

AGENDA FOR

HUMAN RESOURCES AND APPEALS PANEL

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To: All Members of Human Resources and Appeals Panel

Councillors : R Hodkinson, T Holt (Chair) and D Jones

Dear Member/Colleague

Human Resources and Appeals Panel

You are invited to attend a meeting of the Human Resources and Appeals Panel which will be held as follows:-

Date:	Wednesday, 24 June 2015
Place:	Irwell Room - Town Hall
Time:	2.30 pm
Briefing Facilities:	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
Notes:	

AGENDA

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

Members of Human Resources Committee are asked to consider whether they have an interest in any of the matters on the Agenda, and, if so, to formally declare that interest.

3 LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) (AMENDMENT) REGULATIONS 2015 (Pages 1 - 4)

A report from the Acting Assistant Director of Human Resources is attached.

4 EMPLOYER DISCRETIONS:STATEMENT OF POLICY LOCAL GOVERNMENT PENSION SCHEME (LGPS) - AMENDMENT (Pages 5 - 12)

A report from the Acting Assistant Director of Human Resources is attached.

5 EXCLUSION OF THE PRESS AND PUBLIC

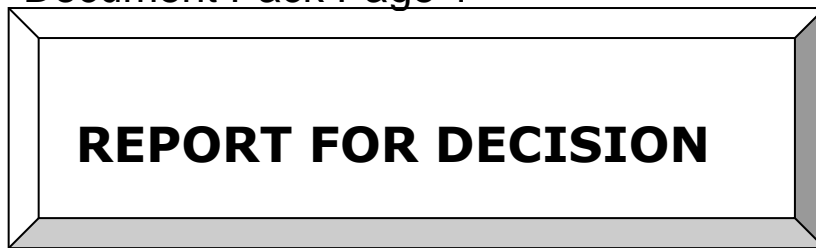
To consider passing the appropriate resolution under Section 100(A)(4) of the Local Government Act 1972 that the press and public be excluded from the meeting during consideration of the following items of business since they involve the likely disclosure of the exempt information stated.

6 APPLICATIONS FOR VER/FR/VS

Applications are attached.

7 FOR INFORMATION: APPROVED APPLICATIONS

The applications which have been approved at Director level are attached for Members information.



DECISION OF:	HUMAN RESOURCES & APPEALS PANEL COUNCIL
DATE:	24 JUNE 2015 1 JULY 2015
SUBJECT:	LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) (AMENDMENT) REGULATIONS 2015
REPORT FROM:	ACTING ASSISTANT DIRECTOR OF HUMAN RESOURCES
CONTACT OFFICER:	TRACY MURPHY ACTING ASSISTANT DIRECTOR OF HUMAN RESOURCES
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	Within the public domain
SUMMARY:	New Regulations have been passed for Standing Orders to be amended to remove the requirement to appoint a Designated Independent Person to investigate disciplinary issues for the Head of Paid Service, Monitoring Officer and Section 151 Officer. The new Regulations replace the statutory provision with a panel process.
OPTIONS & RECOMMENDED OPTION	The Council is required to put in place the amendment to the Standing Orders. It is therefore recommended that the necessary adjustments are made to the Officer Employment Procedure Rules as set out in the Council Constitution.
IMPLICATIONS:	There will no longer be a requirement to appoint a Designated Independent Person to investigate

	disciplinary matters relating to the senior officers referred to. In place of this any decisions related to disciplinary action are to be taken by full Council.
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	There are no resource or risk implications.
Health and Safety Implications	None.
Statement by Executive Director of Resources & Regulation (including Health and Safety Implications)	There are no financial or health and safety implications.
Equality/Diversity implications:	None.
Considered by Monitoring Officer:	Yes JH The report sets out changes to current constitutional arrangements required by new Regulations. Consideration will have to be given at the appropriate time to the appointment of independent persons as set out in Paragraph 2.3 of the report.
Wards Affected:	All
Scrutiny Interest:	Overview and Scrutiny Committee

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Cabinet Member/Chair	Ward Members	Partners
Scrutiny Committee	Cabinet/Committee	Council	
	HR & Appeals 24.6.15	1.7.15	

1.0 BACKGROUND

- 1.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 have recently been laid in Parliament to come into force on 11 May 2015.
- 1.2 These Regulations amend the Local Authorities (Standing Orders) (England) Regulations 2001 ("the 2001 Regulations") in order to make provision about the Standing Orders of Local Authorities in relation to staff and disciplinary procedures.

