

Harborough District Council



Report to Employment Committee Meeting of 5th September 2024

Title:	Pensions Discretions Policy Amendments
Status:	Public
Key Decision:	N/A
Report Author:	Rebecca Jenner, Head of HR
Portfolio Holder:	Cllr Beadle - Corporate
Appendices:	1) Harborough District Council's Pensions Discretion Policy 2010 2) Harborough district Council's Pensions Discretion Policy addendum 2019 3) New Local Government Pension Scheme (LGPS) Template for Leicestershire Members with Harborough District Council's pensions discretions transferred

Summary

- i. Under the Local Government Pension Scheme (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.
- ii. The LGPS has requested that councils update and transfer their Pensions Discretion to a new template.
- iii. Back in 2022 for the Budget Challenge 25 Programme which was to review all services using zero based budgeting principles to find savings, HR was asked to undertake a council wide review of all terms, conditions and benefits. HR was asked to undertake a review of all employee terms, conditions, benefits and allowances and present to the STAR chamber where some potential savings could be made across the council. At a BC25 Star Chamber, the panel were asked by senior officers to consider and agree to propose an amendment to the Pensions Discretions Policy to allow employees to request flexible retirement regardless of the number of hours they wish to reduce their contract by as long as there is no cost to the council. Currently the LGPS policy is a minimum reduction of 40%. CMT have subsequently agreed to the proposed revision subject to the Employment Committee recommendation for Council approval.
- iv. It is proposed to introduce a Shared Cost Additional Voluntary Contributions scheme (SCAVCs) for all employees via salary sacrifice. The scheme will allow employees to benefit from savings in terms of National Insurance Contributions and Income tax and the council to make savings from National Insurance. The council's Pensions

Discretions Policy will need to be updated if approved. There is no cost to the council for introducing such a scheme.

Recommendations

1. Note the change in template for the Councils Pensions Discretions Policy as required by the LGPS (Appendix 3)
2. Recommend to Council the adoption and implementation of a new salary sacrifice scheme for Shared Cost Additional Voluntary Contributions for employees at no cost to the council.
3. Recommend that Council adopt the revision to the discretion policy for flexible retirement for employees at no cost to the Council.
4. Recommend to Council that it adopts the proposed Harborough District Council Pensions Discretions Policy revisions/additions in respect of 2 and 3 above and as detailed below.
5. Subject to Council approving 2, 3 and 4 above that the Head of Paid Service is given delegated authority to consider and determine any requests under the current and revised and updated Pensions Discretions Policy.

Reasons for Recommendations

- I. In respect of recommendation 1 to note above, the Council has been advised by the Local Government Pensions Scheme (LGPS) of a change to the Pensions Discretions template and have requested that all councils review their policies to ensure they are up to date and republished using the new template. This is an opportunity to make revisions and updates to the policy before republishing.
- II. In respect of recommendation 2 above, currently employees are able to contribute Additional Voluntary Contributions (AVCs) to their LGPS pension. The Council now wishes to introduce a new employee benefit scheme through salary sacrifice, a Shared Cost Additional Voluntary Contributions (SCAVCs), which will allow employees to be able to pay AVCs into their pensions schemes and make savings via National Insurance Contributions as well as Income Tax. This is a non-mandatory discretion, but employers can still have a policy on whether to adopt SCAVCs, this non mandatory amendment does not need to be published but the approval by Council needs to be documented.
- III. In respect of recommendation 3 above, currently employees who wish to apply for flexible retirement through the LGPS can only do so if they reduce their working hours by 40%, the default if individual council policies are silent. Harborough District Council wishes to update this discretion to allow greater flexibility for employees to request flexible retirement for less than 40% of their working time. All requests are subject to approval by the Head of Paid Service on a case-by-case basis.
- IV. Regarding recommendations 4 and 5, if the recommendations are adopted the Pensions Discretions Policy needs to be updated for mandatory discretions on the new LGPS template, and the Head of Paid Service given delegated authority, as they do now, for the revised mandatory discretion and non-mandatory discretion by Council, to make decisions on a case by case basis and in accordance with the Policy.

1 Purpose of Report

- 1.1 The Employment Committee is invited to review the proposed changes to the Council's Pensions Discretions Policy in relation to the Local Government Pension Scheme (LGPS) as detailed below and recommend for adoption to Council.
- 1.2 The pension discretions outlined in this report will be added to the current agreed discretionary pension policy as previously agreed by the Council in September 2020 and as revised in June 2019. The current policy discretions are attached at Appendices 1 and 2.
- 1.3 The Leicestershire LGPS have released a new template and have requested that all Leicestershire employers who are members of the LGPS to completed for mandatory discretions and return to the LGPS. This new template will be republished.
- 1.4 The updating of the template allows an opportunity to review and amend or make additions to the council's current pensions discretion policy as recommended in Recommendations 2 and 3 above and detailed below.
- 1.5 For the Employment Committee to consider recommending to Council Recommendations 2, 3 4 and 5 for adoption.

