

PERSONNEL COMMITTEE

18 SEPTEMBER 2006

PENSION POLICY

REPORT OF DIRECTOR OF HUMAN RESOURCES

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RECENT REFERENCES:

PER84 Pensions Policy 7 March 2005

EXECUTIVE SUMMARY:

This report reviews the amendments to the Regulations governing the Local Government Pension Scheme, which have been implemented with effect from April 2006 with further amendments to be implemented in October 2006.

The report reviews the discretionary powers currently exercised by the Council as allowed under previous regulations and proposes amendments to those powers in light of the recent changes to the Regulations and linked to legislation on age discrimination to be implemented from October 2006.

RECOMMENDATIONS:

- 1 That the recommendations as set out in Appendix 1 of the Report be approved.
- 2 That the Director of Human Resources be authorised to implement the changes to the policy subject to further consultation with Unison and subject to no material changes arising from the consultation.

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PENSION POLICY

Report of Director of Human Resources

DETAIL:

1 Introduction

- 1.1 In April 2005 the Government proposed changes to the Pension Scheme rules which were later withdrawn. The changes have now been agreed, and are contained in the Local Government Pension Scheme (Amendment) Regulations 2006, implemented between 1 April 2006 and 1 October 2006. Further changes are due to be implemented from 1 October 2006 as part of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 which are proposed to put Pension Regulations in line with the Employment Equality (Age) Regulations.
- 1.2 The amendments to the Pension Scheme change the discretions available to local authorities and require changes to local Pension Policies.

2. Council Policy

- 2.1 The Council's current policy encompasses both the discretionary powers adopted by the Council as allowed under the 1998 amendments to the Regulations and the further discretionary powers allowed by the 2004 Amendments. It is proposed that this policy be further amended to reflect the changes made by the 2006 amendments.
- 2.2 The final Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 will not be published until after the summer recess of Parliament, however, employers must have a policy in place on 1 October 2006. The recommendation is therefore that a draft policy is formulated based on the regulations currently under consultation with the proviso that a further report will be sent to Committee if the final regulations are materially different from the draft regulations.
- 2.3 Hampshire County Council Pensions Services and Local Government Employers have published some guidance notes for Local Authorities directing where the amendments will require the policy to be reviewed.
- 2.4 The Council's policy has been reviewed in line with these guidance notes and the implications of these changes detailed in this report.

3. Summary of Current Discretionary Powers Available to Local Authorities

- 3.1 Under the arrangements which came into force in April 1998 and which were further amended by changes in 2000 and 2004, Councils were given discretionary powers.

These powers are detailed in the table below, with those adopted by the Council indicated in bold.

	Discretionary Power	Adopted by WCC	Regulation Amendment
1	Award extra periods of LGPS when a person is recruited or retired	No	1998
2	Establish a shared cost AVC arrangement	No	1998
3	Reduce an employee's contribution after 40 years actual LGPS membership	Yes	1998
4	Count a woman's service before April 1988 towards the calculation of a widower's pension	Yes	1998
5	Consent to immediate payment of benefits to a person who retires voluntarily or has preserved benefits between ages 50 and 60	Yes	1998
6	Consent to paying an ex-employees benefits after age 50 on compassionate grounds without reduction	No	1998
7	Calculate redundancy pay based on continuous local government service and actual weeks pay	No	2000
8	Consider the award of added years to pensionable service as compensation for premature retirement on the grounds of efficiency of service providing the employee is over 50 with at least 5 years service	Yes	2000
9	Extend the deadline for employees to opt to combine benefits on leaving the pension scheme for a second time, except those who wish to transfer when under notice of redundancy or early retirement. The deadline is extended to the date the employee leaves the new employment	Yes	2004

4. Amendments April 2006

4.1 Over the last year the Government undertook a review of public sector pension schemes, as part of the need to deal with increased life expectancy, changing demographics and rising pension costs. As a result of this review, the following changes to the LGPS have been implemented from 1 April 2006 with further changes to be implemented in October 2006. These changes:

- i) Remove the 85 year rule whilst offering some protection to existing members up to April 2016. (There are possible further changes)
- ii) Increase the age limits for joining the Pension Scheme –

Employees may now join the LGPS up to age 75 providing they meet certain criteria detailed in the Pension Scheme. Employees aged 65 – 75 who were previously excluded or had to stop contributing age 65 can now rejoin.

