

**WEST MIDLANDS FIRE AND RESCUE AUTHORITY**

**14 APRIL 2014**

1. **PAY POLICY STATEMENT 2014-2015**

Report of the Chief Fire Officer

RECOMMENDED

THAT the Authority approve the amended Discretions Statement of Policy for the financial year 2014-2015.

2. **PURPOSE OF REPORT**

This report is submitted for the Authority to approve the amended discretions Statement of Policy for the financial year 2014-2015.

3. **BACKGROUND**

- 3.1 West Midlands Fire Service maintains a Pay Policy statement which covers a number of issues around pay and conditions of service. Appended to the Pay Policy Statement is the services policy on the use of several discretions contained within the rules of the Local Government Pension Scheme.
- 3.2 The annual review of the Pay Policy statement took place in February 2014 in line with normal timeframes; however, in March the Local Government Pension Scheme (LGPS) 2013 Regulations were published. These regulations implement the new LGPS with effect from 1 April 2014. As a result of changes contained within these regulations, it was necessary for the organisation to review the discretions policy contained within the Pay Policy Statement.
- 3.3 Section 38 (1) of The Localism Act 2011 requires Fire and Rescue Authorities to produce a pay policy statement for each financial year.
- 3.4 Under Regulation 60 (1) of the Local Government Pensions Scheme (LGPS) 2013 Regulations, each employer must formulate, keep under review and publish their policies on certain discretions contained within the LGPS Regulations.

- 3.5 This statement is applicable to all employees of the West Midlands Fire and Rescue Authority who are eligible to be members of the LGPS.
- 3.6 The regulations also laid down a deadline of 30 June 2014 for the review to be completed. As a result of this, the discretions policy has been amended and is re-submitted for approval. It is not necessary for the entire Pay Policy Statement to be re-submitted.
- 3.7 A table of the changes to the LGPS discretions is available at Appendix 1.
- 3.8 Where a discretion has been carried forward into the 2014 scheme, there has been no change to the organisation's policy on use of this discretion.
- 3.9 It is proposed that these discretions will be reviewed as regulations change but no less than yearly in line with the Authority's Pay Policy Statement.
- 3.10 The Statement of Policy is effective from 1 April 2014 and can be viewed at Appendix 2.

#### 4. **EQUALITY IMPACT ASSESSMENT**

In preparing this report an initial Equality Impact Assessment is not required as there is no direct impact on individuals in setting out the Authority's pay policy statements. Equality Impact Assessments will be carried out on individual processes and decisions taken in the application of the pay policy statement.

#### 5. **LEGAL IMPLICATIONS**

- 5.1 The recommendations provided enable West Midlands Fire and Rescue Authority to continue to comply with the relevant sections of the Local Government Pension Scheme (LGPS).
- 5.2 To comply with the Localism Act 2011, the West Midlands Fire and Rescue Authority must approve the Authority's Pay Policy Statement before 31 March 2014. The Service will complete a review of the Statement of Policy no less frequently than annually when it reviews its Pay Policy

Statement each year which must be approved by the Authority before 31 March each year.

6. **TRADE UNION CONSULTATION**

This is not a matter for consultation with the trade unions. The Pay Policy Statement will be shared with the Trade Unions for information following approval at the Authority meeting on 14 April 2014.

7. **FINANCIAL IMPLICATIONS**

There are no direct financial implications arising from this report, although the application of the discretions will need to be considered on a case by case basis.

**BACKGROUND PAPERS**

Local Government Pension Scheme 2013 Regulations  
Localism Act 2011

The contact name for this report is David Johnson, Director of Human Resources, 0121 380 6906.

PHIL LOACH  
CHIEF FIRE OFFICER

**Revisions to Local Government Pension Scheme Discretions**

Due to the revisions of the LGPS pension scheme the Service is required to review the pension discretions that form part of its Pay Policy Statement.

