

# FAREHAM

## BOROUGH COUNCIL

### **Report to Licensing and Regulatory Affairs Committee**

**Date**                    **8 July 2014**

**Report of:**            **Director of Finance and Resources**

**Subject:**              **POLICY STATEMENTS RELATING TO THE LGPS 2014  
REGULATIONS**

#### **SUMMARY**

To inform on the changes to the Local Government Pension Scheme (LGPS) from 1 April 2014 and to seek approval of the proposed policy statements in relation to the employer discretions stipulate within the LGPS 2014 regulations.

#### **RECOMMENDATION**

The Committee is requested to:

- (a) Note the changes to the Local Government Pension Scheme (LGPS) from 1 April 2014;
- (b) Approve the proposed policy statements for those who stopped contributing to the LGPS between 1 April 2008 and 31 March 2014; and
- (c) Approve the proposed policy statements for those members who continue in the scheme or join it from 1 April 2014.

## **INTRODUCTION**

1. Under the provisions of the Local Government Pension Scheme (LGPS) employers must have a published written policy statement confirming how it will exercise the compulsory discretions and also any of the optional discretions allowed under LGPS that the employer decides to include.
2. This policy statement must be reviewed regularly, revised as necessary and a copy of the policy statement must be provided to the pensions administrator which is Fareham's case is Hampshire Pension Fund.

## **LGPS REGULATIONS 2014**

3. The LGPS Regulations are effective from 1 April 2014 and introduce a number of changes to the scheme. The main changes are:
  - Basis of pension will be Career Average Revalued Earnings (CARE) – members will build up a pension each year for each pensionable employment held which is added to their pension account
  - An increased accrual rate of 1/49<sup>th</sup> from the current of 1/60<sup>th</sup>
  - Normal pension age aligned with the member's State Pension Age (SPA) – it is currently 65
  - New definition of pensionable pay to include non-contractual overtime and additional hours for part time staff
  - Contribution rates based on actual pay instead of, as now, Full Time Equivalent
  - Revised contribution bands resulting in contribution increases for members' earning more than £43,000
  - A new 50/50 option giving a choice to pay half contributions for half accrual rate (1/98<sup>th</sup>)
  - Option for leavers to elect for required payment from age 55 onwards without the need for employers consent
  - Qualifying period for benefits will increase from 3 months to 2 years – if a member leaves the scheme within 2 years they will receive a refund of contributions made.
4. All pension built up before 1 April 2014 is fully protected and therefore, when a member leaves, all membership up to 31 March 2014 will be calculated using the final salary. For those members who have an existing rule of 85 protection, this will continue in the new scheme and will be automatically applied to their benefits.
5. For members within ten years of age 65 as at 1 April 2012 there will be an 'underpin', dependent on fulfilling certain criteria.
6. Council members already contribute to a career average scheme, under the 1997 LGPS regulations, however the Government has decided that they will no longer be eligible to be in the LGPS and will therefore come out of the scheme when they are next up for re-election.

## **LGPS 2014 DISCRETIONS**

7. LGPS regulations give employing authorities certain discretions over the exercise of their function in the LGPS. From 1 April 2014, employers need to have two sets of discretions:
  - One for members who continue in the scheme or join it from 1 April 2014
  - Another for those who stopped contributing to the LGPS between 1 April 2008 and 31 March 2014.
8. The LGPS 2014 regulations stipulate the requirement for a policy statement in relation to the discretions in four areas:
  - Funding of additional pension
  - Flexible retirement
  - Waiving of actuarial reduction
  - Award of additional pension
9. Given the economic situation and the pressure on the Council's budgets, it is recommended that these discretions are not exercised where the Council would incur a pension strain or other cost. It is suggested that the wording of the relevant policy statements are strengthened to make this clear.

## **CONSIDERATIONS**

10. The following areas should be considered when drawing up a policy statement in relation to the discretions:
  - Employer circumstances – the policy should reflect the membership, budgetary constraints and nature of the business,
  - Cost – the policy should be affordable and not likely to cause a serious loss of confidence in the public service,
  - 'Fettering' - the policy should not be unnecessarily restrictive, and
  - Anti-discrimination laws – the policy must not be discriminatory in any way.

## **PROPOSED POLICY STATEMENTS**

11. Appendix A provides a summary of the current compulsory and optional discretionary areas relating to the 2008 scheme, Fareham's current policy and the impact of the 2014 regulations.
12. A proposed policy statement for those who stopped contributing to the LGPS between 1 April 2008 and 31 March 2014 is shown in Appendix A.
13. Under LGPS 2014, some of the existing discretions under the 2008 scheme fall away and others are replaced by identical or similar provisions. Proposed policy statements in respect of the new discretions for members who continue in the scheme or join it from 1 April 2014 is also shown in Appendix A.

## **RISK ASSESSMENT**

14. There are no significant risk considerations in relation to this report.

## **CONCLUSION**

15. Local authorities are required to publish policies on how they will exercise their powers contained within the provision. This is attached as Appendix A to this report and members are asked to consider them and recommend their adoption by the Council with immediate effect.

