

<b>REPORT REFERENCE NO.</b>	DSFRA/15/19
<b>MEETING</b>	DEVON & SOMERSET FIRE & RESCUE AUTHORITY
<b>DATE OF MEETING</b>	29 JULY 2015
<b>SUBJECT OF REPORT</b>	LOCAL GOVERNMENT PENSIONS SCHEME (LGPS) DISCRETIONS
<b>LEAD OFFICER</b>	Joint report of the Chief Fire Officer and the Clerk to the Authority
<b>RECOMMENDATIONS</b>	<p>(a) <i>That the contents of this report be considered with a view to approving those recommendations as set out within Appendix A relating to the Local Government Pension Scheme Regulations which require a policy and also those additional recommendations set out in section 2 where a policy is beneficial to clarify the Authority position.</i></p> <p>(b) <i>That, pending approval at the Authority, the Clerk be authorised to make any consequential changes to Authority constitutional framework documents notably Committee Terms of Reference, the approved Scheme of Delegations and Financial Regulations to reflect the decisions taken in relation to (a) above.</i></p> <p>(c) <i>That where any such decisions involve additional financial implications to the Authority then the thresholds within the Authority Financial Regulations will be applied.</i></p>
<b>EXECUTIVE SUMMARY</b>	This report advises the Authority of pension discretions that can be applied to the Local Government Pension Scheme and makes recommendations as to the exercise of those discretions.
<b>RESOURCE IMPLICATIONS</b>	Financial implications will be dependent on the exercise of specific discretions and will be reported to the Authority as and when required.
<b>EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA)</b>	The contents of this report are considered compatible with existing equalities and human rights legislation.
<b>APPENDICES</b>	<p>A. Summary of Discretion Recommendations where a policy is required.</p> <p>B. Draft Service Policy incorporating the Discretion Decision recommendations for the Local Government Pension Scheme (page numbered and enclosed separately with agenda for meeting).</p>
<b>LIST OF BACKGROUND PAPERS</b>	Report DSFRA/15/5 to the Authority budget meeting on 20 February 2015.

## 1. **BACKGROUND AND INTRODUCTION**

- 1.1 In recent years there have been a considerable number of changes to public sector pension schemes and in particular as a result of The Public Service Pension Act 2013 reforms which emanated from the report by the Independent Public Service Pensions Commission chaired by Lord Hutton.
- 1.2 The Local Government Pension Scheme (LGPS) has moved from a final salary scheme to a Career Average Re-valued Earnings (CARE) Scheme from 1 April 2014. The Service has previously had a policy in place setting out how the discretions will be applied and this links in to the Authority Pay Policy Statement. The Service is required to update this policy in accordance with the changes in the Regulations for the Scheme and the revised full policy is set out in Appendix B. For the purposes of the Authority decision making, the key aspects to these discretions are set out in Appendix A.
- 1.3 The Regulations to which these discretions relate are covered within the following legislation:
- The LGPS Regulations 2013
  - The LGPS Regulations 2014 (Transitional Provisions & Savings)
  - The LGPS Regulations 2008 (Benefits, Membership and Contributions)
- 1.4 There are also additional discretions which do not require a policy but for which it is beneficial to clarify the Authority position and these are set out in section 2 below.

## 2. **ADDITIONAL DISCRETION RECOMMENDATIONS**

- 2.1 As well the discretions shown in Appendix A, there are a number of other regulations which the Service would wish to have an Authority determination. The first relates to the application of The Local Government (Early Termination of Employment) (Discretionary Compensation) (England And Wales) Regulations 2006. If the Authority terminates an employee by reason of redundancy, the employee, if aged 55, will become automatically entitled to the immediate payment of accrued pension benefits without any reduction for early payment. There are two pension regulations relating to this namely Regulation 5 and 6.
- Regulation 5 – Power to increase statutory redundancy payments***
- 2.2 This allows authorities to base redundancy payments on an actual week's pay if greater than the statutory maximum. The Service currently applies the actual week's pay to the redundancy pay calculation for support staff and this is set out in the collective agreement within the Reorganisation, Review, Redeployment and Redundancy policy which is referred to as the 4R's policy.
- Regulation 6 – Discretionary compensation payment for redundancy***
- 2.3 This allows the employer to grant a lump sum payment of up to 104 weeks' pay. The Service currently uses the statutory redundancy payment scheme to calculate the number of weeks paid and this is enhanced with a multiplier of 2. This rate is reviewed annually by the Authority and is the subject of a separate paper at the Authority meeting and therefore is purely for information within this report.