The revisions are set out below

Old Scheme/New Scheme	Regulation	Action
Pre 2014 schemes	Regulation 30 BReg – Choice of Early Retirement Benefits	Discretion now removed. LGPS members no longer need employers consent to retire at 55 years to receive reduced pension benefits.
2014 Scheme	Regulation 30 (8) Waiving of Actuarial Reduction.	Employers can exercise discretion to allow LGPS members to receive unreduced pension benefits subject to the member meeting the '85 year rule'  Recommended we retain this discretion and consider on a case by case basis.
Pre 2014 scheme	Regulation 12 BReg- Power of the employing authority to increase total membership of active members	This discretion has now been removed.

2014 Scheme	Regulation 31 Power of the Employing Authority to award additional pension	This discretion has not changed however the amount that can be awarded has increased from £5000 to £6500
2014 Scheme	Regulation 30 (6) Flexible Retirement	Was previously Reg 3Breg. No actual change to the discretion.
Pre 2014 Scheme	Regulation 3 Breg: Contributions by Active members	This discretion has been removed in the new scheme
2014 Scheme	Reg 16 2(e and Reg 16 4(d)) Funding Additional pension	This Regulation has replaced Shared Cost – AVC Reg 67
2014 Scheme	Regulation 22 8 (b) Re-employed and rejoining deferred members	Discretion remains unchanged but was Reg 16 Areg
2014 Scheme	Regulation 100 (6) Inward Transfer	Discretion remains unchanged was Regulation 83.
2014 Scheme	Choice of Early Payment of Deferred Pension	New policy statement required for LGPS members who left between 31 March 2008 and 1 April 2014.
2014 Scheme	Internal Dispute Resolution process	Remains unchanged.

## **STATEMENT OF POLICY**

Under Regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, operative from 29 November 2006, each employer must formulate, keep under review and publish their policies on certain discretions contained within the Regulations.

This statement is applicable to all employees of the West Midlands Fire and Rescue Authority who are eligible to be members of the Local Government Pension Scheme (LGPS).

### Regulation 5 - Power to increase statutory redundancy payments

#### Explanation

*Employers have the discretion to resolve to use the employee's actual pay instead of the statutory maximum pay permitted under the Employments Rights Act 1996, in the calculation of redundancy payments.*

#### Policy

The Fire Authority will always use the employees' actual pay when calculating redundancy payments.

### Regulation 6 –Discretionary Compensation

#### Explanation

*The Authority has the discretion to resolve to increase the lump sum compensation payable under the Employments Rights Act 1996 to an employee who loses their employment with the Authority, up to a maximum of 104 weeks' pay.*

#### Policy

The Fire Authority will not exercise this discretion and therefore will not increase the maximum payable beyond the statutory limit of 30 weeks' pay.

**STATEMENT OF POLICY**  
**1 April 2014**

Under Regulation 60 (1) of the Local Government Pension Scheme (LGPS) Regulations 2013, each employer must formulate, keep under review and publish their policies on certain discretions contained within the LGPS Regulations.

This statement is applicable to all employees of the West Midlands Fire and Rescue Authority who are eligible to be members of the LGPS.

**1. Regulation 30 (8) – Waiving of actuarial reduction**

Explanation

*From age 55, members who have left local government employment receive early payment of their retirement benefits and do not need their employer's consent. The pension benefits must be reduced in accordance with guidance provided by the Government actuary. Employers may determine on compassionate grounds that the benefits are not reduced.*

*For a member who joined the scheme prior to 1 October 2006 where the member's age and membership (in whole years) satisfies the "rule of 85" then the benefits would be reduced, unless the employer chooses to exercise the discretion within the regulations. For a member who joined the Scheme on or after 1 October 2006, then reduced benefits would be payable if taken before age 65.*

Policy

Each specific case will be judged equally and fairly on its own merits and would need to be funded by a lump sum contribution into the Pensions Fund by the Fire Authority. This discretion will only be exercised by the Fire Authority in cases where it can be demonstrated that the Fire Authority can fund the cost of the release within a three year period.

This discretion will be exercised by the Director of Human Resources as delegated by Chief Fire Officer in conjunction with the Treasurer and Chairman to approve existing severance packages and members will be notified where discretion is exercised.