- iii) Remove the limit on employee's pensionable service –
The previous limit of 40 years has been removed. The period between the time the employee ceased paying contributions and the date on which they retire now counts as pensionable service.
- iv) Introduce the option of Flexible Retirement –
An employee aged 50 or over whose hours or grade get reduced may, with the employers consent, opt for immediate payment of benefits. If the employee is under 65, benefits may be paid at reduced rates even if they meet the 85 year rule.
- v) With effect from 1st October 2006, remove the power to award compensatory added years and replace this with the discretion to augment an employee's membership on retirement by up to $6\frac{2}{3}$ years.
- vi) Provide a discretionary power to award a one-off lump sum payment of up to but not exceeding two year's pay (104 weeks) inclusive of any redundancy payment made.

5. Proposed Amendments to Council Policy

5.1 As explained in 2.1, it is proposed that the Council's current Pension Policy be amended to reflect the amendments made to the Pension Scheme Regulations. A summary of the powers granted under the Pension Regulations, together with the financial implications and whether it is proposed that the Council continue to exercise these powers is contained in Appendix 1.

5.2 It is, therefore, proposed to amend the Council's policy as follows:

- i) **Remove the power to waive an employee's basic pension contribution where 40 years total membership of the LGPS in local government employment has been achieved, and no further benefits are accruing to the employee.**

Since the limit on membership has been removed, any period of 'contribution holiday' counts towards membership and gives rise to increased benefits.

Whilst the Authority has the option of recovering the waived contributions from the employee, not recovering the contributions would add to the Authority's pension costs. The County have stated that they will be recovering costs from their own employees and have indicated that Authorities will be criticised if they fail to do so.

During the 'contribution holiday', the employer's contributions have still been payable and therefore no savings have been made by the Council and no additional cost will be incurred by this change.

Consultation with the two members of staff affected has already taken place and repayment terms agreed with Payroll.

- ii) **With effect from 1st October 2006, remove the power to award compensatory added years and replace it with the discretion to augment an employee's membership on retirement by up to $6\frac{2}{3}$ years as compensation for premature retirement, for reasons of redundancy or on the grounds of efficiency.**

The Council Pension Policy current provides for the discretion to award Compensatory Added Years (CAYs) for a member of staff who retires early in the efficiency of the service. Employees aged 50 and above are eligible to be considered for the award of CAYs up to a maximum membership of 40 years subject to this being affordable and reasonable in terms of foreseeable costs.

With the introduction of the Employment Equality (Age) Regulations in October this year, such age limited actions will be considered discriminatory.

The amendments to the Pension Regulations to be introduced from October 2006 change this discretionary power considerably. The Council will no longer be allowed to offer CAYs for redundancy or retirement on the grounds of efficiency.

Councils do retain the discretionary power to augment pension membership by up to $6\frac{2}{3}$ years (or up to age 65) in cases of early retirement. It is proposed that the Council now includes this discretionary power in the Pension policy as a replacement to the award of Compensatory Added Years. This will give the Council the discretion to compensate for early retirement on the grounds of redundancy or efficiency of service where this is affordable and reasonable in terms of costs.

As a result of the introduction of the Age Regulations, this discretionary power will no longer be age limited allowing the offer to be made to those under 50. Each case would be assessed on its own merits.

There will continue to be an administrative cost to the organisation however, under the augmentation of membership; the full cost of the augmented membership must be met at the time of retirement as well as any administrative charges made by the Pension Fund. This is a change to the requirements under the CAYs which, in addition to the administrative cost levied by the Pension Fund, required a payment towards the pension lump sum and an ongoing pension cost for the life of the employee.

- iii) **Consider an application for flexible retirement from an employee aged 50 or over allowing the employee to reduce their grade and/or hours and draw pension benefits at the same time.**

Where the employee is under 65 these benefits may be paid at a reduced rate for life. However, the employer may chose to waive either the whole or part of that reduction. This would enable the employee to receive their pension and continue to work on reduced hours. Careful consideration should be given to the merit of each case should the Council chose to exercise this right as there is potential for considerable cost to the organisation. There will be an

administration charge for releasing the pension early which would not be at a reduced rate.