### ***Other Non-Compulsory Employer Discretions***

- 2.4 Any other discretions (as included in the policy within Appendix B) will be considered on a case by case basis but in general will only be agreed if there will be no significant net cost to the Authority or where a formal business case has been presented to the Authority by the Chief Fire Officer which, in its opinion, demonstrates that to do so would be in the best interests of the Service.

### ***Requests to Extend the Normal Time Limit for Acceptance of a Transfer Value Beyond 12 Months from Joining the LGPS – Regulation 100(68)***

- 2.5 Any such request will automatically not be accepted since such a request could extend the Service pension liability.

### ***Re-employment of Support Staff***

- 2.6 This is relevant to the Pension Discretions Policy since the Regulations refer to Flexible Retirement which is the equivalent of Retirement/Re-employment for uniformed staff. For staff within the LGPS Scheme, where an individual is re-employed on the same salary as previously, the same abatement rules are currently applied as to those within the Firefighters Pension Schemes and this is stated within the Pay Policy Statement. However, the Pay Policy Statement also refers to the Pension Discretions Policy stating that the pension “may be subject to abatement during such time as the individual remains employed by the Service”. This allows the Authority to use flexible retirement opportunities where key employees may wish to continue working as they get older but step down in grade or reduce their working hours. This can be beneficial to the Authority in retaining key skills, knowledge and experience whilst also reducing costs. The authorisation of any such flexible retirement is subject to approval through the Human Resources Management & Development Committee or full Authority for Executive Board post-holders.
- 2.7 The Pay Policy Statement is reviewed annual and therefore this matter is for information only within this report since it is referred to within the Discretions Policy.

## **3. AUTHORITY FINANCIAL REGULATIONS**

- 3.1 Where any such decisions are required for employees which could involve additional financial implications for the Authority then these will be taken in accordance with the Authority’s Financial Regulation thresholds for authorisation as follows:
- for amounts up to £25,000 – Chief Fire Officer;
  - for amounts between £25,000 and £75,000 – Human Resources Management & Development Committee; and
  - for amounts in excess of £75,000 – the full Authority.
- 3.2 It is also intended that, for all cases where the Chief Fire Officer exercises a discretion having a financial implication, this will be reported to the next appropriate meeting of the Human Resources Management & Development Committee for information.

**4. CONCLUSIONS**

- 4.1 The Authority is required to make a determination on the discretions that will be applied to the Local Government Pension Scheme and these are set out within this document. Once decisions have been made by the Authority then the Service will communicate the changes through the recognised trade union UNISON and directly with staff.

**LEE HOWELL**  
**Chief Fire Officer**

**MIKE PEARSON**  
**Clerk to the Authority**

## SUMMARY OF DISCRETION RECOMMENDATIONS

REGULATION REF. AND NARRATIVE	POLICY POSITION
<p><b>Regulation R16(2)(e) &amp; R16 (4)(d)</b>  <b>Shared Cost Additional Pension Scheme</b></p> <p>An employer can choose to pay for or contribute towards a member's Additional Pension Contract via a Shared Cost Additional Pension Contract (SCAPC)</p>	<p><b>The discretion to establish a shared cost Additional Pension Scheme will not be exercised.</b></p>
<p><b>Regulation R17(1) &amp; TP15(1)(d) &amp; A25(3)</b>  <b>Shared Cost Additional Voluntary Contribution Arrangement</b></p> <p>An employer can choose to pay for or contribute towards a member's Additional Voluntary Contribution arrangement entered into on or after 1st April 2014 via a shared cost AVC.</p> <p>An employer can choose to pay for or contribute towards a member's Additional Voluntary Contribution arrangement entered into before 1st April 2014 via a shared cost AVC.</p>	<p><b>The discretion to establish a shared cost AVC arrangement will not be exercised.</b></p>
<p><b>Regulation R30(6) &amp; TP11(2)</b>  <b>Flexible Retirement</b></p> <p>Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up while still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade.</p> <p>In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights.</p>	<p><b>The Authority will consider exercising its discretion to approve a flexible retirement application where it incurs no significant net cost or where a formal business case has been presented to the Authority by the Chief Fire Officer which, in its opinion, demonstrates that to do so would be in the best interests of the Service.</b></p>

