

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.