



Report to Pension Fund Consultative Group

Title: Discretionary Policies
Date: 15th October 2008
Author: Pensions Manager
Contact Officer: Julie Vrondis 01296 382328

Summary

Discretionary policies applicable under the Local Government Pension Scheme Regulations 2007 need to be made by each employer in the Fund.

Recommendation

Members are asked to:

Consider the policies which need to be set and make recommendations for each employer to consider.

A. Supporting information:

The Local Government Pension Scheme (LGPS) changed significantly in April this year, when new arrangements for contributions and benefits were introduced. The changes affect around 19,000 staff who are in the local pension fund, and (to a lesser extent) the 11,000 current pensioners. Also affected are around 15,000 former employees who have retained benefits "deferred" to future retirement.

Employers have always had some local discretion in applying the LGPS, and there has long been local policy in some areas. The introduction of the new scheme means that there are new points to interpret, and specific points on which local policy needs to be set. It is a requirement for each employer to make a written statement of its local discretionary policy on these points.

The purpose of this report is to consider the local policy statement, which falls into two parts: local policy which is set by each employer within the fund; and local policy which it is setting as an authority administering a local pension fund. The distinction being made here is that local employer policy relates to the employees of that employer only. Where policy is set as an administering authority, then this applies to everyone in the scheme.

STATEMENT OF LOCAL EMPLOYER POLICY

There are six specific matters on which employers need to declare their local policy. These are set out below, and for each there is a reference to the relevant statutory regulation, a brief explanation of the issue, and a recommended local policy:

1. Discretion of employer to increase total membership of active member

Regulation 12 LGPS (Benefits, Membership and Contributions) Regs 2007

Under this regulation an employer has the power to increase the membership (pensionable service) of an employee in the pension scheme by up to 10 years.

Current BCC Policy: BCC does not currently award augmented years

Suggested policy: Employers could award augmented years on a case by case basis.

Reason for Change: Allowing augmented years on a case by case basis would give employers more flexibility. Augmented years are fully funded by the employer at the date of award.

2. Discretion of employer to award additional pension

Regulation 13 LGPS (Benefits, Membership and Contributions) Regs 2007

This regulation gives an employer the power to award up to £5000 per year additional pension on retirement.

Current BCC Policy: N/A, this is a new option

Suggested policy: Employers could award augmented years on a case by case basis or employers could choose not make use of this regulation to award additional pension on retirement.

Reason for Change: Employers may prefer to award augmented years as above rather than augmented pension, it is probably easier to have just one method of increasing benefits rather two.

3. Discretion to permit flexible retirement

Regulation 18 LGPS (Benefits, Membership and Contributions) Regs 2007

This regulation enables an employer to let an employee, aged 55 or more (50 for protected members), reduce his/her hours or grade, and receive part or full payment of pension benefits under the main scheme regulations. If the employee would suffer an actuarial reduction in the pension and lump sum due to the early payment, the regulations confer a further discretion for the employer, at its own cost, to waive that reduction in any particular case.

Current BCC Policy: The BCC policy has been reviewed and a copy is attached

Suggested policy: Employers should review their policies on flexible retirement, including whether or not a waiver of actuarial reduction will be made in any case.

Reason for Change: The new BCC policy imposes a minimum hour/pay reduction and also stipulates a minimum period for the member to remain employed with BCC. BCC will not waive reductions.

4. Discretion to permit early payment of pension

Regulation 30 LGPS (Benefits, Membership and Contributions) Regs 2007

Under this regulation a member of the pension scheme aged 55 or more (50 for protected members) may apply for the early payment of their retirement benefits, subject to the consent of their employer. An application may be made by either a current employee or a

former employee holding deferred benefits. This regulation gives a further discretion to the employer, at its own cost, to waive any actuarial reduction on compassionate grounds.

Current Policy: BCC currently assess each case on its merits, each case is signed off by the head of service and the head of finance.

Suggested policy: Employers could agree to an application from a current employee only in a case where it is satisfied that there is a clear business benefit, and where the employee or the service are willing to reimburse to the pension fund any costs arising from the early retirement.

Employers could grant an application from a former employee holding deferred benefits. The former employee will be expected to reimburse to the pension fund any costs arising from the early retirement. Actuarial advice confirms this will be cost neutral to the Fund.

Employers could waive any actuarial reductions that may be applicable, but this will increase any pension strain cost.

Reason for Change: A former employee applying for early payment of deferred benefits usually does so because of financial hardship, as such an application can be granted at no cost to the employer it would seem unreasonable not to grant the request.

5. Discretion to permit late inward transfer of pension rights

Regulation 83 LGPS (Administration) Regs 2008

A request to transfer pension rights in to the LGPS must be made within 12 months of joining the scheme, but this regulation allows an employer to extend that period.

