

COUNCIL	AGENDA ITEM. 13(a)
15 APRIL 2015	PUBLIC REPORT

LOCAL GOVERNMENT PENSION SCHEME DISCRETIONARY POLICY

R E C O M M E N D A T I O N S
FROM : Head of Human Resources
That Council agree the revised copy of the Local Government Pension Scheme (LGPS) discretionary policy (Appendix A).

1. PURPOSE AND REASON FOR REPORT

- 1.1 All employers in the Local Government Pension Scheme (LGPS) are required to formulate, publish and keep under review a statement of policy on certain discretions in the scheme. The draft revised policy includes two minor amendments arising from the annual review of the policy. The policy also includes the previously published discretions which apply to the 2008 and the 1997 regulations.
- 1.2 The 2008 discretions apply to scheme members who ceased active membership between 1 April 2008 - 31 March 2014. The 1997 discretions apply to scheme members who ceased active membership between 1 April 1998 – 31 March 2008.
- 1.3 There is no change to the 2008 and 1997 discretions that were previously in place. There are two proposed changes:-
 - I. The criteria for flexible retirement requests by employees has been set out clearly. The proposal is that the applicant should be reducing their hours by 40% or reducing their grade by two grades. The policy is clear that it is unlikely that a request will be agreed if there is a cost to the council.
 - II. The living wage award has been included on the table that details what elements of pay are pensionable and what elements are included when the employee contribution rate is being set.

2. BACKGROUND (& CONSULTATION)

- 2.1 A copy of the published policy statement must be sent to the Pension Fund administering authority. (Local Government Shared Services administer the scheme on behalf of Cambridgeshire County Council).
- 2.2 In formulating and reviewing its policy the council is required by the regulations to 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. The revised policy has been written taking account of advice from Local Government Shared Services, agreed by Corporate Management Team, and has been shared with the joint trade unions.

3. IMPLICATIONS

- 3.1 The policy allows the Council to take consistent, fair decisions when dealing with a request from a pension scheme member. The HR department respond in the first instance to all applications. The

adjudicator for the decisions is the Head of HR. The Chief Executive must approve any decisions that are outside of the agreed policy.

4. BACKGROUND DOCUMENTS

Understanding Employer Discretions and Policies – Local Government Association 17 March 2014

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

Local Government Pension Scheme Discretionary Policy – Part A (2014 scheme)

APPENDIX A

Background

The regulations of the LGPS require every employer to (i) issue a written policy statement on how it will exercise the various discretions provided by the scheme, (ii) keep it under review and (iii) revise it as necessary.

Flexible Retirement

Local Government Pension Scheme Regulations 2013 Regulation 30 (6)

Local Government Pension Scheme (Transitional Provisions & Savings) Regulations 2014 Regulation 11 (2)

Peterborough City Council will consider requests from employees aged 55 or over to reduce their hours, or move to a position on a lower grade, and elect in writing to draw some or all of the pension benefits already built up. Where there is a cost to Peterborough City Council it is unlikely that the request will be agreed.

In addition the employee would need to:-

- Reduce their working week by at least 40% or
- Reduce their grade by at least two grades.

The revised pay plus standard pension must not exceed the pay prior to the flexible retirement.

Employees who have flexibly retired may not subsequently apply for positions within a Peterborough City Council employment that would result in either an increase in hours or being paid at a higher rate.

This does not preclude younger employees requesting flexible working but without the payment of their retirement benefits.

Flexible Retirement

Local Government Pension Scheme Regulations 2013 Regulation 30 (8)

Where flexible retirement is approved it is not the policy of Peterborough City Council to waive any reduction applied to the pension benefit due to the early payment.

Peterborough City Council will not waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age.

85 year rule

Local Government Pension Scheme (Transitional Provisions & Savings) Regulations 2014 Schedule 2, paragraphs 1(2) & 2 (2)

It is not the policy of Peterborough City Council to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 unless:-

- (i) it is to bring an earlier deferred benefit into payment following redundancy, or efficiency retirement of an existing employee from a current job in Peterborough City Council, or
- (ii) if there are compelling, compassionate* reasons to do so.