### **Background Papers:**

None.

### **Reference Papers:**

None.

### **Enquiries:**

For further information on this report please contact Neil Wood (Ext 4506).

APPENDIX A

Summary of the discretionary areas, FBC's current policy under the 2008 scheme, the impact of LGPS 2014 regulations and proposed FBC policy statements going forward.

**Compulsory Discretions**

<b>1. Discretion</b> - Power to increase total membership of active members(LGPS 2008 regulation 12) <b>Impact of LGPS 2014</b> - Discretion no longer available	
<b>FBC's Current Policy Under LGPS 2008</b> The Council will not consider increasing total membership.	<b>Proposed FBC Policy for member who continue in the scheme or join it from 1 April 2014</b> N/A

<b>2. Discretion</b> - Award of additional pension (LGPS 2008 Regulation 13/ LGPS 2014 Regulation 31) <b>Impact of LGPS 2014</b> - Discretion unchanged	
<b>FBC's Current Policy Under LGPS 2008</b> The Council will not consider increasing total membership.	<b>Proposed FBC Policy for member who continue in the scheme or join it from 1 April 2014</b> The Council will not normally consider awarding an additional amount of pension but may consider its use in exceptional circumstances.

<b>2a. Discretion</b> - Award of additional pension (LGPS 2008 Regulation 13/ LGPS 2014 Regulation 31) <b>Impact of LGPS 2014</b> - Discretion unchanged	
<b>FBC's Current Policy Under LGPS 2008</b> The Council will not consider increasing total membership.	<b>Proposed FBC Policy for those who stopped contributing to the LGPS between 1 April 2008 and 31 March 2014</b> The Council will not normally consider awarding an additional amount of pension but may consider its use in exceptional circumstances.

<p><b>3. Discretion - Flexible retirement (LGPS 2008 Regulation 18 (1) and (3)/ LGPS 2014 Regulation 30(6))</b></p> <p><b>Impact of LGPS 2014 - Discretion unchanged</b></p>	
<p><b>FBC's Current Policy Under LGPS 2008</b></p> <p>The Council will consent to pension benefits being paid under the flexible retirement policy to an employee over the age of 55 (or age 50 for employees who have been in the LGPS since 31 March 2008, leaving before 31 March 2010), who requests this, provided their remuneration is reducing typically by 40 per cent through either a reduction in contractual hours or grade. In addition agreement must be obtained from the Head of Personnel &amp; Development and the Head of Finance before final determination is made by the Chief Executive Officer that it is in the Council's interest having regard to the requirements of the service, and that any Pension Fund charge for paying benefits early is affordable in each case.</p>	<p><b>Proposed FBC Policy for member who continue in the scheme or join it from 1 April 2014</b></p> <p>The Council will consent to pension benefits being paid under the flexible retirement policy to an employee over the age of 55, who requests this, provided their remuneration is reducing typically by 40 per cent through either a reduction in contractual hours or grade. In addition agreement must be obtained from the Head of Personnel &amp; ICT and the Director of Finance and Resources before final determination is made by the Chief Executive Officer that it is in the Council's interest having regard to the requirements of the service, and that any Pension Fund strain for paying benefits early is affordable in each case.</p>

<p><b>4. Discretion - Choice of early payment of pension (LGPS 2008 Regulation 30 (2))</b></p> <p>Waiving of actuarial reduction (LGPS 2014 Regulation 30 (8)) and LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, Schedule 2, Paragraph 2</p> <p><b>Impact of LGPS 2014 - Discretion falls away under LGPS 2014 because leavers can request payment of benefits from age 55 onwards without the need for employers consent, but it would still be a discretion to waive any actuarial reduction and also whether to allow protections under the 85 year rule to apply. Discretion unchanged for pre 1 April 2014 leavers.</b></p>	
<p><b>FBC's Current Policy Under LGPS 2008</b></p> <p>The Council will consent to immediate payment of benefits to an employee who requests this and retires voluntarily between age 55 and 60 (or age 50 for employees who have been in the LGPS since 31 March 2008, leaving before 31 March 2010), provided the relevant Chief Officer, the Head of Personnel &amp; Development and the Head Of Finance agree that it is in the Council's interests to do so before final determination is made by the Chief Executive Officer, and having regard to the Pension Fund charge for paying benefits early being affordable in each case. In exceptional circumstances the waiving of any reduction in benefits under the LGPS's</p>	<p><b>Proposed FBC Policy for member who continue in the scheme or join it from 1 April 2014</b></p> <p>The Council would not normally consent to waive any of the actuarial reduction applicable to an employee who retires voluntarily between age 55 and Normal Pension age but may consider its use in exceptional circumstances.</p> <p>The Council would not normally consent to ex-employees taking deferred benefits early unless there is no cost to the employer but may consider its use in exceptional</p>

