

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

21 NOVEMBER 2016

1. DISCRETIONS POLICY – LOCAL GOVERNMENT PENSION SCHEME

Report of the Chief Fire Officer

RECOMMENDED

THAT the Fire and Rescue Authority approves the changes to the Discretions Policy –Local Government Pension Scheme.

2. PURPOSE OF REPORT

To request approval for changes to the Discretions Policy – Local Government Pension Scheme.

3. BACKGROUND

- 3.1 Employees eligible to join the Local Government Pension Scheme (LGPS) have the opportunity to pay Additional Voluntary Contributions (AVC's) under an agreement with the Prudential. These contributions are deducted from an individuals' pay on the same basis as their standard pension contribution and attract tax relief in the same manner.
- 3.2 Use of this scheme by employees is optional and the Fire Authority incurs no additional costs if members exercise this option.
- 3.3 West Midlands Fire Service has identified potential savings of approximately £17,000 per annum in Employer National Insurance contributions by offering employees the opportunity to use a Shared Cost Additional Voluntary Contribution operated under Salary Sacrifice arrangements as an alternative to the existing scheme.
- 3.4 In addition to the tax savings which an AVC scheme offers choosing the Salary Sacrifice option would give employees a reduction in their National Insurance contributions.

- 3.5 To enable the implementation of such a scheme West Midlands Fire Service needs to amend their policy on one of the discretions available under the Local Government Pension Scheme regulations.
- 3.6 The Discretion to be amended covers regulations 16(2)(e) and 16(4)(d) which currently states:

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 other APC purchased either by periodical payments or Lump Sum direct from a members Net Pay.

- 3.7 It is proposed to change the policy on use of this discretion to read as follows;

Policy

The Fire Authority will fund in whole or in part any Annual Pension Contribution (APC) operated by themselves under a salary sacrifice arrangement.

The Fire Authority will, however, not fund in whole or in part any other APC purchased either by periodical payments or Lump Sum direct from a members Net Pay.

- 3.8 The term Additional Pension Contribution is used in the LGPS Regulations to refer to any situation where an employee enters into an agreement to purchase increased pension by paying

additional contributions either under an Additional Voluntary Contribution (AVC) arrangement or under Additional Pension Contributions (APC). The latter arrangement is available only where a member has lost pension under the 2014 scheme regulations due to unpaid absence.

- 3.9 The Discretions Policy – Local Government Pension Scheme is attached as Appendix 1.

4. **EQUALITY IMPACT ASSESSMENT**

In preparing this report an initial Equality Impact Assessment has been carried out and no employees will be adversely impacted by this change in policy.

5. **LEGAL IMPLICATIONS**

There is a statutory requirement for West Midlands Fire and Rescue Authority to comply with the rules of the Local Government Pension Scheme.

6. **FINANCIAL IMPLICATIONS**

The Discretions policy does not result in any additional costs being incurred by the Authority. Implementing a shared cost AVC will lead to estimated savings of £17,000 per year being made.

7. **BACKGROUND PAPERS**

The Local Government Pension Scheme Regulations 2013

The contact name for this report is Phil Hales, Deputy Chief Fire Officer, 0121 380 6907.

PHIL LOACH
CHIEF FIRE OFFICER

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 Strategic Enabler (People Support Services) 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 fund in whole or in part any APC operated by themselves under a salary sacrifice arrangement.

The Fire Authority will, however, not fund in whole or in part any other APC purchased either by periodical payments or Lump Sum direct from a members Net Pay.

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 Strategic Enabler (People Support Services) 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 P Hales
Deputy Chief Fire Officer
West Midlands Fire Service HQ
99 Vauxhall Road
Birmingham
B7 4HW

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