

REPORT TO THE EMPLOYMENT COMMITTEE MEETING OF  
27<sup>th</sup> March 2019

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**Meeting:** Employment Committee  
**Date:** 27<sup>th</sup> March 2019  
**Subject:** Review of Additional Pensions Discretions  
**Report of:** Rebecca Jenner – HR Manager  
**Portfolio Holder:** Councillor Hadkiss  
**Status:** Recommendation to Council  
**Relevant Ward(s):** None

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1 Purpose Report

- 1.1 To recommend to Council the policy regarding waiving any actuarial reduction for deferred members accessing their pension benefits for compassionate reasons.
- 1.2 To recommend to Council to switch off the 'rule of 85', this will have the effect of scheme members having actuarial reductions applied.

2 Recommendations:

- 2.1 That the Council adopts the proposed Harborough District Council policy revisions/additions to the pension discretions as detailed in 4.2 and 4.10 below; and.
- 2.2 Subject to Council approving 2.1 above that the Head of Paid Service is given delegated authority to consider any cases and determine whether the actuarial reduction should be waived, taking into account the financial position of the Council ..

3 Summary of Reasons for the Recommendations

- 3.1 The Council has been advised of a change to the Pensions regulations by the Leicestershire County Council Pensions Office.
- 3.2 The new regulations have expanded the period in which many deferred members can claim their pension without the need for employer consent.
- 3.3 Since 2014, members who leave and are over age 55 may claim an actuarially reduced pension benefits if they wish *without* the consent of their employer. However this ease of access *was not* extended to those who had already left the pension scheme before 1 April 2014 – until now. It has now been extended to all deferred leavers between 1.4.1998 and 31.3.2014. This new discretion could lead to

capital costs being payable by this Council to the pension fund, so each case would be considered on its financial and any other relevant merits.

- 3.4 These new or amended discretions could lead to capital costs being payable by the Council to the pension fund, so each case would be considered on its financial and any other relevant merits in accordance with the agreed policy for the individual discretion.

**4. Proposed Amendments to The Council’s LGPS Pension Discretions**

**4.1 Affirmation of existing policy in this area required:**

**LGPS Regulations 2013 – Regulation (paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014**

4.2

Explanation	Proposed HDC Policy	Explanation of the Change
<p>The Council has the discretion, under a number of retirement scenarios to waive actuarial reductions on compassionate grounds.</p> <p>The cost of which would fall upon the Council.</p> <p>n.b. “Compassionate grounds” is not defined in the regulations.</p>	<p>In relation to waiving any reduction which may apply on compassionate grounds, the Council may exercise this discretion on a case by case basis if there are exceptional circumstances and there is a clear financial or operational benefit to the Council.</p>	<p>This discretion has been broadened to allow greater flexibility to potentially provide for situations where employees are seeking to take early retirement while maximising their pension benefits.</p>

4.3 Recommendation for this revised discretion:

It is recommended not to apply this discretion unless there are exceptional circumstances. It is recommended that the decision is delegated to the Joint Chief Executives as Head of Paid Service to consider any cases and decide whether the actuarial reduction should be waived. In all cases the financial or operational benefit of the Council must be considered.

- 4.4 For information, the County Council have not adopted this discretion.

**4.5 Additional new decision required to cover former members who left after 1 April 1998 but before 31 March 2014 regarding Switching on ‘Rule of 85’**

- 4.6 The Rule of 85 was removed from the Local Government Pension Scheme (LGPS) with effect from 1st October 2006 and does not apply to anyone who joined the scheme after that date. For those who built up pension benefits before 30th September 2006 there are varying levels of protection.

- 4.7 The Rule of 85 is used to work out whether or not a member's pension benefits (retirement pension and retirement grant) will be reduced if a member retires before their Normal Pension Age (NPA). It is not used to decide when a member can retire or as a reason for leaving.
- 4.9 When a member retires under certain circumstances, where the sum of their age plus the calendar length of their membership of the scheme (both in whole years) is equal to or greater than 85, then all or part of their pension will be unreduced.
- 4.10