<p>'rule of 85' will also be considered.</p>	<p>circumstances.</p> <p>The Council would not normally permit unreduced benefits for employees voluntarily retiring between 55 and 59 but may consider its use in exceptional circumstances.</p> <p>The Council would not normally consent to switching on the 85 year rule but may consider its use in exceptional circumstances.</p>
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<p><b>4a. Discretion - Choice of early payment of pension (LGPS 2008 Regulation 30 (2))</b> Waiving of actuarial reduction (LGPS 2014 Regulation 30 (8))</p> <p><b>Impact of LGPS 2014 - Discretion falls away under LGPS 2014 because leavers can request payment of benefits from age 55 onwards without the need for employers consent, but it would still be a discretion to waive any actuarial reduction and also whether to allow protections under the 85 year rule to apply. Discretion unchanged for pre 1 April 2014 leavers.</b></p>	
<p><b>FBC's Current Policy Under LGPS 2008</b></p> <p>The Council will consent to immediate payment of benefits to an employee who requests this and retires voluntarily between age 55 and 60 (or age 50 for employees who have been in the LGPS since 31 March 2008, leaving before 31 March 2010), provided the relevant Chief Officer, the Head of Personnel &amp; Development and the Head Of Finance agree that it is in the Council's interests to do so before final determination is made by the Chief Executive Officer, and having regard to the Pension Fund charge for paying benefits early being affordable in each case.</p> <p>In exceptional circumstances the waiving of any reduction in benefits under the LGPS's 'rule of 85' will also be considered.</p>	<p><b>Proposed FBC Policy for those who stopped contributing to the LGPS between 1 April 2008 and 31 March 2014</b></p> <p>The Council would not normally consent to immediate payment of benefits to an employee or ex-employee who requests this and retires voluntarily between age 55 and 60, unless there is no cost to the employer but may consider its use in exceptional circumstances.</p>

<b>5. Discretion</b> - Funding of additional pension contributions (LGPS 2014 Regulation 16(2)(e) and 16(4)(d)) <b>Impact of LGPS 2014</b> - New discretion under LGPS 2014	
<b>FBC's Current Policy Under LGPS 2008</b> N/A	<b>Proposed FBC Policy for member who continue in the scheme or join it from 1 April 2014</b>  The Council will only contribute to the cost of a member's additional pension contributions where required to do so under the LGPS Regulations. Where a member is voluntarily making additional pension contributions, it will not consider meeting any part of that cost.

In relation to all discretions where there is a use to be considered 'under exceptional circumstances' these will be reviewed on a case by case by following discussions between the Director of Finance & Resources and the Head of Personnel and ICT. Where necessary the final decision will be made in consultation with the Chief Executive where the individuals circumstances will be taken into consideration but also any financial implication to the Council.

## Optional Discretions

<b>6. Discretion</b> - Aggregation of previous periods of membership (LGPS Regulations 2014, regulation 22(7)(b) & (8)(b)) <b>Impact of LGPS 2014</b> - Discretion slightly changed, aggregation is automatic unless a member opts out within 12 months.	
<b>FBC's Current Policy Under LGPS 2008</b> The Council will only accept elections to combine pension rights from previous local government employment with a current period of membership, which are made within 12 months of re-joining the scheme, except for those members who hold certificates of protection or whose pension rights are affected by Pay & Benefits.	<b>Proposed FBC Policy for member who continue in the scheme or join it from 1 April 2014</b> The Council will only accept elections <i>not</i> to combine rights from previous local government employment with a current period of membership, which are made within 12 months of re-joining the scheme.
<b>7. Discretion</b> - Transfers of pension rights (LGPS Regulations 2014, regulation 100(6)) <b>Impact of LGPS 2014</b> - Discretion unchanged.	
<b>FBC's Current Policy Under LGPS 2008</b> The Council will only accept the election for transfer of pension rights from an external pension provider into the LGPS if this election is made within 12 months of the member joining the LGPS.	<b>Proposed FBC Policy for member who continue in the scheme or join it from 1 April 2014</b> The Council will only accept the election for transfer of pension rights from an external provider into the LGPS if this election is made within 12 months of the member joining the LGPS.

## Other Discretions

<b>8. Discretion – Other Discretions</b> <b>Impact of LGPS 2014 - Discretion unchanged.</b>	
<b>FBC's Current Policy Under LGPS 2008</b> The Council will base any redundancy payment due to an employee on their actual weekly rate of pay (rather than the current statutory maximum) and on their years of continuous local authority service. The part of your redundancy payment that relates to earnings in excess of the statutory maximum can be used to buy additional service in the Local Government Pension Scheme. This option is only open to the employee if they request it before their employment ceases.	<b>Proposed FBC Policy for member who continue in the scheme or join it from 1 April 2014</b> The part of any redundancy payment that relates to earnings in excess of the statutory maximum can be used to buy additional pension in the LGPS. This option is only open to the employee if it is requested before employment ceases. It should be noted that there may be tax implications.

<b>9. Discretion – Other Discretions - Injury Allowances – Regulations 2011</b> <b>Impact of LGPS 2014 - Not under 2008 Regulations but separate to 2014 Regulations</b>	
<b>FBC's Current Policy Under LGPS 2008</b> N/A	<b>Proposed FBC Policy for member who continue in the scheme or join it from 1 April 2014</b> The Council will not consider making an injury awarding under the regulation.