

Croydon Council

REPORT TO:	PENSION COMMITTEE 7 June 2016
AGENDA ITEM:	10
SUBJECT:	Adoption of Discretions under the Local Government Pension Scheme Regulations in respect of Admitted Bodies that are closed to new Scheme entrants.
LEAD OFFICER:	Richard Simpson, Assistant Chief Executive (Corporate Resources and Section 151 Officer)
CABINET MEMBER	Councillor Simon Hall Cabinet Member for Finance and Treasury
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT: Sound Financial Management: This report is to inform the Pensions Committee that the policy 'Statement of Discretionary Powers' has been reviewed as part of an annual review of the Funds policy documents.	
FINANCIAL SUMMARY: There are no financial considerations arising from this report.	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A	

1. RECOMMENDATIONS

1.1 This report recommends that the Committee adopts these discretions, listed in paragraphs 3.4 to 3.7 inclusive, in respect of deferred scheme members previously employed by admitted bodies who are now closed to new entrants and for whom there is no successor body.

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2. EXECUTIVE SUMMARY

2.1 The regulations governing the Local Government Pensions Scheme (LGPS) allow a degree of local discretion. This report seeks approval of how the Council, as the administering authority of the Croydon LGPS intend to apply the discretion in respect of former Employers who have ceased to admit new entrants to the Scheme and for whom there is no successor body.

3. DETAIL

- 3.1 Local Government Pension Scheme (LGPS) Regulations (Benefits, Membership and Contributions) Regulations, 2007 provide the Council with a degree of discretion in how to apply a number of the regulations. At present there are 10 organisations that at some time have been admitted to the Croydon Scheme, but at present are closed to new entrants. There is no successor body to pick up these liabilities. These bodies range from former charities, now defunct, to large businesses no longer associated with the Council. Across these organisations there are 201 deferred members, effectively orphaned, but for whom the Council is ultimately liable for, in respect to payment of LGPS benefits. A number of the regulations offer the administering authority a degree of discretion in how to treat these members and this report sets out the Council's policy for these. It should be noted that this policy is distinct from the discretions applied to Scheme members employed by the Council.
- 3.2 The administering authority is required to formulate, publish and keep under review a policy statement in relation to former Employers in the Fund who have ceased to exist and for whom there is no successor body (Regulation 66).
- 3.3 The discretions the Council should implement to comply with Regulation 66 are set out below. Note that Regulation 30 refers to former Scheme members and Regulation 30A to pensioners. These discretions are broadly consistent with those applied by the Council in comparable cases. In these instances the authority has the discretion such that 'payment may be allowed only on compassionate grounds and subject to, the former member providing independent proof that they are required to provide constant assistance to sick husband/wife, partner or child.' In other cases the Council has the discretion to review applications on a case by case basis. In the instances set out below, where there is no employer to apply discretion at a local level, the principles applied are:
- Make a payment where there is no additional cost to the Fund (strain costs);
 - In compassionate cases where there is an actuarial reduction and / or additional costs to the Fund, the reduction is waived and the cost spread across all Scheme employers;
 - In compassionate cases the Council will require independent proof that the applicant is required to provide constant assistance to sick a husband or wife, partner or child.

In other cases the procedures to be followed, such as referral to an Independent Registered Medical Practitioner, are suggested by the regulations.

The need to define these discretions has become apparent with the growing number of 'orphaned' deferred Scheme members.

Discretions

3.4 Regulation 30 (LGPS (Benefits etc.) Regs 2007). Choice of early payment of pension in cases where a member's former employer has ceased to exist.

Where a member's former employer has ceased to exist and there is no successor body, and the administering authority can allow the early payment of deferred benefits to former members of the LGPS between the ages of 55 and 59. In such cases, pension benefits will be reduced in accordance with actuarial tables unless the administering authority waives reduction on compassionate grounds or a member has protected rights.

Policy Decision

Each case will be initially assessed taking account of the member's former employer's statement of policy. Where the policy allows for early payment of benefits, then this will be approved if there is no strain on the fund costs.

Where there is no former employer's statement or policy or if there is strain on the fund costs then the request for early payment of benefits will only be approved on compassionate grounds.

This is where a deferred member is unable to work because they are providing full time care to a dependant. In compassionate cases, any actuarial reduction will be waived and the strain on the fund costs will be met by all the Fund employers.