Current Policy: All such requests are referred by pensions to the employer concerned for a decision

Suggested policy: Any request to transfer pension rights after the twelve month limit should be declined unless the member claims they did not get the information regarding this deadline when they commenced their employment.

Reason for Change: Until recently the Pensions Manager made the decision in these cases. However a case came up where a late transfer was agreed to and then the employee was made redundant; the pension strain cost was increased as a result of the transfer. All such applications are now referred to employers due to this possibility. BCC have found that they are getting a lot of requests and are finding it time consuming to look at each case, they are therefore considering declining all cases unless the person claims they did not get the pension starter pack..

6. Determination of questions and disputes

Regulation 58 LGPS (Administration) Regs 2008

An employer must specify the job title and the address of the person to whom applications to deal with questions and disputes arising from the administration of scheme membership must be made.

Current Policy: In BCC such applications are made to the HR Manager, OD & HR.

Suggested policy: No change is suggested for BCC. Employers who have not specified the person to whom applications should be made should do so immediately.

Reason for Change: To comply with legislation

STATEMENT OF ADMINISTERING AUTHORITY POLICY

There are eight specific matters on which the Council needs to declare its local policy as an administering authority. These are set out below, and for each there is a reference to the relevant statutory regulation, a brief explanation of the issue, and a recommended local policy:

7. Making “Admission Agreements”

Regulations 5, 6 and 7 LGPS (Administration) Regs 2008

An administering authority may make an “Admission Agreement” with certain other organisations, in order to admit their employees to the local LGPS fund.

Recommended local policy: This Council will enter into an “Admission Agreement” where this is considered appropriate. Any such case will be considered and decided by the Head of Finance.

8. Considering late applications to pay contributions for absence

Regulation 22 LGPS (Administration) Regs 2008

A request to pay pension contributions to cover a period of unpaid leave must be made within 30 days, but this regulation allows an administering authority to extend that period.

Recommended local policy: Any request to pay such contributions after the 30 day limit will be considered and decided by the Pensions Manager. Such a request will be granted only if it is considered that there are significant extenuating circumstances.

9. Permitting regular additional pension contributions

Regulation 23 LGPS (Administration) Regs 2008

A member of the local pension fund can apply to make regular additional pension contributions. In that event, this regulation permits the administering authority, if it wishes, to require a medical report from the applicant, to show that he/she is in good health.

Recommended local policy: This Council will require such a medical report from an applicant – obtained at the applicant’s cost - before allowing regular additional contributions, where the employee has declared a medical condition on their application form.

10. Awarding Death Grant payments

Regulation 23 LGPS (Administration) Regs 2008

This regulation gives an administering authority absolute discretion as to the person to whom a death grant payment should be made

Recommended local policy: Decisions about the payment of death grants will be considered and made by the Pensions Manager.

11. Paying Child Pensions

Regulation 26 LGPS (Administration) Regs 2008

Under this regulation, an administering authority has the discretion to treat a child's education or training as continuous, ignoring any break.

Recommended local policy: Decisions about the payment of child pensions will be considered and made by the Pensions Manager, taking into account the circumstances of each individual case.

12. Reclaiming additional costs arising from an employer's sub-standard performance

Regulation 43 LGPS (Administration) Regs 2008

If an administering authority incurs extra work or other additional costs, as a result of an employer (including BCC) failing to provide necessary information as and when required, then the authority is able to recharge the employer for these costs.

Recommended local policy: This Council will make use of this regulation and will normally recharge employers (including BCC) for any additional costs incurred due to the performance of an employer.

13. Dealing with disputes

Regulation 60 LGPS (Administration) Regs 2008

This regulation requires an administering authority to specify who will deal with questions and disputes arising from its role as an administering authority (these will be different from any cases arising for an employer).

Recommended local policy: In this Council Linda Forsythe, Group Solicitor, Legal Services, County Hall, Aylesbury will deal with such matters.

14. Reducing or suspending a retirement pension, if a pensioner starts new local government employment

Regulation 70 LGPS (Administration) Regs 2008

The pension of an employee who retires and is subsequently re-employed in local government may be subject to reduction or suspension. This regulation requires an administering authority to state its local policy on this issue.

This provision is not new, and the Council's policy is not to reduce or suspend pensions in such cases.

Recommended local policy: The basic pension (excluding any 'added years' element) of a pensioner who is re-employed in local government after 1 October 2006 will not be reduced or suspended.

B. Other options available, and their pros and cons

N/A

C. Resource implications

D. Legal implications

It is a requirement of the Regulations that all employers have a policy on these matters.

E. Other implications/issues

F. Feedback from consultation and Local Member views

BCC will be consulting with the Unions

G. Communication issues

Policies will be available to scheme members

H. Progress Monitoring

Policies should be reviewed regularly

Background Papers

BCC revised flexible retirement policy (attached)

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007