This amendment to the Pensions Regulations links well with the Council's current project on flexible working. It also provides assistance to the Council in terms of workforce planning and knowledge transfer in allowing members of staff to continue to work at a reduced level, either hours or grade, whilst allowing them to top up their reduced salary with their pension. This could give the opportunity for other members of staff to pick up elements of their role or to bring in new staff whilst retaining some of the key skills and knowledge which many older members of staff retain.

This provision is conditional on the employers consent. It is proposed that any applications for flexible retirement should be made in accordance with the provisions of the Flexible Working Policy and will be considered against the needs of the organisation.

- 5.3 The regulation changes provide a discretionary power to award a one-off lump sum payment of up to but not exceeding two year's pay (104 weeks) inclusive of any redundancy payment made. Whilst this would offer some compensation for early retirement during organisational changes, it would be considerably less than that offered under the previous discretionary power which allowed the award of up to 10 years and which can be balanced by the adoption of the power to augment membership. Furthermore, any calculation used to enhance redundancy pay on this basis, would need to be applied to all redundancy cases which would have serious financial implications for the Redundancy Policy for which payments are currently based on the statutory redundancy pay of £290 for each year of service.
- 5.4 There are also a number of changes to process outlined in the amendments to the Regulations and HR and Payroll processes have been reviewed to incorporate the changes.
- 5.5 Whilst Members have the option to adopt any of the discretionary powers outlined in section 3, subject to the amendments outlined in section 5.2, further changes are not recommended that other than those detailed in 5.2 above, for the reasons given in the summary information included in Appendix1,
6. Implications
 - 6.1 A summary of the financial implications of implementing the changes detailed above are set out in Appendix1.
7. Consultation
 - 7.1 Unison, and where appropriate individual employees, have been consulted on the proposed amendments and consultation will continue with the publication of the final Regulations.
8. Future Reviews
 - 8.1 This policy will be reviewed, in consultation with Unison every three years, subject to changes in legislation or the Pension Scheme, as part of a programme of policy review.

- 8.2 Work is continuing on the introduction of a Corporate Severance Strategy, Recruitment and Retention Strategy and Pay and Reward Strategy in line with the future requirements of age legislation and in conjunction with regional policy developments through groups such as HIOWLA and South East Employers. It is anticipated that, in the future, this policy will be incorporated into these documents.

OTHER CONSIDERATIONS:

9. CORPORATE STRATEGY (RELEVANCE TO):

- 9.1 The policy is linked to the need to continuously improve services and to ensure that the staffing resources within the Council meet business needs through the contribution to the recruitment, retention and motivation of staff.

10. RESOURCE IMPLICATIONS:

- 10.1 As set out in Appendix1

BACKGROUND DOCUMENTS:

Held within Human Resources Directorate.

APPENDICES:

Appendix1 Summary of Discretionary Powers

Appendix2 Pension Policy

Appendix1

SUMMARY OF DISCRETIONARY POWERS

Discretionary Power	Award extra periods of LGPS membership when a person is recruited
Requirements	<p>An employer may decide to grant a new scheme member aged under 59 an extra period of membership in LGPS up to a maximum of 6$\frac{2}{3}$ years</p> <p>Decision must be made within 6 months of recruitment</p> <p>Maximum period that can be granted is prescribed by Regulations and is dependent on age and benefit earned in previous pension schemes</p>
Financial Implications	<p>Employer required to reimburse pension fund for increase in LGPS benefits paid by pension fund when person retires.</p> <p>Cost estimated on individual basis. Likely to be 22% of salary for each year awarded</p>
Effect of 2006 Amendments	<p>Limits the period of augmented membership to 6$\frac{2}{3}$ years and removes any reference to age limits.</p>
Proposed to Adopt	<p>NO – NO CHANGE Potential for use as recruitment incentive but would need to be carefully assessed to assess benefit as recruitment tool against cost.</p>
Discretionary Power	Award extra periods of LGPS membership when a person is retired
Requirements	<p>An employer may decide to grant a retiring scheme member aged 55 (or age 50 where protected) or over an extra period of membership in the LGPS. (This discretion cannot be used in addition to the power to award a lump sum payment under another discretionary power)</p> <p>Membership can only be augmented whilst the employee is still a member of the Pension Scheme ie before retirement.</p> <p>Maximum period that can be granted is prescribed by Regulations and is dependent on age at retirement LGPS benefits with an upper limit of 6$\frac{2}{3}$</p>
Financial Implications	<p>Employer required to reimburse pension fund for increase in LGPS benefits paid by pension fund when person retires.</p> <p>Cost estimated of individual basis. Likely to be 22% of salary for each year awarded</p>
Effect of 2006 Amendments	<p>Limits the period of augmented membership to 6$\frac{2}{3}$ years and removes any reference to age limits.</p>
Proposed to Adopt	<p>YES - It is proposed that the Council adopts this discretionary power as a replacement to the award of Compensatory Added Years. This will give the Council the discretion to compensate for early retirement on the grounds of redundancy or efficiency of service where this is affordable and reasonable in terms of costs. Assists in the process of organisational development where carefully considered as part of a change plan. Each case must be considered on its merits and against the needs of the service.</p>

