

HUMAN RESOURCES COMMITTEE

18 NOVEMBER 2021

REPORT OF THE EXECUTIVE DIRECTOR OF CORPORATE SERVICES

STATEMENT OF POLICY ON DISCRETIONS – LOCAL GOVERNMENT PENSION SCHEME REGULATIONS

1. Purpose of the Report

- 1.1. The purpose of this report is to propose revisions to the Council's Statement of Policy on Discretions under the Local Government Pension Scheme Regulations.

2. Description of the Decision (Recommendation)

- 2.1. To consider the contents of this report and approve the Statement of Policy in respect of discretions under the Local Government Pension Scheme Regulations that is attached as Appendix 1. (Any existing discretions agreed in respect of Discretionary Compensation discretions are to be unchanged at this time).
- 2.2. To authorise the establishment of a Salary Sacrifice Scheme for Shared Cost Additional Voluntary Contributions for LGPS members as a benefit for employees and to provide a saving for the Council.

3. Background

- 3.1. The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014 so that benefits for service after 31 March 2014, build-up on a defined benefit career average revalued earnings (CARE) basis, rather than on a defined benefit final salary basis.
- 3.2. The provisions of the CARE scheme, together with the protections for members' pre 1 April 2014 final salary rights, are contained in the Local Government Pension Scheme Regulations 2013 [SI 2013/2356] and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525].
- 3.3. Scheme employers participating in the LGPS in England or Wales must formulate, publish and keep under review a statement of policy on all mandatory discretions (or where the discretion is non-mandatory, are recommended to) which they have the power to exercise in relation to members of the CARE Scheme and earlier schemes.

- 3.4. A copy of the policy must be sent to the relevant administering authority. If the scheme employer decides to amend the policy, they must send a copy to the relevant administering authority within one month of the date of the decision to amend the policy.
- 3.5. In formulating and reviewing its policy a scheme employer is required by the regulations to have regard to the extent to which the exercise of their discretionary powers could lead to a serious loss of confidence in public service.

4. Key points and principles

- 4.1. Exercise of the discretions will be in the interests of the Council. Some examples of these interests are set out in the introduction of the statement to act as a guide to decision making.
- 4.2. The policy statement sets out a general position and retains the right for the Council to depart from this in extraordinary circumstances.

5. Proposed changes to the existing discretions

- 5.1 The main proposed changes to existing discretions are as follows:
 - 5.1.1 The policy introduces the option for Shared Cost Additional Voluntary Contributions, this will reduce the cost for staff to build up additional pension savings whilst providing a modest saving in national insurance costs for the Council.
 - 5.1.2 The policy will allow for flexible retirement where there is no cost to the Council or where the cost is fully offset by savings within two years due to the reduction in grade or hours of work.
 - 5.1.3 The policy allows for the exchange of lump sum payments for additional pension in redundancy situations (for the portion of payment in excess of the statutory minimum) where the member of staff requests this.
 - 5.1.4 The policy determines gainful employment (in respect of a member who has taken ill-health retirement and subsequently returned to work) as employment expected to last at least 12 months, paid at or above the current Living Wage rate published by the Living Wage Foundation, for at least 30 hours per week.
 - 5.1.5 The policy allows for bulk transfers where these provide a better value outcome in consultation with the Administering Authority.
 - 5.1.6 The policy removes the previous limited extension to the 12-month limit on transferring other pension rights into the LGPS or electing to keep benefits separate where the member was unaware of the limit.

6 Authority to Exercise the Discretions and Delegations

6.1 It is proposed that the authority to exercise the discretions is as follows:

- a) for current and former Chief Officers and Deputy Chief Officers (as defined by statute), the decision whether to exercise the discretions under the Statement of Policy be delegated to the Chief Executive, in consultation with the Executive Director of Corporate Services, the Assistant Director of People Management and the Assistant Director of Law and Governance; and
- b) for all current and former employees below Deputy Chief Officer level, the decision whether to exercise the discretions under the Statement of Policy be delegated to the Executive Director of Corporate Services, in consultation with the Chief Officer responsible for that service area, the Assistant Director of People Management and the Assistant Director of Law and Governance

7 Shared Cost Additional Voluntary Contributions

7.1 The LGPS regulations prohibit the use of a salary sacrifice scheme for the main pension scheme as employee contributions are directly mandated. There is however the option for an employer to make a Shared Cost Additional Voluntary Contribution and the employer can elect to make 100% of these contributions. This can be in exchange for a salary sacrifice. This allows both the employee and the employer to benefit from national insurance savings on the salary sacrificed, reducing the cost to the employee, and providing a small saving for the employer.

7.2 A Shared Cost Additional Voluntary Contribution Scheme could bring the following benefits:

- Employees (paid below the upper earnings limit, currently £50,270 per year) can save 12% in national insurance on the salary sacrificed while the employer makes equivalent contributions to the pension scheme
- Employees paid over the upper earnings limit would save an additional 2% in national insurance contributions.
- Employers can save 14.3% in national insurance, the apprenticeship levy and a further 1.25% on the new health and social care levy on the salary sacrificed.
- Based on current AVC take up the Council could expect an annual saving of £42k (estimated to be £29k net of fees) this would increase with an increase in AVC savers.
- The salary sacrifice for the AVC does not affect the main pension.

7.3 Running such a scheme in-house would require additional staffing resources which would reduce the potential cost saving. A third party provider experienced in the implementation and promotion of such a scheme could increase the participation in line with that observed in other employers and can create more savings than the Council would otherwise be able to do, with a minimal administrative overhead for a small administrative fee, typically around 4.5% of the salary sacrificed for Shared Cost AVCs.

- 7.4 It is therefore proposed that a shared cost AVC scheme be established with a salary sacrifice arrangement and that a third party provider is procured to provide a fully managed solution to implement and manage the scheme on an ongoing basis.

8 Financial Implications

- 8.1 The proposals set out in this report do not result in any additional financial implications for the Council compared to the Council's current approach.
- 8.2 There is a cost saving associated with the proposal to introduce the Shared Cost AVC arrangement due to the national insurance savings associated with salary sacrifice.
- 8.3 Where a cost is associated with an application for flexible retirement this will be assessed by the budget holder and relevant Assistant Director (this can be delegated to a manager where appropriate but the authorisation must come from the Assistant Director and they must have reviewed the application before being approved in advance of consideration under the authority to exercise discretions described above).

9 Alternative Options

- 9.1 The Council is legally required to have a Statement of Policy on the exercise of some of these discretions and therefore not having a Policy in place is not an option. Where a policy statement is not mandatory there are some where it would be appropriate for employers to have a written policy in order that both members and the Pension Fund administering authority can be clear on the employer's policy on these matters.
- 9.2 The Council could choose not to exercise any discretions at all; however, this would go against the Council's interests of maintaining good employee relations, particularly when these discretions are to the benefit of employees at no cost to the Council.
- 9.3 The Council could choose to adopt a Statement of Policy that gives discretion to award greater enhanced pension benefits, however in the current and foreseeable financial situation this would not be in the Council's best financial interests.

10 Review

- 10.1. The continued application of the policy would be reviewed at the discretion of the Council. The Council also reserves the right to vary this policy from time to time, by resolution of the appropriate committee.