Waiving of actuarial reduction

Local Government Pension Scheme (Transitional Provisions & Savings) Regulations 2014 3(1), Schedule 2, paragraph 2(1) and 2(2), B30(5) and B30A(5)

It is not the policy of Peterborough City Council to waive, on compassionate grounds the actuarial reduction applied to benefits from pre 1/4/14 membership where the employer has “switched on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.

**Shared Cost Additional Pension Contributions
Local Government Pension Scheme Regulations 2013
Regulation 16 (2) (e) &
Regulation 16 (4) (d)**

It is not the policy of Peterborough City Council to contribute to a Shared Cost Additional Pension Contribution contract.

**Additional Pension
Local Government Pension Scheme Regulations 2014
Regulation 31**

It is not the policy of Peterborough City Council to grant additional pension to an active member, or within six months of ceasing to be an active member by reason of redundancy or business efficiency.

Unless an employee who would be eligible for a lump sum compensation payment under our Discretionary Compensation Policy requests that they be awarded, instead, additional pension under the LGPS regulations, which is actuarially equivalent in value to the lump sum compensation payment (in excess of the statutory redundancy payment) that would otherwise have been paid under our Discretionary policy, provided that the award of additional pension would not exceed the statutory limit.

The following discretions are not compulsory to include in the Policy Statement but are recommended to be included:

**Late application (after 12 months of joining) to aggregate two periods of membership
Local Government Pension Scheme Regulations 2013
Regulation 22 (7) and (8)**

It is not the policy of Peterborough City Council to consider allowing the aggregation of two periods of LGPS membership after twelve months of joining unless:

- (i) the scheme member has requested that investigations commence within the twelve month time limit, or
- (ii) if there is reason to believe that the individual would not have known of the need to request an investigation into potential aggregation within the twelve month time limit, and the HR &/or pension files support this
- (iii) it would have been unreasonable for the scheme member to understand that they had more than one period of service (this being particularly an issue where individuals hold multiple jobs).

**Late application (after 12 months of joining) to transfer other pension rights into the LGPS
Local Government Pension Scheme Regulations 2013
Regulation 100(6)**

It is not the policy of Peterborough City Council to consider extending the time limit for a transfer in of previous pension rights to proceed after twelve months of joining unless:

- (i) the scheme member has requested that investigations commence within the twelve month time limit, or
- (ii) if there is reason to believe that the individual would not have known of the need to request an investigation into potential transfer in of previous pension rights within the twelve month time limit, and the HR &/or pension files support this, and
- (iii) with the agreement of the administering authority.

**Calculation of pension tier
Local Government Pension Scheme Regulations 2013
Regulations 9 and 10**

The tiered contribution rate for each employee will be based on the total pensionable pay in the previous financial year.

The contribution rate will be re-assessed annually on implementation/application (regardless of when the award is made) of the annual pay award. Re-assessment will take place at any point in the year in the following circumstances:-

- Promotion
- Demotion
- Incremental progression
- Pay award
- Acting up starts/Acting up ceases
- Contractual Allowance starts/Contractual Allowance ceases
- Contractual Hours increase/Contractual Hours decrease.
- Additional hours increase or decrease or
- When there is any significant change in pay.

**Shared Cost Additional Voluntary Contribution scheme
Local Government Pension Scheme Regulations 2013
Regulation 17
Local Government Pension Scheme (Transitional Provisions & Savings) Regulations 2014
Regulation 15 (1) (d)**

It is not the policy of Peterborough City Council to contribute towards a shared cost additional voluntary contributions scheme.

**Assumed Pensionable Pay
Local Government Pension Scheme Regulations 2013
Regulations 21(4)(a)(iv), 21(4)(b)(iv), 21 (5)**

Regular lump sum payments will not be included in the calculation of Assumed Pensionable Pay.

