under the Pensions Regulations.

Recommendations

1. That the revised Statement of Policy be accepted with effect from 1 April 2010.
2. That no waiver be applied to any actuarial reductions that may apply under Regulation 30.
3. That no discretion to pay additional pension under Regulation 13 be adopted.

Reasons

1. To meet the requirement to keep under review a Statement of Policy to explain how the council will apply certain discretions allowed under the Pension Regulations.
2. To align policy and practice and avoid the additional costs of waiving any actuarial reduction.
3. To avoid the additional cost of paying an enhanced pension.

Background

Under Regulation 66 of the Local Government Pension Scheme (LGPS) Administration Regulations 2008 (as amended), each scheme employer must publish and keep under review a Statement of Policy to explain how it will apply certain discretions allowed under the Pension Regulations. This Committee last considered the scheme when it agreed amendments to the scheme in April 2008 and April 2007 to introduce a flexible retirement policy and review its redundancy payments.

Proposed Changes

A summary of the discretions applied by the Council is attached at Appendix I. For most regulations, no change is proposed. However, for Regulation 30, which covers the early payment of retirement benefits at the scheme member or former member's request, a change is proposed. This regulation enables a member or former member of the fund to request that the Council grant them early retirement between the age of 50 and 60 year of age (55 from 1 April 2010). Where a early payment of pension is granted, an actuarial reduction would normally apply. However the Council can determine not to apply any reduction. The Council's current policy states that it will not consider the premature retirement of an employee except on compassionate grounds and that the employee must prove a primary responsibility for a medium to long term caring commitment for a dependent relative. Where the criterion is satisfied, the Council has agreed to

consider its discretions to waive the actuarial reduction which would otherwise apply.

The proposal is that, in future the Council will not consider a waiver to its discretion. In practice, the Council has not done so for many years as there has been a significant cost to this. The Council does not currently get many applications for compassionate retirement. However, when it does, there is frequently dissatisfaction when the actuarial reduction is not waived. This can turn, and has, turned what is intended as a benefit, into a point of contention. It is also possible that, with an ageing population, more employees will be in a position where they might request early retirement on compassionate grounds.

Consideration also needs to be given to Regulation 13, which gives the employer power to award additional pension. It is proposed that the Council does not adopt this discretion. The LGPS provision is already a generous one and by not adapting this discretion, the Council avoids any cost or expectation by employees that the Council will grant additional benefits. This is in line with Regulation 12, where the Council had determined not to grant any discretionary enhancement

Following this review of the pension regulation discretions, these cannot come into effect until one month from the date of notification. Employees will be notified of scheme changes following a decision by this Committee.

#### Financial Implications

The decision to consider any discretionary enhancement would have a financial impact if and when the discretion was applied. However, a decision not to apply discretionary enhancements would have no financial implication.

#### Risk Management

Risk Identified	Likelihood	Impact	Risk Management Actions Planned
The risk of applying these discretions is that employees could receive inconsistent treatment and may be aggrieved if the discretion was not applied to their particular circumstances.	M	M	The risk is avoided by not adapting these discretions.

Key Decision: No

Background Papers: None

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## Appendix I

### Draft Discretionary Policies

Employer: Charnwood Borough Council

Local Government Pension Scheme, (LGPS), Regulations Policy statement for all eligible employees

Under Regulation 66 of the LGPS Administration Regulations 2008, (as amended), each scheme employer must publish and keep under review a Statement of Policy to explain how it will apply certain discretions allowed under the Pensions Regulations.

This statement is applicable to all employees of Charnwood Borough Council who are eligible to be members of the LGPS.

LGPS Benefits Regulations - Regulation 30: Early payment of retirement benefits at the member, or former members, request.

Explanation	Employer's Policy
<p>A scheme member or former member can request that the Employer grant early retirement between *50 &amp; 60 years old. It is possible that, where a member's pension is introduced early, these benefits will be reduced. The reduction is calculated in accordance with guidance issued by the Government Actuary. As an employer you may determine not to apply any reduction.</p> <p>* Eligibility for early payment of pension increases to age 55 from 1.4.08 (but from 1.4.2010 for existing members at 31.3.08).</p>	<p>The Council will not consider the premature retirement of an employee between the ages of 50 - 59 except on compassionate grounds. To qualify for consideration, an employee must be aged 55-59 able to prove primary responsibility for a medium to long term caring commitment for a dependent person. The cost of the early payment of pension will be borne by the council. Where the criteria is satisfied, the Council has further agreed to consider its discretions to allow compassion and waive the percentage reductions to benefits which would otherwise apply where the total of the members age plus service equals less than 85 years.</p>

