

**WEST MIDLANDS FIRE AND RESCUE AUTHORITY**

**13 FEBRUARY 2012**

1. **THE LOCAL GOVERNMENT (EARLY TERMINATION OF EMPLOYMENT) (DISCRETIONARY COMPENSATION) (ENGLAND AND WALES) REGULATIONS 2006**

Report of the Chief Fire Officer.

RECOMMENDED

THAT the Authority approves the changes to the Service's Pension Policy Statement.

2. **PURPOSE OF REPORT**

This report is submitted for the Authority to approve the changes to the Service's Pension Policy Statement.

3. **BACKGROUND**

- 3.1 On 29 November 2006 the new Discretionary Payments Regulations came into effect which introduced changes to the Local Government Pension Scheme (LPGS) with effect from 1 October 2006, arising from the Employment Equality (Age) Regulations. These changes affect pensionable and non-pensionable employees (excluding Firefighters) dismissed on the grounds of redundancy or in the interest of the efficiency of the Service.
- 3.2 Each Authority was required, as a result of these changes, to review its current policies and to publish a revised policy statement with regard to discretionary payments relating to early retirements and redundancies.
- 3.3 Following changes made to the Local Government Pension Scheme the following paragraphs have been deleted from Service's Pension Policy Statement as they are no longer applicable (please see Appendix 1 for the revised pension policy statement).

### 3.4 Regulation 30 BReg - Choice of Early Payment of Benefits

Explanation (2<sup>nd</sup> Paragraph)

Removed

Where a person was an active member on 31 March 2008 and makes an election before 31 March 2010, benefits can be paid if aged 50 or over.

### 3.5 Regulation 18 BReg - Flexible Retirement

Explanation (2<sup>nd</sup> Paragraph)

Removed

Where a person was an active member on 31 March 2008 and makes an election before 31 March 2010, benefits can be paid if aged 50 or over.

### 3.6 The revised Pension Policy Statement will be made available to all employees

## 4. **EQUALITY IMPACT ASSESSMENT**

In preparing this report an initial Equality Impact Assessment is not required.

## 5. **LEGAL IMPLICATIONS**

The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 replaced powers for employers to award discretionary payments where employment is terminated early, thereby eliminating any potential age discrimination claim.

## 6. **TRADE UNION CONSULTATION**

Trade Unions will be informed of the amendments.

## 7. **FINANCIAL IMPLICATIONS**

There are no financial implications to note.

## **BACKGROUND PAPERS**

Regulations 7 and 66 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006.

VIJ RANDENIYA  
CHIEF FIRE OFFICER

## APPENDIX 1

### **STATEMENT OF POLICY**

Under Regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, operative from 29<sup>th</sup> 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 employees' 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**

Under Regulation 66 of the Local Government Pension Scheme (LGPS) (Administration) Regulations 2007 (as amended), each employer must formulate, keep under review and publish their policies on certain discretions contained within the LGPS Regulations. Where references are made, AReg refers to the "Administration" Regulations and BReg to the "Benefit" 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 BReg - Choice of Early Payment of Benefits**

#### **Explanation**

*From age 55, members who have left local government employment may choose to receive early payment of their retirement benefits subject to the consent of their employer. However members aged 60 and over 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 not be reduced. 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 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 12 BReg – Power of the Employing Authority To Increase Total Membership of Active Members**

#### **Explanation**

*An employer may resolve to increase the total membership of an active member. A member's total membership, including additional membership in respect of different employments, must not exceed 10 years.*

#### **Policy**

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

**3. Regulation 13 BReg – Power of the Employing Authority to award Additional Pension**

Explanation

*An employer may resolve to award a member additional pension of not more than £5000 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 12.*

Policy

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

**4. Regulation 18 BReg - Flexible Retirement**

Explanation

*A member who is aged 55 or over and with their employer's consent reduces their hours and/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. If payment of benefits occurs before age 65, the benefits are actuarially reduced in accordance with guidance issued by the government actuary.*

