

Buckinghamshire & Milton Keynes Fire Authority



MEETING	Fire Authority
DATE OF MEETING	24 June 2014
OFFICER	Lynne Swift, Director of People and Organisational Development
LEAD MEMBER	Councillor Roger Reed
SUBJECT OF THE REPORT	Local Government Pension Scheme 2014 – Employer Discretions
EXECUTIVE SUMMARY	<p>The Authority's Support and Control Room Staff are eligible to join the Local Government Pension Scheme (LGPS). The Scheme is administered on behalf of the Authority by Buckinghamshire County Council (BCC).</p> <p>The operation of the LGPS, which became a career average scheme on 1 April 2014, is governed by a variety of regulations which define the rights and obligations of both the employing authority (BMKFA), the administering authority (BCC) and employees (scheme members). Contained within the various regulations are a range of discretions which the employing authority can choose to adopt and exercise.</p> <p>As an employer, the Authority is required to adopt, publish and keep under review its policy on some of the available discretions.</p> <p>Whenever a pension scheme such as the LGPS is subject to major change the administration of the scheme becomes more complicated as:</p> <p>Existing members will retain certain protections under earlier schemes which affect their rights and the calculation of their benefits.</p> <ul style="list-style-type: none"> • Some provisions from earlier schemes are incorporated into the new scheme, • Some provisions from earlier schemes are discontinued in the new scheme, • Some provisions of earlier schemes which are discontinued in the new scheme remain applicable to former scheme members who have left the Authority's employment but have deferred their benefits under the scheme <p>This report and the attached LGPS Pensions Discretions Policy Statement (2014) deals with all</p>

	<p>discretions in respect of which the authority must publish a policy by 1 July 2014. The opportunity is also taken to review those discretions previously adopted by the Authority as required by regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008.</p> <p>It should be noted that some guidance was only issued as late as 15 May 2014 and the guidance is not yet completely available although some of this relates to administrative rather than substantive issues. However in so far as it is reasonably possible to state this report and its recommendations are accurate.</p>
ACTION	Decision.
RECOMMENDATIONS	That the Pensions Discretions Policy Statement at Appendix 2 be approved.
RISK MANAGEMENT	<p>The risks to the Authority which the proposed policy mitigates are:</p> <ol style="list-style-type: none"> 1. that a decision exercised, or a failure to exercise a discretion, otherwise than in accordance with a properly agreed and published discretion policy would be ultra vires and payments made would be unlawful. 2. that the administering authority would be justified in refusing to process a discretionary decision in the absence of a properly agreed and published discretion policy. 3. the administering authority has stated, in an email attached at Appendix 3, that in addition to refusing to process decisions ".....We won't process any quotations for employers where the request is received after 30 June 2014 until a 2014 employer discretionary policy has been approved."
FINANCIAL IMPLICATIONS	<p>There are no immediate financial implications to the Authority of adopting the proposed discretions policy.</p> <p>The approach that underpins the proposed adoption and exercise of the available employer discretions is that each case will be judged on its substantive merits in terms of whether or not a business case demonstrates that it is in the Authority's interests and is affordable within its financial resources.</p> <p>The proposed governance arrangements to underpin this approach is that any business case requesting the exercise of an adopted discretion would require sign-off by the Chief Executive/Chief Fire Officer on the advice of the Director of Finance and Assets and the Director of People and Organisational Development.</p> <p>There are no implications for the Medium Term Financial Plan as any decisions to exercise any of the adopted discretions must be justified in a business</p>