Local Government Pension Scheme Discretionary Policy – Part B (2008 scheme)

Background

The regulations of the LGPS require every employer to (i) issue a written policy statement on how it will exercise the various discretions provided by the scheme, (ii) keep it under review and (iii) revise it as necessary.

LGPS (Benefits, Membership & Contributions) Regulations 2007 Regulation 12

It is not the policy of Peterborough City Council to increase total membership.
(This decision is entirely spent after 30th September 2014 as additional pension can only be awarded to an active member or within six months of leaving under redundancy or business efficiency).

LGPS (Benefits, Membership & Contributions) Regulations 2007 Regulation 30 (2)

It is not the policy of Peterborough City Council to release pension early unless:-

- (i) it is to bring an earlier deferred benefit into payment following redundancy, or efficiency retirement of an existing employee from a current job in Peterborough City Council, or
- (ii) if there are compelling, compassionate* reasons to do so.

LGPS (Benefits, Membership & Contributions) Regulations 2007 Regulation 30 (5)

It is not the policy of Peterborough City Council to waive the actuarial reduction on early payment of pension unless:-

- (i) the payment relates to someone who is being made redundant or taking efficiency retirement from active employment with Peterborough City Council, or
- (ii) if there are compelling, compassionate* reasons to do so.

LGPS (Benefits, Membership & Contributions) Regulations 2007 Regulation 30A (3)

It is not the policy of Peterborough City Council to grant an application for early payment of a suspended tier 3 ill health pension on or after age 55 and before age 60 unless there are compelling, compassionate* reasons for doing so.

LGPS (Benefits, Membership & Contributions) Regulations 2007 Regulation 30A (5)

It is not the policy of Peterborough City Council to waive on compassionate grounds the actuarial reduction applied to benefits paid early under Regulation 30 (A).

Local Government Pension Scheme Discretionary Policy – Part B (2008 scheme)

Background

There are further discretions that are not compulsory to include in the Policy Statement but that are recommended to be included:

LGPS (Administration) Regulations 2008 Regulation 22 (2)

It is the policy of Peterborough City Council to consider an extension in cases where the member of staff was not notified of their rights to pay contributions in respect of a period of absence before returning to work, or ceasing to be employed without returning to work. The extension would be for one month from the date that they were notified of their right to pay.

LGPS (Administration) Regulations 2008 Regulation 16 (4)

It is not the policy of Peterborough City Council to consider allowing the aggregation of two periods of membership after twelve months of joining unless:

- (iv) the scheme member has requested that investigations commence within the twelve month time limit, or
- (v) if there is reason to believe that the individual would not have known of the need to request an investigation into potential aggregation within the twelve month time limit, and the HR &/or pension files support this
- (vi) it would have been unreasonable for the scheme member to understand that they had more than one period of service (this being particularly an issue where individuals hold multiple jobs)

LGPS (Administration) Regulations 2008 Regulation 83 (8)

It is not the policy of Peterborough City Council to consider extending the time limit for a transfer in of previous pension rights to proceed after twelve months of joining unless:

- (iv) the scheme member has requested that investigations commence within the twelve month time limit, or
- (v) if there is reason to believe that the individual would not have known of the need to request an investigation into potential transfer in of previous pension rights within the twelve month time limit, and the HR &/or pension files support this

Local Government Pension Scheme Discretionary Policy – Part C (1997 regulations)

Background:

The following three regulations apply to those employees who left on, or who have an award of deferred benefits in respect of membership up to, a date between 1st April 1998 and 31st March 2008 (inclusive).