Explanation	Proposed Council Policy	Explanation of the change
<p>A former member who has not attained normal pension age (NPA) but who has attained the age of 55 or over, may elect to receive immediate payment of a retirement pension in relation to an employment if that member is not an employee in local government service in that employment, reduced by the amount shown as appropriate in actuarial guidance issued by the Secretary of State.</p> <p>In these circumstances (other than flexible retirement) the 85 year rule does not automatically apply to members who would otherwise be subject to it who choose to voluntarily draw their benefits on or after age 55 and before NPA.</p> <p>The employer has the discretion to "switch on" the 85 year rule for such a member.</p> <p>If the employer does</p>	<p>The Council should not apply this discretion</p>	<p>New discretion –The most recent amendments to the LGPS regulations have expanded the period in which many deferred members can claim their pension without the need for employer consent. Since 2014, members who leave and are over age 55 may claim an actuarially reduced pension benefits if they wish <i>without</i> the consent of their employer. However this ease of access <i>was not</i> extended to those who had already left the pension scheme before 1 April 2014 – until now. It has now been extended to all deferred leavers between 1.4.1998 and 31.3.2014. This new discretion could lead to a capital cost being payable by this Council to the pension fund, so each case would be considered on its merits.</p>

<p>agree to switch back on the rule of 85, the cost of any strain on the fund resulting from the payment of benefits before NPA would have to be met by the employer.</p>		
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4.11 Recommendation for this new discretion:

4.12 It is recommended that this discretionary power is not adopted.

4.13 For information, the County Council have not adopted this discretion.

5. Impact on Communities

5.1 There is no direct impact on communities.

5.2 Key Facts

5.3 Under LGPS Regulations, 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.

5.4 Some of the pension's discretions can assist both the Council and employees in a variety of situations in redundancy / efficiency situations or as a lead-in to retirement. In formulating its policies on pension provisions, the Council is required to determine its policy position on a number of defined pension provisions in the LGPS.

5.5 A number of the discretions, if adopted, could lead to significant pension capital costs being incurred by the Council (depending on the age and service of the employee). The proposed discretions have been proposed to minimise the possibility of the Council facing substantial pension capital costs in the future.

5.6 There is requirement for the Council to consider each request on a case by case basis, not just in the implementation of a blanket policy. So, whilst the Council has determined its overall policy steer, each case requires the exercise of a general discretion which will also be linked to demonstrable financial or operational benefit. This means that there will be cases where the Council grants an application under one of the policies and cases where the Council declines an application. It is recommended that the Head of Paid Service is given delegated authority to consider and determine any requests made under this policy.

5.7 The annual Pay Policy statement will need to be updated if approved by Council. These discretions will apply to all employees (and in some cases former employees) irrespective of their seniority within the workforce.

5.8 The pension discretions outlined in this report will be added to the current agreed discretionary pension policies agreed by the Council. The current policy discretions are attached at Appendix A for information.

6. Legal Issues

6.1 Under Regulation 60 LGPS Regulations 2013 (as amended) each scheme employer must publish and keep under review a Statement Policy to explain how it will apply certain discretions allowed under the Pensions Regulations.

6.2 The proposed pensions discretions meet legislative requirements.

7. Resource Issues

7.1 None

8. Equality Implications

8.1 There are no equality implications of not applying these additional pensions discretions.

9. Impact on the Organisation

9.1 Both discretions listed above could incur capital costs for the Council if adopted. If they are not adopted, members of the LGPS will have their appropriate actuarial reductions applied, so no capital costs will be incurred to the Council.

10. Risk Management Implications

None

11. Consultation

11.1 The Council has consulted the Trade Union, Unison, with regard to the proposed revisions to the discretionary pensions powers. Unison will be consulted again with any subsequent amendments.

12. Options Considered

- a. To adopt both discretionary pension powers in 4.2 and 4.10 accordingly at a cost to the Council.
- b. To adopt the amended pension discretion in 4.2 above at a cost to the Council and not adopt the new regulations in 4.10 at no cost to the Council
- c. To not adopt the amended pension discretion in 4.2 above at no cost to the Council and to adopt the new regulation in 4.10 at cost to the Council
- d. Not to adopt either pension discretion as per the recommendations in 4.2 and 4.10 above and therefore no cost to the Council will be incurred.

12.1 Option d is recommended.

**Previous report(s): N/A**

**Information Issued Under Sensitive Issue Procedure: N/A**

**Ward Members Notified: N/A**

***Appendices:***

**APPENDIX A - CURRENT PENSIONS DISCRETIONS**