3.5 Regulation 30A (LGPS (Benefits etc.) Regs 2007) Choice of early payment of pension: pensioner member with deferred benefits in cases where a member's former employing authority has ceased to exist.

Where a member's former employer has ceased to exist and there is no successor or body, the administering authority can allow the early payment of deferred benefits to pensioner members of the LGPS between the ages of 55 and 59. A deferred pensioner member is a former employee retired on ill health grounds and the award of Tier 3 benefits that have now ceased.

Policy Decision

In such cases, pension benefits will be reduced in accordance with actuarial tables unless the administering authority waives reduction on compassionate grounds or a member has protected rights.

Each case will be initially assessed taking account of the member's former employer's statement of policy. Where the policy allows for early payment of benefits, then this will be approved if there is no strain on the fund costs.

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full time care to a dependant. In compassionate cases, any actuarial reduction will be waived and the strain on the fund costs will be met by all the Fund employers.

3.6 Regulation 31 LGPS (Benefits etc.) Regs 2007 Early payment of pension: ill health in cases where a member's former employing authority has ceased to exist.

Where a member's former employer has ceased to exist and there is no successor body, the administering authority can allow the early payment of deferred benefits to a deferred member or the suspended Tier 3 ill health pension brought back into payment for a deferred pensioner member of the LGPS before Normal Retirement Age where a member has become permanently incapable of undertaking any gainful employment as defined in the LGPS Regulations 2008.

In the case of the deferred pension members, this could be because the original ill health condition has worsened or the member is suffering from another ill health condition that renders the deferred pensioner member permanently incapable of undertaking any gainful employment.

Policy Decision

Before deciding whether to agree to such a request, the Fund must obtain a certificate from an Independent Registered Medical Practitioner (IRMP) as to whether, in the IRMP's opinion, the member is suffering from a condition that renders the member permanently incapable of undertaking any gainful employment.

Where in the IRMP's opinion, the member is suffering from a condition that renders the member permanently incapable of undertaking any gainful employment, the Fund will approve the early payment of the deferred pension benefits or the deferred pensioners tier 3 ill health pension and the strain on the fund costs will be met by all Fund employers.

3.7 Regulation 70 (LGPS (Admin) Regs 2008) Statement of policy concerning abatement of retirement pensions in new employment.

Where a scheme member retires and seeks re-employment, if they choose to remain outside of local government sphere, their pension continues. If they return to an employer who participates in the LGPS, their pension can be reduced or stopped.

Subject to consultation with Fund employers, the administering authority has discretion to determine how it wishes to treat re-employed scheme members who retire after 31st March 1998.

Policy Decision

Where the re-employment starts before 1st April 2007, then the policy approved is:

- (a) That any ill health pension should cease in the event of re-employment subject to the protection afforded to members who were subject to the 1995 Regulations;
- (b) That with regard to other retirement pension no abatement be applied where the statutory pension in payment is £5,000 per annum or less, this amount to be increased in line with the annual index linking from April 1999 and thereafter; and
- (c) That where an annual statutory pension exceeds £5,000 per annum then the statutory pension in excess of this amount be abated subject to the protection afforded to members who were subject to the 1995 Regulations.

Where the re-employment starts after 31st March 2007, there will be no abatement of the retirement pension.

4. RECOMMENDATIONS

- 4.1 This report recommends that the underlying principles that determine the use of discretion in applying the Local Government Pension Scheme (LGPS) Regulations (Benefits, Membership and Contributions) Regulations to scheme members employed by Croydon Council should also be applied in the discretions detailed above.
- 4.2 This report recommends that the Committee adopts these discretions in respect of deferred scheme members previously employed by admitted bodies who are now closed to new entrants and for whom there is no successor body.

5 FINANCIAL CONSIDERATIONS

- 5.1 These discretions allow the organization to incur payments that would fall to the Pension Fund and are an additional cost to all Scheme employers.

6. OTHER CONSIDERATIONS

- 6.1 Other than the considerations referred to above, there are no customer Focus, Equalities, Environment and Design, Crime and Disorder or Human Rights considerations arising from this report

7. COMMENTS OF THE SOLICITOR TO THE COUNCIL

- 7.1 The Council Solicitor comments that there are no direct legal implications arising from this report.

(Approved by: Gabriel MacGregor, Acting Council Solicitor & Acting Monitoring Officer)

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BACKGROUND DOCUMENTS: None.