LGPS Regulations 1997 Regulation 31 (2)

It is not the policy of Peterborough City Council to release pension early unless:-

- (iii) it is to bring an earlier deferred benefit into payment following redundancy, or efficiency retirement of an existing employee from a current job in Peterborough City Council, or
- (iv) if there are compelling, compassionate* reasons to do so

LGPS Regulations 1997 Regulation 31 (5)

It is not the policy of Peterborough City Council to waive the actuarial reduction on early payment of pension unless:-

- (i) the payment relates to someone who is being made redundant or taking efficiency retirement from active employment with PCC or
- (ii) if there are compelling, compassionate* reasons to do so.

LGPS Regulations 1997 Regulation 31 (7A)

It is not the policy of Peterborough City Council to agree at normal retirement date to the payment of benefits resulting from an earlier opt out.

Applicable to whole document:

*Definition of compelling, compassionate reasons

- (i) The member can clearly demonstrate that they have a dependant, with a lifetime expectancy of more than twelve months, who is in need of the member's constant supervision due to a long term illness and as a result the member is suffering from severe financial hardship OR
- (ii) There is another substantial reason (not relating to caring for a dependant who is ill) where the member can demonstrate that they are facing very severe, ongoing financial hardship and will be doing so on a long term basis.

In exceptional circumstances, and only with the prior approval of the chief executive, the council may vary the terms of this policy on an individual basis.

This policy is subject to statute, regulations and council policy. The policy confers no contractual rights, and may be changed at any time as necessary. Only the version of the policy which is current at the time a relevant event occurs (to the member or deferred member) will be the one applied to that member / deferred member.

Each discretion will be dealt with independently.

TABLE DETAILING PAY THAT IS PENSIONABLE AND PAY THAT IS INCLUDED IN THE TIER DETERMINATION.

PENSIONABLE	INCLUDED IN TIER	DESCRIPTION	CALCULATION BASIS
Y	Y	Basic pay	SCP divided by 37
Y	Y	Non Contractual Overtime/Additional Hrs Plain less than 37 hours	SCP divided by 37
Y	Y	Non Contractual Overtime Plain over 37 hrs	SCP divided by 37 - pre authorised up to SCP 43
Y	Y	Non Contractual Overtime Over 37 hours	Basic pay x 1.5 - minimum element 15 minutes - SCP 26 and below only
Y	Y	Non Contractual Overtime Sundays over 37 hours	Basic pay x 2 - minimum element 15 minutes - SCP 26 and below only
Y	Y	Non Contractual Overtime Bank Holidays	Basic pay x 2 - minimum element 15 minutes - SCP 26 and below only
Y	Y	Contractual Overtime Over 37 hours Monday-Saturday	Basic pay x 1.5 - for Monday to Saturday - SCP 26 and below only
Y	Y	Contractual Overtime Over 37 hours Sunday	Basic Pay x 2 for Sunday working - SCP 26 and below only
Y	Y	Weekend Enhancement Saturdays	Basic Pay x 0.5 minimum element 15 minutes as part of normal working week
Y	Y	Weekend Enhancement Sundays	Basic Pay x 0.5 minimum element 15 minutes as part of normal working week
Y	Y	Shift Allowance (24 hrs)	Basic Pay x 21% - set up as permanent addition - SCP 26 and below only
Y	Y	Shift Allowance (More than 15 – Less than 19 hours)	Basic Pay x 14% - set up as permanent addition - SCP 26 and below only
Y	Y	Shift Allowance (More than 11 – Less than 15 hours)	Basic Pay x 7% - set up as permanent addition - SCP 26 and below only
Y	Y	Split Shift	Basic Pay x 1% - set up as permanent addition - SCP 26 and below only
Y	Y	Night Rate	Basic Pay + 1/3 - SCP 26 and below - night workers can claim weekend payments
N	N	Stand by per session	
N	N	Call Out minimum	Basic pay @ 2 hours - all employees up to SCP 49
N	N	Call Out hourly Monday – Saturday	Basic pay x 1.5 - minimum element 15 minutes - SCP 26 and below only
N	N	Call out hourly Sunday	Basic Pay x 2 - minimum element 15 minutes - SCP 26 and below only
N	N	Call out Plain	Basic pay - plain time