2.0 ISSUES

Including statements on issues of:

- 2.1 The Regulations, which apply to all principal councils in England, simplify and localise the disciplinary process for the most senior officers of the Council ie the Head of Paid Service, the Monitoring Officer and the Section 151 Officer. They remove the requirement that a Designated Independent Person (DIP) be appointed to investigate and make a binding recommendation on disciplinary action against these senior staff.
- 2.2 The Regulations provide that, in place of the DIP process, the decision is to be taken transparently by full Council, who must consider any advice, views or recommendations from an independent panel, the conclusions of any investigation into the proposed dismissal, and any representations from the officer concerned.
- 2.3 In the case of a proposed disciplinary action against one of these most senior officers, the Council is required to invite independent persons who have been appointed for the purposes of the members' conduct regime under Section 28(7) of the Localism Act 2011 to form an independent panel, and must include in that invitation any of its independent persons who are electors for the Council's area.
- 2.4 Councils are required to modify their Standing Orders to implement these Regulations.

3.0 CONCLUSION

- 3.1 The Council is required to put in place the requirements of The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, and make necessary adjustments to the Officer Employment Procedure Rules as set out in the Council Constitution.

List of Background Papers:

- Statutory Instrument 2015 No 881
- Explanatory Memorandum to The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

Contact Details:

Tracy Murphy
Acting Assistant Director of Human Resources

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REPORT TO HR & APPEALS PANEL



DECISION OF:	Human Resources and Appeals Panel
DATE:	24 June 2015
SUBJECT:	Employer Discretions: Statement of Policy Local Government Pension Scheme (LGPS) – Amendment
REPORT FROM:	Interim Executive Director of Resources & Regulation
CONTACT OFFICER:	Tracy Murphy, Acting Assistant Director: Human Resources
TYPE OF DECISION:	Committee Decision
FREEDOM OF INFORMATION/STATUS:	Within the public domain
SUMMARY:	The Local Government Pension Scheme (LGPS) contains various regulations where employer discretion has to be exercised. A report was presented to the Human Resources and Appeals Panel on 22.7.14 regarding the exercising of discretions by Bury Council. This report presents a recommended amendment.
OPTIONS & RECOMMENDED OPTION	That subject to consideration of this report the Human Resources and Appeals Panel agrees the proposed addition in Section 3.3 of the report.
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	The early payment of fund benefits places a "strain" on the pension fund

	Because there is almost always strain on the pension fund, when an employee retires early Members must consider the likely financial implications of any policy decision where the Council exercises discretion; this has been considered and incorporated into the proposals and the proposed additional wording
Statement on impact on Resources:	The proposed additional wording within the discretions will contribute to minimising financial implications
Equality/Diversity implications:	Yes The proposed discretions have been drafted to ensure compliance with the Equalities Act
Considered by Monitoring Officer:	Yes
Wards Affected:	None directly. However, there is a potential impact as this could affect all employees of the Council at some point during the 'employee lifecycle'
Scrutiny Interest:	Overview and Scrutiny

TRACKING/PROCESS EXECUTIVE DIRECTOR OF RESOURCES: Mike Owen

Chief Executive/ Strategic Leadership Team	Cabinet Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 SUMMARY OF KEY ISSUES

1.1 Members of the Human Resources and Appeals Panel will recall a report presented to them by the then Assistant Director of Human Resources, Guy Berry, on 22 July 2014. The report detailed the Council's proposed discretions in accordance with the LGPS Regulations 2013 and the LGPS (Transitional Provisions and Savings) Regulations 2014.

- 1.2 The LGPS 2014 rules require employers to 'formulate, publish and keep under review' a policy statement in relation to discretions.
- 1.3 This report proposes an addition to the discretions in accordance with the LGPS (Benefits, Memberships and Contributions) Regulations 2007. The addition has been proposed to protect the Council from the financial implications of early payment of deferred benefits.