Discretionary Power	Establish a shared cost additional voluntary contributions arrangement
Requirements	<p>Employees AVCs paid & invested. AVC fund may be used at retirement to purchase annuity to supplement LGPS benefits.</p> <p>Employer may pay share of AVCs with combined AVC & LGPS contributions limited to 15% of pensionable pay per tax year.</p> <p>Must state which categories of employees are eligible</p>
Financial Implications	<p>Employer responsible for remitting payments which may incur administrative costs</p> <p>Increase in employers contributions dependent on take up</p>
Effect of 2006 Amendments	From April 2006 employees can opt to contribute more than 15% of pay
Proposed to Adopt	<p>No – no change</p> <p>Potential for use as recruitment and retention incentive but would need to undertake careful cost/benefit analysis</p>
Discretionary Power	Reduce an employee's contribution after 40 years of actual LGPS membership
Requirements	<p>Employer may waive pension contributions from employee with at least 40 years actual LGPS membership</p> <p>Service credited on transfer from another scheme ignored for this purpose.</p> <p>Employees who joined LGPS before June 1989 cannot count more than 40 years service at age 60 and 45 years at age 65.</p> <p>Employees who joined LGPS after May 1989 cannot count more than 40 years service at any age.</p>
Financial Implications	<p>Employers contributions still payable.</p> <p>Employee can opt out of scheme to avoid paying contributions but loses life cover and pays full NI. Waiving contributions avoids problems</p> <p>County Council's actuary could certify extra charge for small liability arising but is unlikely.</p> <p>Waived contributions would represent loss of earnings for pension fund. Cases likely to be infrequent with eg £1200 loss per annum for employee earning £20 000</p>
Effect of 2006 Amendments	Power withdrawn from 1 April 2006. Contributions from two members of staff are now being reclaimed.
Proposed to Adopt	<p>YES</p> <p>Failure to reclaim contributions is likely to be criticised and the financial implications for the small number of staff affected are not excessive. Contributions to be reclaimed as part of agreed payment plan with employee.</p>

Discretionary Power	Count a woman's service before 6 April 1988 towards the calculation of a widower's pension
Requirements	Employer can decide to cover all women to avoid each having to elect separately. County Council have indicated they will extend the time limit to allow this. Equalises benefits for spouses of male & female contributions for service back to April 1972
Financial Implications	Estimated cost for LGPS is up to 0.1% of all employees pay but cost to individual councils as yet unknown but will be notified by County Council.
Effect of 2006 Amendments	No effect
Proposed to Adopt	YES – NO CHANGE Part of current policy. Addresses past sex inequalities and brings pension in line with equality legislation
Discretionary Power	Consent to immediate payment of benefits to a person who retires voluntarily or has preserved benefits between ages 50 and 60
Requirements	Employer can authorise immediate pension payments when a member of staff retires early
Financial Implications	Early payment will usually incur extra charge on employer similar to that involved when retired on efficiency or redundancy grounds.
Affect of 2006 Amendments	The removal of the 85 year rule means that, unless protected under the pension changes, pension will usually be paid at a reduced rate to take account of early payment unless the employer waives that reduction and meets the pension fund cost.
Proposed to Adopt	YES - NO CHANGE Part of current policy and at management discretion depending on the needs of the service and ability to recoup costs
Discretionary Power	Consent to paying an ex-employee's benefits after age 50 on compassionate grounds without reductions
Requirements	Employer can agree to immediate payment of pension when a member of staff retires early on compassionate grounds
Financial Implications	Early payment will usually incur extra charge on employer similar to that involved when retired on efficiency or redundancy grounds
Affect of 2006 Amendments	The removal of the 85 year rule means that, unless protected under the pension changes, pension will usually be paid at a reduced rate to take account of early payment unless the employer waives that reduction and meets the pension fund cost.
Proposed to Adopt	NO – NO CHANGE