	<p>case which would mean that it would be effectively 'self-funding'.</p>
<p>LEGAL IMPLICATIONS</p>	<p>There are five employer discretions introduced on 1 April 2014 (and two existing policies for members, who left prior to April 2014) which the Authority is required to include in an adopted policy statement which must be published, and sent to the administering authority, before 1 July 2014. These are set out in the body of the report</p> <p>In preparing, or reviewing and making revisions to its statement, the Authority must have regard to the extent to which the exercise of discretions "in accordance with its policy could lead to a serious loss of confidence in the public service" [Regulation 60 of the LGPS (Administration) Regulations 2013]</p> <p>The recommendations comply with the obligations under the new regulations; and with the requirement under the existing regulations for the Authority to keep its statement under review and to make such revisions to its statement as are appropriate following any change in its policy.</p>
<p>HEALTH AND SAFETY</p>	<p>There are no Health and Safety implications of the proposed policy.</p>
<p>EQUALITY AND DIVERSITY</p>	<p>The policy will be applied to all eligible employees regardless of their protected characteristic status.</p>
<p>USE OF RESOURCES</p>	<p>Adoption of the proposed pension discretions policy statement will contribute to the Authority achieving its strategic aim to "manage all our resources to provide the best value for the residents and businesses of the communities we serve" as it contributes to managing workforce size to achieve a balanced budget.</p> <p>Once determined the policy must be published one month before it comes into effect.</p> <p>The policy will be subject to periodic review.</p> <p>An appropriately determined policy in respect of the application of pension discretions is an essential building block of managing reductions in the workforce in a fair and financially prudent manner.</p> <p>A properly determined and published pension discretions policy provides for auditable decision making.</p> <p>There are no environmental implications inherent in this policy.</p> <p>The determination of policy on these discretions is clearly an employer matter and not one for negotiation or consultation with the staff. However UNISON have been informed of the recommendations in this report.</p>

<p style="text-align: center;">PROVENANCE SECTION & BACKGROUND PAPERS</p>	<p>Background</p> <p>The Authority determined its policy in respect of key discretions in respect of the Local Government Pension scheme at meetings of its Human Resources Sub Committee, on 26 October 2010 (which dealt with discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006) and 12 December 2012 (which dealt with discretions under various legislation relating to the LGPS). However, the Government’s fundamental review of public sector pension provision determined that changes were required to the LGPS which are summarised below:</p> <ul style="list-style-type: none"> • The scheme should change from a final salary pension scheme to career average re-valued earnings (CARE) scheme. • Scheme retirement ages should be the same as state retirement pension ages • Scheme members and employers should share the increasing costs of providing public sector pension schemes • Existing rights of current scheme members should be protected. <p>As a consequence of this, a revised LGPS 2014 has been introduced with effect from 1 April 2014, known as the 2014 Scheme. The major change is that the new scheme is a Career Average (CARE) Scheme. However it has also:</p> <ul style="list-style-type: none"> • Introduced new employer discretions. • Deleted some discretions that were available under the 2008 scheme; and • set out some protections for pre 2014 active members and those members who left employment between 1 April 1998 and 31 March 2008; and 1 April 2008 and 31 March 2014. • Equalised the normal retirement age with the state pension age. <p>Consequently the existing policy statement on the adoption and exercise of discretions under the LGPS requires review. The situation in respect of the LGPS and employer discretions is now quite complicated as there are members with protections that pre-date the 2008 scheme and arise from the 2008 scheme. Some previous discretions disappear as a result of the latest legislation; some are enshrined within it and some need to be maintained in respect of former members of staff who left the Authority’s employment but who</p>
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	<p>have deferred benefits.</p> <p>As well as complying with the new legislation this provides the Authority with an opportunity to reconsider the position it adopted in respect of available discretions when the previous policy was agreed. In producing this report advice has been sought from the administering authority (BCC), although it has largely been unable to respond due to other pressures, and reference has been made to the guide to the LGPS produced by the Local Government Employers (LGE). These decisions were taken in the context of the 2008 Scheme.</p> <p><i>Analysis and Proposed Approach to the Range of Available Employer Discretions</i></p> <p>Set out in Appendix 1 is a summary of the nature of and considerations which underpin the proposed policy on LGPS pension discretions.</p> <p>Local Government Pension Scheme Regulations and Guidance - http://www.lgpsregs.org/</p>
<p>APPENDICES</p>	<p>Appendix 1 – Summary of LGPS Employer Discretions.</p> <p>Appendix 2 – Proposed Statement of Policy on LGPS Pensions Discretions.</p> <p>Appendix 3 – Copy of email from the Administering Authority.</p>
<p>TIME REQUIRED</p>	<p>10 minutes.</p>
<p>REPORT ORIGINATOR AND CONTACT</p>	<p>Martin House mhouse@bucksfire.gov.uk 01296 744622</p>