2.0 ISSUES

- 2.1 In accordance with the [Local Government Pension Scheme Regulations, \(2013\)](#) we are required to formulate, agree and publish our Discretions Policy by July 2014.
- 2.2 A description of the discretions that may be exercised by employers is listed in Section 3.0 of the report. The table in section 3.0 also includes a reference to the specific regulation and the proposed policy decision in respect of each of the listed discretions.

3.0 PROPOSALS

- 3.1 A full list of the discretions as agreed by the Human Resources and Appeals Panel in July 2014 is listed below. The proposed additional wording is set in bold and underlined under 3.3 – whether to grant application for early payment of deferred benefits on or after age 55 and before age 60.
- 3.2 **Discretions in accordance with the [Local Government Pension Scheme Regulations 2013](#) [prefix R] and the [Local Government Pension Scheme \(Transitional Provisions and Savings\) Regulations 2014](#) [prefix TP]:**

Discretion	Regulation	Proposal
Whether, how much, and in what circumstances to contribute to a shared cost APC scheme	R16(2)(e)* & R16(4)(d)*	Bury Council reserves the right to apply this discretion in exceptional circumstances where it can be evidenced that by exercising this discretion the Council is able to recruit and/or retain employees who are considered 'business critical'. Where it is proposed to apply this discretion a business case will be developed which clearly demonstrates that it is in the Council's financial interest and/or operational efficiency to contribute to a shared cost additional pension contribution (SPAPC) scheme. The powers to approve proposals made in accordance with this regulation will lie with the Council's Human Resources and Appeals Panel. The discretion may be applied having due regard to the implications on the member's personal tax liability (Lifetime Allowance and Annual Allowance) and Bury Council's Pay Policy Statement.
Whether all or some benefits can be paid if an	R30(6)* & TP11(2)	Under the terms of the Council's Flexible Retirement Policy employees are required to

<p>employee reduces their hours or grade (flexible retirement)</p>		<p>reduce their working hours or grade so that the flexible retirement does not result in an increase in their gross annual earnings. The combined total of their reduced annual salary plus annual pension cannot be greater than their salary at the effective date of retirement.</p> <p>Expressions of interest must be agreed in principle by their employing department and a business case will be prepared which demonstrates that it is in the Council's financial interest and/or in the interests of efficiency of the Council's business to agree to the request.</p> <p>The powers to approve Flexible Retirement Applications will lie with the Council's Human Resources and Appeals Panel.</p> <p>Employees who retire early under the terms of the flexible retirement scheme will not receive a redundancy payment.</p>
<p>Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement</p>	<p>R30(8)*</p>	<p>Bury Council's voluntary early retirement and flexible retirement schemes use a business case to evidence that this strain on the pension fund (capital cost) will be recovered within five years of the date of retirement.</p> <p>Where applications meet the set criteria (see above) the Council will waive, in whole any actuarial reductions that might otherwise apply.</p>
<p>Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age</p>	<p>R30(8)*</p>	<p>Bury Council's voluntary early retirement and flexible retirement schemes use a business case to evidence that this strain on the pension fund (capital cost) will be recovered within five years of the date of retirement.</p> <p>Where applications meet the set criteria (see above) the Council will waive, in whole any actuarial reductions that might otherwise apply.</p>
<p>Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.</p>	<p>TPSch 2, para 2(2)*</p>	<p>Bury Council reserves the right to apply this discretion in exceptional circumstances. Where it is proposed to apply this discretion a business case will be developed which clearly demonstrates that it is in the Council's financial interest and/or operational efficiency to do so.</p>
<p>Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits from pre 1/4/14 membership where the employer has "switched-on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60</p>	<p>TPSch 2, para 2(3)*</p>	<p>Bury Council reserves the right to apply this discretion in exceptional circumstances. Where it is proposed to apply this discretion a business case will be developed which clearly demonstrates that it is in the Council's financial interest and/or operational efficiency to do so.</p>
<p>Whether to grant additional pension to an</p>	<p>R31*</p>	<p>Bury Council reserves the right to apply this discretion in exceptional circumstances where it</p>