Discretionary Power	Calculate redundancy pay based on continuous local government service and actual week's pay.
Requirements	Redundancy pay can be calculated on actual week's pay rather than the statutory maximum.
Financial Implications	Statutory maximum of £290 per week currently used by WCC. Using actual pay would increase redundancy payments for all posts graded 3 and above with an increase on weekly pay of between £4 and £1362
Affect of 2006 Amendments	No effect
Proposed to Adopt	NO – NO CHANGE Considerable increase in cost to organisation. Further assessment to be included as part of research into development of Severance Strategy which may result in the future proposal that this position is changed
Discretionary Power	Consider the award of a lump sum payment of up to 2 years pay as an alternative to awarding added years in redundancy or efficiency cases.
Requirements	A payment of up to 2 years pay can be awarded in cases of early retirement on grounds of redundancy or efficiency of service
Financial Implications	Statutory maximum of £290 per week currently used by WCC for redundancy pay. Adopting this power and using actual pay would have implications for the Council's Redundancy Policy with the potential to considerably increase redundancy payments in times of organisational change. Eg this would mean an increase on weekly pay of between £4 and £1362 for all posts graded 3 and above.
Affect of 2006 Amendments	New provision
Proposed to Adopt	NO – due to the implications for the Redundancy Policy. Allowing the augmentation of membership gives more flexibility to the Council and therefore gives more benefit in terms of organisational development.
Discretionary Power	Consider the award of added years to pensionable service as compensation for premature retirement on the grounds of efficiency of service providing the employee is over 55 (or age 50 where protected after 1.4.05) with at least 5 years service
Requirements	Employers had the discretionary power to award added years up to a maximum of 10 years for employees over 50 years of age for early retirement on efficiency grounds
Financial Implications	Will incur extra charge on employer for cost of CAYs and administrative charge
Affect of 2006 Amendments	Discretionary power withdrawn from 1 October 2006
Proposed to Adopt	REPLACE - with the discretion to augment membership as detailed above. Assists in the process of organisational development where carefully considered as part of a change plan. Cases to be considered on merits and at management discretion depending on the needs of the service and ability to recoup costs

Discretionary Power	To extend the deadline for employees to opt to combine benefits on leaving the pension scheme for a second time.
Requirements	People with preserved LGPS benefits who rejoined before 1.4.04 have until 31.3.05 to decide about transferring preserved rights to new job. Other people have 12 months from rejoining to decide. Employer has the discretion to extend the deadline.
Financial Implications	Extending deadline may put extra strain on pension fund and could lead to higher contribution rates. Would increase charge if employee retired on efficiency or redundancy grounds.
Affect of 2006 Amendments	No effect
Proposed to Adopt	YES – NO CHANGE With the exception of employees who wish to transfer when under notice of redundancy or early retirement
Discretionary Power	To consider applications for flexible retirement at or after age 50 as part of a reduction of hours or grade, where such changes are in line with the needs of the organisation.
Requirements	Employee's can allow employees aged 50 and over to reduce their hours or grade and take their pension without reduction if the change is in line with organisational needs and the cost is reasonable.
Financial Implications	May be considerable if the option to waive all or part of the reduction of benefits is taken up by the Council.
Affect of 2006 Amendments	New provision
Proposed to Adopt	YES - Links well with the Councils plans for flexible working and assists in workforce planning and skills transfer. Careful consideration should be given to the merit of each case should the Council chose to exercise the right to waive the reduction as there is potential for considerable cost to the organisation. It is recommended that the Council includes this option as part of the Pensions Policy for cases where the change is at the Council's request, the cost is reasonable and would support the Council's ability for organisational development. Any such cases would be agreed by both the Chief Executive and Members.