	<p>Proposed changes to policy and reason: To qualify, employee must be entitled to a pension under the LGPS. This wording will ensure that an employee's entitlement will change with any future changes to the pension policy and will not leave the Council open to claims of age discrimination.</p> <p>The Council will not waive any actuarial reductions which may apply. (There is a cost to the Council of waiving this). It is a discretion that we have not applied in the past because of the cost but which has raised the expectation of employees that we will do so leading to friction between the employee and Council. The number of requests is currently very small so the Council could decide not to waive the reduction. However, numbers may increase in the future with an ageing population and an increased likelihood that employees will have caring responsibilities for ageing parents.</p>
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LGPS Benefits Regulations - Regulation 18: Requirements as to time of payment (Flexible Retirement).

Explanation	Employer's Policy
<p>A member who is *50 or over, and with their employer's consent, reduces their hours and/or grade can, but only with the agreement of the employer, make an election to the administering authority for payment of their accrued benefits without having retired from employment. It is possible that, where a member's pension is introduced early, these benefits may be reduced. The reduction is calculated in accordance with guidance issued by the Government Actuary.</p> <p>As an employer you may determine not to apply any reduction.</p> <p>* Eligibility for early payment of pension increases to age 55 from 1.4.08 (but from 1.4.2010 for existing members at 31.3.08).</p>	<p>The Council has decided to adopt this discretion but the decision on whether to allow flexible retirement will be entirely at the discretion of the Council.</p>

LGPS Administration Regulations – Regulation 25 (3) and LGPS Benefits Regulations – Regulation 15 (3): Shared Cost Additional Contribution Facility

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

LGPS Benefits Regulations - Regulation 12: Augmentation (increase of scheme membership)

Explanation	Employer's Policy
<p>An employer may resolve to increase the total membership of an active member.</p>	<p>The Council is not prepared to grant any discretionary enhancement, under this regulation. This decision does not affect the discretion available to the employer to allow a scheme member to convert a lump sum discretionary payment using the augmentation factors. (See Early Termination of Employment Discretionary Compensation).</p>

LGPS Benefits Regulations - Regulation 13: Power of employer to award additional pension

Explanation	Employer's Policy
<p>An employer may resolve to award a member additional pension of not more than £5000 a year payable from the same date as his pension payable under any other provisions of these Regulations. Additional pension may be paid in addition to any increase of total membership resolved to be made under <u>regulation 12</u>.</p>	<p>It is proposed that the Council will not adopt this discretion.</p>

The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006

New provisions provide local government employers with the powers to consider making a one off lump sum payment to an employee which must not exceed 104 week's pay. The regulations no longer provide for the award of compensatory added years.

This statement is applicable to all employees of Charnwood Borough Council who are eligible to be members of the LGPS.

Regulation 5: Power to increase statutory redundancy payments

Explanation	Employer's Policy
The Employer may decide to calculate a redundancy payment entitlement as if there had been no limit on the amount of a week's pay used in the calculation.	The Council has decided to adopt this discretion and base redundancy payment calculations on an unrestricted week's pay.

Regulation 6: Discretionary Compensation.

Explanation	Employer's Policy
<p>A "one off" lump sum compensation payment may be awarded to an employee up to a maximum value of 104 weeks pay, inclusive of any redundancy payment made.</p> <p>If the above Regulation is adopted, employees who are members of the LGPS can be given the option of converting compensation payments, (less the statutory redundancy payment), into additional pensionable service, in accordance with the augmentation factors provided by the authority. An employer should specify whether they intend to provide this option</p>	<p>Employees who have been continually employed for two years or more by members of the modification order will receive a redundancy payment. The payment is based on the statutory formula with a multiplier X 2 applied. The maximum number of weeks an individual can receive is 60 weeks.</p> <p>Employees have the option of using their redundancy payment, in excess of the statutory redundancy payment, to purchase a period of membership in the LGPS.</p>

Please sign and copy. Keep one for reference and return the other to:  
The Pensions Section  
FAO Arlene Fitzgerald  
Room 126  
County Hall  
Glenfield  
Leicester LE3 8RB

I confirm that should any of the decisions change in the future the Pensions Section will be notified immediately.  
I have read the attached statements and certify that they are correct on behalf of :

(Employer's Name) \_\_\_\_\_

SIGNED: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

POSITION: \_\_\_\_\_ DATE: \_\_\_\_\_