*The employer may choose to waive the reduction in whole or in part. If the employer chooses to do so, then the cost of waiving the reduction in whole or in part has to be paid to the Fund.*

Policy

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

Your employer is not obliged by the Regulations to publish a statement on the following discretions contained within the LGPS (Administration) Regulations 2007, but has chosen to do so:

**1. Regulation 3 BReg – Contributions Payable By Active Members**

Explanation

*Employers will determine the contribution rate payable based on whole-time pensionable pay for existing members at April each year or at the commencement of employment. Where there has been a material change to a member's pensionable pay in the course of a financial year, his employing authority may re-determine the contribution rate to be applied.*

Policy

The Fire Authority will re-determine the contribution band each pay period in order to account for any material change to a member's pensionable pay which would have a direct affect on the employer's liabilities.

**2. Regulation 16 AReg – 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 they may elect to have their former membership aggregated with their current active membership. An election must be made in writing to the member's appropriate administering authority before the expiry of the period of 12 months beginning with the date that they became an active member (or any such longer period as their employing authority may allow).*

Policy

The Fire Authority will extend the period of 12 months beginning with the date that they became an active member again to allow a member to aggregate his/her former membership in exceptional circumstances or where it was beyond the member's control.

**3. Regulation 22 AReg – Application To Make Absence Contributions**

Explanation

*Employing authorities have the discretion to extend the period beyond 30 days for a person to apply in writing to make contributions.*

Policy

The Fire Authority will extend the period of 30 days in circumstances beyond the member's control or in exceptional circumstances.

**4. Regulation 67 – (Shared Cost AVC)**

Explanation

*Employers may resolve to establish and maintain a Share-Cost Additional Voluntary Contribution Scheme (SCAVC). Who can join, how much the employer and employee will jointly contribute and the type of benefits provided must be considered.*

Policy

The Fire Authority does not propose to introduce a SCAVCS.

**5. Regulation 83 – 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.

**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.**

**1. Regulation 57(5)(c) – 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

For the West Midlands Fire and Rescue Authority the specified person is:

Mr D Johnson  
Director of Human Resources  
West Midlands Fire Service HQ  
99 Vauxhall Road  
Birmingham  
B4 7HW



## PRIVATE & CONFIDENTIAL

### EARLY RETIREMENT/SEVERANCE PROPOSALS

#### 1. Personal Details

<b>Name:</b>			<b>Post No.</b>	
<b>Designation:</b>			<b>Pay:</b>	
<b>D.O.B./Age:</b>		<b>Proposed Severance Date:</b>		
<b>Type:</b> (e.g. Retirement/ Redundancy)				

#### 2. Proposed Changes

Please explain the circumstances of the case (including posts to be deleted/changed; revised organisation structure, etc.) and confirm that the budgetary implications are acceptable.

Please see attached Corporate Board .....

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#### 3. Service Details

Employer	From	To	Years	Days
		Total		

4. Augmented service Requested

YES / NO

NUMBER .....

5. Costs/Savings

	Cost/Saving Per Annum				
	Year One	Year Two	Year Three	Totals (3 Years)	Year Four Onwards
<b><u>COSTS</u></b>					
Redundancy Payment					
Augmented service Lump Sum					
*Augmented service Pension					
Actuarial Strain					
Replacement Salary					
Salary Overheads					
<b>TOTAL</b>					
<b><u>SAVINGS</u></b>					
Salary Saving					
Salary Overheads					
Travelling					
Other Costs					
Re-training Costs					
Re-deployment Costs					
<b>TOTAL</b>					
<b>NET SAVINGS / (COSTS)</b>					

\* Equivalent Capitalised Cost .....

Proposed by .....

Line Manager

Date .....

Approved by .....

Director

Date .....

Confirmed by .....

Director of Human Resources

Date .....

Confirmed by .....

Director of Finance and Procurement

Date .....