2 Background

- 2.1 Scheme employers are required to publish and keep under review a statement of policy to explain how they will apply certain discretions that exist within the LGPS regulations. This allows employers flexibility in managing some issues relating to the LGPS benefits of their scheme members.
- 2.2 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.
- 2.3 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 current discretions have been proposed to minimise the possibility of the Council facing substantial pension capital costs in the future, the proposed discretions will also minimise future capital costs, and the proposed salary sacrifice scheme could result in savings for the council.
- 2.4 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. Currently the Head of Paid Service is given delegated authority to consider and determine any requests under this current agreed policy.

- 2.5 The annual Pay Policy statement will be updated if the proposed revisions are approved by Council. The two proposed changes in discretions detailed below will apply to all employees irrespective of their seniority within the workforce.
- 2.6 The introduction of the SCAVC scheme through a third-party provider will give council employees not only access to a salary sacrifice scheme for SCAVCs and thereby save on both Income Tax and National Insurance, but the provider will also support the financial wellbeing of employees through the various tools and services including savings and investments, budgeting, debt management and retirement planning which would make this benefit an attractive offer for prospective employees.
- 2.7 This same scheme has been introduced by a number of other Local Authorities and has been welcomed by both employees and their employers.

3 Details

Introducing a Shared Cost Additional Voluntary Contributions (SCAVCs) scheme

- 3.1 Local Government employees currently have the facility to make additional payments to their retirement over and above their standard pension deductions, called Additional Voluntary Contributions (AVCs). Employees can opt to have an amount deducted from their salary and achieve savings via tax relief.
- 3.2 The Council would like to propose introducing a new Shared Cost Additional Voluntary Contributions (SCAVCs), a salary sacrifice scheme which will allow employees to have the opportunity to make further savings via National Insurance Contributions as well as Income Tax. The scheme is recognised by the Local Government Pension Scheme (LGPS); it is important to note that there are no additional costs to the employer which is simply facilitating the scheme and NI savings will be achieved for both employee and employer.
- 3.3 Under the new voluntary salary sacrifice SCAVCs scheme, the Council's contribution to the SCAVCs is a pensionable emolument, and pensionable pay is calculated using the pre salary sacrifice level of pay. This means member contributions; employer contributions and CARE pension build-up continue to be based on the pre salary sacrifice level of pay, as per regulation 20(1)(b) of the LGPS Regulation 2013.
- 3.4 The adoption of this scheme will result in an amendment to the council's discretions policy as a non-mandatory discretion although does not need to be added to the new template but needs to be documented. Draft amended wording is below.
- 3.5 If approved the council will procure the assistance of a third party to assist with the introduction, communication and ongoing management of this salary sacrifice arrangement.
- 3.6 At present the Council has adopted five discretions for council employees and these are set out in detail at Appendix 1 and 2. It is proposed to change the policy wording for two discretions, *Regulation 15 (3) - Shared Cost Additional Voluntary Contribution Facility* and *Regulation 18 – Flexible Retirement* paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014.
- 3.7 Given the financial constraints facing local councils and the requirement to

control the impact of any capital costs moving forwards, it is proposed to not change an of the other remaining discretionary policies.

3.8 The current wording on the existing policy is:

LGPS Regulations 2013 Regulation 15 (3): Shared Cost Additional Contribution Facility

Explanation	Employer's Policy
This discretion allows the Employer to maintain and contribute to an employee's Additional Voluntary Contribution Scheme.	<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>

3.9 It is recommended to adopt the discretion with the revised policy wording to state:

Explanation	Employer's Policy
This discretion allows the Employer to maintain and contribute to an employee's Additional Voluntary Contribution Scheme.	<p>The Council has adopted this discretion.</p> <p>Harborough District Council will pay shared cost AVCs (SCAVCs) where an employee has elected to pay AVCs by salary sacrifice. The amount of these employer shared cost AVCs will not exceed the amount of salary sacrificed by the employee. This is a discretion of Harborough District council and is subject to the employee meeting the conditions for acceptance into the salary sacrifice shared cost AVC scheme and may be withdrawn or changed at any time. This does not have any effect of the AVC facility available where the employee only is able to make such contributions.</p>

3.10 Once the procurement has been completed it is proposed to launch as soon as possible after that, the lead in time to implementation can take up to six months.

Flexible Retirement

- 3.11 Under the pension scheme rules it is possible from age 55, to retire and receive pension benefits without completely leaving employment, with the agreement of the employer to release the benefits. Flexible retirement can only be considered in situations where a pension scheme member has either reduced their working hours or reduced their grade, it is important at that stage for the employer to know the financial implications.
- 3.12 The purpose of flexible retirement is to:
- i. Help the employee ease into retirement.
 - ii. Allow the employer to retain the knowledge and skills of experienced employees.
 - iii. Assist the employer in its succession planning.
- 3.13 Employees can still build up further pension benefits in their ongoing job on either lower hours or in a less senior role.
- 3.14 The Council's policy is currently silent on the minimum % of reduction in hours that it will considered for an employee to be granted flexible retirement, therefore the discretionary power defaults to the LGPS Rules which stipulate there must be a 40% minimum reduction of hours.
- 3.15 As described in the Executive Summary above, The Budget Challenge 2025 Programme (BC25), was designed to ensure all services were reviewed using zero based budgeting principles to find savings over the MTFS period (2021/22 - 2024/25). In 2022, HR presented the proposed change to the flexible retirement pension discretion to the Star Chamber, a panel put together as a key part of the governance and challenge process who agreed in principle. In addition, a paper proposing this change to the discretions was presented to the Corporate Management Teams who also approved the change in principle pending the Employment Committee's recommendation to Council, and Council's subsequent approval. The proposed revision would state that all cases of flexible retirement seeking a reduction in hours would be considered on a case-by-case basis, see proposed wording below.
- 3.17 Current wording under Regulation 18 (current policy)

