

REPORT ON THE COUNCIL'S GUIDELINES FOR THE EXERCISE OF DISCRETIONS UNDER THE LOCAL GOVERNMENT PENSION SCHEME (BENEFITS, MEMBERSHIP & CONTRIBUTIONS) REGULATIONS 2007, AND THE LOCAL GOVERNMENT PENSION SCHEME (ADMINISTRATION) REGULATIONS 2008

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Papers with this report

None

SUMMARY

The Local Government Pension Scheme (Benefits, Membership & Contributions) Regulations 2007, and the Local Government Pension Scheme (Administration) Regulations 2008 (the regulations) require the Council and the other fund employers to exercise certain discretions in respect of the scheme membership. An update report on the exercise of discretions was last reported in full to committee in September 2008. This report recommends an update to the policy to ensure equal treatment of all scheme members, including Councillor members. This policy must be published once it comes into effect, but does not require to be published in advance.

RECOMMENDATIONS

1. That the Council's guidelines for the exercise of its discretion under Regulation 30 of the Local Government Pension Scheme (Benefits, Membership & Contributions) Regulations 2007 in relation to Councillor members be amended to allow the early payment of benefits without reduction, from age 55, where, following an election, a Councillor member has either lost his seat, been deselected as a candidate by his party or chosen to stand down as a Councillor.
2. If recommendation 1 is agreed that it comes into effect from 1 May 2010.
3. That the Council's guidelines for the exercise of all other discretions under the Local Government Pension Scheme (Benefits, Membership & Contributions) Regulations 2007 and the Local Government Pension Scheme (Administration) Regulations 2008 remain as previously published.

BACKGROUND

In considering the issues raised in this report, members should be aware that while both employees and councillors are eligible to join the Local Government Pension Scheme (LGPS), there are several differences in the benefit regimes for the two types of member.

Statutory Elements

Feature	Employee Scheme	Councillor Scheme
Type of Scheme	Final Salary	Career Average
Contribution Rate	Range between 5.8% and 7.5%	6%
Upper age for Joining	75	75
Death in Service Benefit	2 x Final pay	2 x Career average pay
Normal Retirement Age	65	65
Earliest Retirement Age (without employer consent/retire from office)	60 Benefits reduced if 85 year rule not met	60 Benefits reduced if 85 year rule not met
Ill Health Retirement	Immediate payment of benefits	Immediate payment of benefits
Early retirement on the grounds of redundancy or efficiency over age 55	Immediate payment of benefits	Not applicable

Additionally, there are differences in the discretionary policies, which may be formulated. Where it is stated the discretion does not apply, that is because Schedule 8 of the regulations does not permit the discretion.

Feature	Employee Scheme	Councillor Scheme
Augmentation of service	Specific Policy in place	Not permitted under the regulations
Employer consent retirement between 50 and 59	Council's Policy does not permit	Current policy allows with reduction. This report contains an amendment to that policy
Abatement of pension on re-employment	Fully abate if retired on redundancy or efficiency grounds	Not permitted under the regulations
Compassionate Retirement	Policy does not permit	Policy does not permit
Flexible retirement	Allowed as an employers discretion according to the needs of the service	Not permitted under the regulations
Shared Cost AVC Scheme	Policy does not permit	Not permitted under the regulations

INFORMATION

Regulation 30 – Voluntary Early Retirements

This regulation gives the employing authority discretion to grant payment of retirement benefits to employees who leave, or have previously left, once they have attained the age of 55. If that employee has not achieved the rule of 85 then benefits will be reduced in line with GAD advice. In cases of compassion, the employing authority can waive this reduction. The Council also has the discretion to allow councillors who retire from office between the ages of 55 and 59 to elect for immediate payment of their pension benefits. Those benefits would be reduced for early payment unless the rule of 85 was achieved.

Current policy:

Active members – No early payment permitted

Deferred members – No early payment permitted

Councillor members – Policy allows reduced payment

Policy decision:

Active Members – The current policy is clear and members are aware that early retirement before the age of 60 is permitted only on the grounds of redundancy or efficiency. As the age of the population continues to rise and the size of the workforce diminishes, it is neither timely nor appropriate to encourage early retirement. Employment policy should be focussing on the retention of the workforce. Therefore, it is not proposed to recommend a change to this policy.

Deferred Members – The current policy is clear and there is no confusion as members are informed on leaving that payment of benefits will not be permitted prior to age 60, except in cases of ill health.

Payment on Compassionate Grounds – This facility was withdrawn due to the unreasonable pressure it put on the pension fund. It is not proposed to make a change to this policy.

Councillor members – Unlike scheme members, redundancy and efficiency early retirement does not apply to Councillor members and as a result this discretion offers the only option through which benefits could be released early. As all Councillor members currently have very short service, the resultant benefits are subject to a large actuarial reduction. The current policy permits the exercise of this discretion, on the members' request, if a Councillor over the age of 55 retires voluntarily from office. This will mean that the pension is brought into payment upon request, and without the need for a pensions committee decision, but is actuarially reduced if the member has not achieved the rule of 85. This report recommends a change to that policy to allow the reduction to be waived where a councillor's retirement is as a direct result of an election, where a Councillor member has either, lost their seat, been deselected as a candidate by their party or chosen to stand down as a Councillor.

The reasoning behind this recommendation is that such an event is very similar to that of a redundancy situation for an employee, where the scheme member has limited control

over the decision. Therefore, this change is being recommended to ensure equal treatment of membership classes.

FINANCIAL IMPLICATIONS

At the election on 6 May 2010, there were 3 Councillor members of the scheme, aged over 55, who were not re-elected. The total cost to the Pension Fund of bringing these benefits into payment without reduction would be just under £10,000, which would not have a material impact on the solvency of the fund.

LEGAL IMPLICATIONS

As is set out in the body of the report, the Local Government Pension Scheme [Benefits, Membership & Contributions] Regulations 2007 and the Local Government Pension Scheme [Administration] Regulations 2008 enable the Council to exercise certain discretions in respect of the scheme membership. The Pensions Committee has previously agreed guidelines in respect of the exercise of these discretions, in respect of both Hillingdon Councillors and employees, in order to allow for consistent and wednesbury reasonable decision-making.

With regard to Hillingdon Councillors, the current guidelines permit the exercise of a discretion in circumstances where a Councillor over the age of 55 retires voluntarily from office. If the recommendations in the report are agreed, the guidelines will be amended so as to allow the early payment of benefits in the wider circumstances set out within them.

It is permissible for the Pensions Committee to amend the guidelines in this manner but once it does so, two specific requirements will need to be observed Firstly, they should be applied consistently so as to avoid any potential challenges from scheme members. Secondly, they will need to be published in accordance with the provisions of the above Regulations in order for them to have full legal effect"