			paid to employees on SCP 27 - 49 All days - minimum element 15 minutes
N	N	Call out hours Bank holidays	Basic pay x 2 - minimum element 15 minutes - SCP 26 and below only
N	N	Call out hours Bank holidays	Basic Pay - plain time paid to employees on SCP 27 - 49
N	N	Call out Travelling time	Basic pay - minimum 15 minutes - maximum 0.5 hrs. - all employees
Y	Y	Acting Up Allowance	Determined rate - payable after 4 weeks regular review
N	N	Honoraria	Determined rate – one off payment
Y	Y	Market Supplement	Determined rate - regular review
N	N	Payment in consideration of loss of future pensionable payments	12 months full pay/ 6 months half pay /no pay award
N	N	Compensation (Equal Pay)	
Y	Y	All Arrears	
Y	Y	First Aid	
Y	Y	Non-consolidated allowance	Payment to raise basic pay to agreed local living wage amount or other.
To be assessed on a twelve monthly arrears basis at commencement of financial year.			

GUIDANCE NOTE ON MEMBERSHIP OF THE LGPS (not part of LGPS Discretionary policy)

The regulations state that Active members of the LGPS are:-

2.—(1) An employee of a body listed in— (a) [Chapter 1 of Part 2](#) of; (b) [Chapter 1 of Part 5](#) of; or (c) [Schedule 2](#) to the 1997 LGPS Regulations is an active member of the Scheme.

(2) But a person is not an active member unless he is employed under a contract of employment of more than three months' duration.

(3) An active member of the 1997 Scheme is an active member of the Scheme for as long as he continues in Local Government Pension Scheme employment.

MEMBERSHIP OF THE LOCAL GOVERNMENT PENSION SCHEME IS AVAILABLE TO:-

PCC EMPLOYEES

All Peterborough City Council employees providing their contract is for three months or more and they are aged less than 75 years. Membership of the Scheme is automatic, but employees have the right to opt out.

FIXED TERM CONTRACT EMPLOYEES WHO INITIALLY HAD A CONTRACT OF LESS THAN THREE MONTHS WHICH WAS EXTENDED TO MORE THAN 3 MONTHS

If the contract is extended beyond three months, membership of the Local Government Pension Scheme becomes automatic, but the employee would have the right to opt out. The date of commencement in the scheme would be from the date the contract is extended. The employee would have the option of back dating their membership commencement date to the start of the contract.

CORONER

REGISTRATION OFFICER

MEMBERSHIP OF THE LOCAL GOVERNMENT PENSION SCHEME IS NOT AVAILABLE TO:

FIXED TERM CONTRACT EMPLOYEES WITH CONTRACT OF LESS THAN 3 MONTHS

There is no pension scheme available for those employees with a contract of less than three months.

OTHER STATUTORY PENSION SCHEMES

Statute states that if a person's employment entitles him to belong to another statutory pension scheme, that employment does not entitle him to be a member of the LGPS, unless that other scheme was made under section 7 of the Superannuation Act 1972. This rule applies to:-

TEACHERS (TEACHERS PENSION SCHEME - TPS)

It is very important to note that a change to job description may result in the need to change pension scheme and this must be taken into account when teaching jobs are changed from teachers to advisors or some other non teaching role. Such a change will necessitate a change of pension scheme.

Also, whilst on secondment to a non teaching role a teacher may retain membership of the TPS but if the post is made permanent then the teacher would need to be transferred to the LGPS.

YOUTH & COMMUNITY WORKERS (TEACHERS PENSION SCHEME)

Organisers employed as a youth and community worker by a local education authority (for the purposes of their functions under section 15 or 508 of the 1996 Education Act) where employment as an organiser commenced before 1 January 1977.

Generally membership of the LGPS is not governed by the terms and conditions of employment which an employee works to but by virtue of their employer, and the type of work they undertake.

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