<p>active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 p.a.)</p>		<p>can be evidenced that by exercising this discretion the Council is able to recruit and/or retain employees who are considered 'business critical'. Where it is proposed to apply this discretion a business case will be developed which clearly demonstrates that it is in the Council's financial interest and/or operational efficiency to award additional pension payment to an active Scheme member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency. The powers to approve proposals made in accordance with this regulation will lie with the Council's Human Resources and Appeals Panel.</p> <p>The discretion may be applied having due regard to the implications on the member's personal tax liability (Lifetime Allowance and Annual Allowance) and Bury Council's Pay Policy Statement.</p>
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3.3 Discretions in accordance with the [Local Government Pension Scheme \(Benefits, Membership and Contributions\) Regulations 2007](#)

Discretion	Regulation	
<p>Whether, for a member leaving on the grounds of redundancy or business efficiency on or before 31st March 2014, to augment membership (by up to 10 years). The resolution to do so would have to be made within 6 months of the date of leaving. Hence this discretion is spent entirely after 30th September 2014.</p>	<p>B12*</p>	<p>Bury Council will not apply this discretion.</p>
<p>Whether to grant application for early payment of deferred benefits on or after age 55 and before age 60</p>	<p>B30(2)*</p>	<p>The Council's policy is that applications for early payment of deferred pension benefits from former employees will be approved and that deferred benefits will be paid with an actuarial reduction where there is no cost to the Council.</p> <p>Applications for release of deferred pension benefits from current employees will be approved without actuarial reduction subject to the application being presented in accordance with the Council's Early Retirement Schemes and by demonstrating that a valid business case exists.</p>
<p>Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30</p>	<p>B30(5)*</p>	<p>The Council's policy is that applications for early payment of deferred pension benefits will be approved and that deferred benefits will be paid with an actuarial reduction unless the applicant can demonstrate that they are facing serious financial hardship and that release of pension benefits without actuarial reduction would perpetuate this hardship.</p>

		The Council may waive, on compassionate grounds, the actuarial reduction applied to deferred benefits, but in doing so will consider the strain on the pension fund and financial impact of this decision.
Whether to grant an application for early payment of a suspended tier 3 ill health pension on or after age 55 and before age 60	B30A(3)*	The Council's policy is that applications for early payment of a suspended tier 3 ill health pension on or after age 55 and before age 60 will be supported and that suspended benefits will be paid with an actuarial reduction . The powers to approve Early Retirement Applications will lie with the Council's Human Resources and Appeals Panel.
Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A	B30A(5)*	The Council's policy is that applications for early payment of a suspended tier 3 ill health pension on or after age 55 and before age 60 will be paid with an actuarial reduction unless the applicant can demonstrate that they are facing serious financial hardship and that release of pension benefits without actuarial reduction would perpetuate this hardship. The Council may waive, on compassionate grounds, the actuarial reduction applied to deferred benefits, but in doing so will consider the strain on the pension fund and financial impact of this decision.

3.4 Discretions relating to redundancy in accordance with the [Local Government \(Early Termination of Employment\) \(Discretionary Compensation\) Regulations, 2006](#)

Discretion	Regulation	Proposal
To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks pay limit.	5	The Council has exercised this discretion in accordance with The Local Government (Compensation for Redundancy and Premature Retirement) Regulations 1984 (as amended) for many years. The Council will continue to exercise this discretion in accordance with existing regulations
To award lump sum compensation of up to 104 weeks pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment.	6	Bury Council reserves the right to apply this discretion in exceptional circumstances where it can be evidenced that by exercising this discretion there are valid risk management and / or reputational considerations
To award compensatory added years to a person aged 50 or over with 5 or more years membership (or notional membership) of the LGPS in cases of	11(2)	This provision will not apply.

redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment which occurred after 30th September 2006 and before 1st April 2007 (but only if employment had commenced pre 1st October 2006)		
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4.0 **CONCLUSION**

4.1 The Council has committed to review the Discretions Policy every 3 years. However, it can be reviewed at any time and members of the Human Resources and Appeals Panel are asked to approve the additional wording in 3.3 of the discretions to protect the Council from financial implications of early payment of deferred benefits.

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