**2. Regulation 31 - Power of the Employing Authority to award Additional Pension**

Explanation

*An employer may resolve to award a member additional pension of not more than £6,500 a year, payable from the same date as their pension is payable under any other provision of these regulations. An additional pension may be paid in addition to any increase to total membership resolved under Regulation 16 so long as the overall total does not breach the limits laid down within these regulations.*

Policy

Each specific case will be judged equally and fairly on its own merits, having fully considered service delivery and financial costs.

**3. Regulation 30 (6) - Flexible Retirement**

Explanation

*A member who is aged 55 or over and with their employer's consent reduces their hours or grade can then, but only with the agreement of the employer, make an election to the administering authority for payment of their accrued benefits without having retired from that employment.*

Policy

Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs. This discretion will only be exercised by the Fire Authority in cases where it can be demonstrated that the Fire Authority can fund the cost of the release within a three year period.

**4. Regulations 16(2)(e) and 16(4)(d) - Funding of Additional Pension**

Explanation

*Where an active member opts to make Additional Pension Contributions (APC) under Rule 16(2)(e) these may be funded in whole or in part by the Employer. Under Rule 16(4)(d) the employee may opt to pay APC as a Lump Sum and this may also be funded in full or part by the employer.*

Policy

The Fire Authority will not fund in whole or in part any APC purchased either by periodical payments or Lump Sum.

The Fire Authority is not obliged by the Regulations to publish a statement on the following discretions contained within the LGPS 2013 Regulations but has chosen to do so.

5. **Regulation 22(8)(b) - Re-employed and Rejoining Deferred Members**

Explanation

*Where a deferred member becomes an active member again before becoming entitled to the immediate payment of retirement benefits in respect of their former membership, their former membership will be aggregated with their current active membership unless within 12 months from the date of the active member's pension account being opened they make an election in writing to the member's appropriate administering authority. The period of 12 months may be extended at the discretion of the employing authority.*

Policy

The Fire Authority will extend the period of 12 months beginning with the date that the active member's pension account is opened again to allow a member to choose not to aggregate his/her former membership in exceptional circumstances or where it was beyond the member's control.

6. **Regulation 100 (6) – Inward Transfer of Pension Rights**

Explanation

*A person who becomes an active member who has relevant pension rights may request his fund authority to accept a transfer value for some, or all, of his former rights. An election must be made in writing before the expiry of the period of 12 months beginning with the date that he became an active member or any such longer period as his employer may allow.*

Policy

The Fire Authority will extend the period of 12 months beginning with the date that he/she became an active member – thereby, allowing a member to transfer some or all of his/her rights from the relevant transferor in exceptional circumstances or in circumstances beyond the member's control.

## **7. Choice of early payment of Deferred Pension**

### Explanation

*Where a member became a deferred member between 31 March 2008 and 1 April 2014, they can apply for early release of benefits, and the Fire Authority can fund the costs of the release.*

### Policy

Each specific case will be judged equally and fairly on its own merits and would need to be funded by a lump sum contribution into the Pensions Fund by the Fire Authority. This discretion will only be exercised by the Fire Authority in cases where it can be demonstrated that the Fire Authority can fund the cost of the release within a three year period.

This discretion will be exercised by the Director of Human Resources as delegated by Chief Fire Officer in conjunction with the Treasurer and Chairman to approve existing severance packages and members will be notified where discretion is exercised.

**From 1 June 2004, an amended Internal disputes resolution procedure applies to active members of the LGPS and to others such as deferred and pensioner members, whose position may be affected by decisions taken by their former employer or LGPS administering authority.**

## **8. The Internal Dispute Resolution Procedure**

### Explanation

*Responsibility for determinations under the first stage of the procedure now rests with a 'specified person' appointed by your (former) employer. The Fire Authority must specify the job title and address of the person to whom applications should be directed.*

### Policy

The specified person for the West Midlands Fire and Rescue Authority is:-

Mr D Johnson  
Director of Human Resources  
West Midlands Fire Service HQ  
99 Vauxhall Road  
Birmingham

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The discretions within this Policy Statement will be reviewed at the point of regulation change but no less than yearly in line with the Authorities Pay Policy Statement.