## SUMMARY OF DISCRETION RECOMMENDATIONS

REGULATION REF. AND NARRATIVE	POLICY POSITION
<p><b>Regulation R30(8)</b>  <b>Waiving of actuarial reduction</b></p> <p>Employers have the power to waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to members benefits paid on the grounds of flexible retirement.</p> <p>Employers may also waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to member's benefits for deferred members and suspended tier 3 ill health pensioners who elect to draw benefits on or after age 60 and before normal pension age</p> <p>Employers also have the power to waive, in whole or in part, the actuarial reduction applied to active members benefits when a member chooses to voluntarily draw benefits on or after age 55 and before age 60.</p>	<p><b>The Authority will consider waiving an actuarial reduction where it would not involve a significant net cost to the Authority, or where a formal business case has been presented to the Authority by the Chief Fire Officer which, in its opinion, demonstrates that to do so would be in the best interests of the Service.</b></p>
<p><b>Regulation TPSch 2, para 2(2) &amp; 2(3)</b>  <b>Power of employing authority to 'switch on' the 85 Year Rule</b></p> <p>An employer can choose whether to "switch on" 85 year rule for members who voluntarily retire on or after age 55 and before age 60.</p> <p>An employer can also choose to waive, on compassionate grounds, the actuarial reduction applied to benefits for a member voluntarily drawing benefits on or after age 55 and before age 60.</p>	<p><b>The Authority will consider approving early retirement applications where it would not involve a significant net cost to the Authority, or where a formal business case has been presented to the Authority by the Chief Fire Officer which, in its opinion, demonstrates that to do so would be in the best interests of the Service.</b></p>
<p><b>Regulation R31</b>  <b>Power of employing authority to grant additional pension</b></p> <p>An employer can choose to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500* per annum)</p> <p>(* the figure of £6,500 will be increased each April under Pensions Increase orders)</p>	<p><b>This will only be considered as an alternative to redundancy payments if this is acceptable to the employee(s) concerned and either it would not involve a significant net cost to the Authority, or where a formal business case has been presented to the Authority by the Chief Fire Officer which, in its opinion, demonstrates that to do so would be in the best interests of the Service.</b></p>

## SUMMARY OF DISCRETION RECOMMENDATIONS

REGULATION REF. AND NARRATIVE	POLICY POSITION
<b>LOCAL GOVERNMENT PENSION SCHEME 2008 DISCRETIONS</b>	
<p><b>Regulation B18</b> <b>Flexible retirement</b></p> <p>Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up while still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade.</p> <p>In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights.</p>	<p><b>The Authority will consider exercising its discretion to approve a flexible retirement application where it incurs no significant net cost or where a formal business case has been presented to the Authority by the Chief Fire Officer which, in its opinion, demonstrates that to do so would be in the best interests of the Service.</b></p>
<p><b>Regulation B30</b> <b>Choice of early payment of pension</b></p> <p><b>B30(2)</b> Employers can also allow the early payment of deferred benefits to former members of the LGPS between the ages of 55 and 59.</p> <p><b>Please note where a deferred member left the LGPS before 1 April 2008 the employer policy under the 1997 Regulations will apply.</b></p> <p><b>B30A(3)</b> Employers may also grant an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60.</p> <p><b>B30(5) &amp; B30A(5)</b> In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights.</p>	<p><b>These regulations would apply to members who have already left the Service and so any consideration would be on compassionate grounds rather than through a business case and the best interests of the Service. Such decisions would be on a case-by-case basis with due consideration of the costs to the Authority and the merits of the case. Such decisions would be considered in accordance with the levels that are normally applied through the Service Financial Regulations.</b></p>