LGPS Regulations 2013 – Regulation (paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 - Regulation 18 - Flexible retirement

Explanation	Council Policy
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<p>A member who is aged 55 or over and with their employers consent reduces their hours/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 that employment.</p> <p>It is possible that where a member's pension is introduced early, those 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>This discretionary power has been adopted but only in cases where there is no cost incurred by the council.</p>
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3.18 It is recommended to amend this discretion with the revised policy wording to state (Discretion number 11 on the new template):

Explanation	Council Policy
<p>A member who is aged 55 or over and with their employers consent reduces their hours/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 that employment.</p> <p>It is possible that where a member's pension is introduced early, those 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>Harborough District Council has agreed to release pension where there is no cost and not to waive any reduction. Members should reduce their hours by a minimum of 40% and/or reduce their grade, however Harborough District Council will exercise its discretionary power on a case-by-case basis for all applications for flexible retirement regardless if below the 40% minimum threshold and there is a clear financial or operational benefit to the Council. Harborough District Council may also however allow the release of pension where there is a cost or waive reduction in a potential redundancy situation, where a reduction may occur through redeployment, or in other exceptional circumstance supported by a business case.</p>

4 Implications of Decisions

4.1 Corporate Priorities

The Council is required to publish its Discretionary Pensions Policy to comply with its legal obligations. Publishing this information also helps the council to be transparent about pay with the public, communities and employees. It therefore underpins all of the Council's corporate priorities.

4.2 Financial

4.3 SCAVC scheme

- a. The scheme would result in savings to the Council's Employers' National Insurance Contributions, the level at which it would be levied would be reduced by any salary sacrifice reduction.

- b. Any Employers' NI savings made because of implementing the SCAVC scheme would be partially reduced as a % management fee based on salary sacrifice deductions made would be payable for the on-going management of the scheme to our scheme provider. The standard fee is 5%, the council will save National Insurance at 14.3% (13.8% plus 0.5% Apprentice Levy) leaving a net savings of 9.3%.
- c. The level of Employers' pension contributions payable will remain unchanged as these will still be based on the gross pay before any salary sacrifice deduction.
- d. As the level of gross pay would be reduced by any SCAVC salary sacrifice deductions for the purposes of calculating the amount payable for the Apprenticeship Levy, the levy payable would reduce accordingly.

4.4 Flexible Retirement

- 4.5 There are no financial implications for the council for adopting this pension discretion, if approved it will only be adopted if there are no costs to the Council.

5 Legal

- 5.1 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.
- 5.2 The proposed pensions discretions meet legislative requirements.
- 5.3 If approved for adoption, the SCAVCs scheme will be procured through a framework in accordance with procurement rules.

6 Environmental Implications including contributions to achieving a net zero carbon Council by 2030

- 6.1.1 None as far as this report is concerned.

7 Risk Management

- 7.1 None as far as this report is concerned.

8 Equalities Impact

- 8.1 The council has undertaken an equalities impact screening assessment and is satisfied that no adverse impacts on those with protected characteristics have been identified as a consequence of the proposed revisions to the Pensions Discretions. This policy will apply equally to all employees regardless of seniority.

9 Data Protection

- a. None as far as this report is concerned, employees sign up to the scheme voluntarily and data is stored in accordance with GDPR. There is a duty to publish the council's Pensions Discretions Policy.

10 Summary of Consultation and Outcome

- 10.1 Unison has been consulted regarding the introduction of the SCAVC scheme and the proposed changes to the flexible retirement pensions discretion and are supportive, they will be consulted again with any subsequent amendments.

11 Alternative Options Considered

- 11.1 To adopt both proposed discretionary pension policy amendments as per Recommendations 2 and 3 above at no cost to the Council and the amended Harborough District Council's Discretionary Pensions Policy.
- 11.2 To adopt the proposed discretionary pension policy amendment, the implementation of a salary sacrifice scheme, SCAVCs as per Recommendation 2 and not approve Recommendation 3 regarding flexible retirement.
- 11.3 To adopt the proposed discretionary pension policy amendment as per Recommendation 3 regarding flexible retirement and not approve the implementation of a salary sacrifice scheme, SCAVCs as per Recommendation 2.
- 11.4 Not to adopt any of the proposed recommended amendments to the pension discretions as per Recommendation 2 and 3 above.

12 Recommendation

- 12.1 For the reasons set out within this report, it is recommended that the Council consider the recommendations set out at the start of this report.

13 Background papers

- 13.1 Current Discretionary Pension Policy 2009 & Pensions Discretions Addendum June 2019.