



Haringey Council

Agenda item:

[No.]

General Purposes Committee

On 14th April 2009

Report Title: Pensions Policy Statement

Report of Assistant Chief Executive People and Organisational Development

Signed

Dated 3 April 2009

Stuart Young Assistant Chief Executive People and Organisational Development

Contact Officer : I M Benson Pensions Manager 0208 489 3824

Wards(s) affected: All

Report for: Non Key Decision

1. Purpose of the Report (That is, the decision required)

1.1 To review the Council's Pensions Policy Statement on the use of its discretionary powers.

2. Introduction by Cabinet Member (if necessary)

If members were minded to adopt the recommendations in the report it should be noted that appropriate sign off and consultation processes will be implemented for any discretionary awards, such that appropriate sign off and consultation will be sought with the relevant Service Cabinet Member and Cabinet Member for Resources. In the case of tier one and two officers of the council the award will be subject to appropriate Member body approval.

3. State links with Council Plan Priorities and actions and / or other Strategies

3.1 This report seeks approval for limited use of discretions provided to local government employers which can assist in managing change within the workforce.

4. Recommendations

4.1 That having regard to the current economic situation the Council will not consider awards of :-

- a) Added Membership under Regulation 12 of the 'Benefits Regulations' or
- b) Additional Pension under Regulation 13 of the 'Benefits Regulations'

4.2 That in specific cases where it is beneficial to the council, that discretion can be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 to award up to 104 weeks pay on termination of employment. Any such proposal will be consulted

with the relevant Service Cabinet Member and Cabinet Member for Resources, and subject to approval by the Section 151 Officer and the Head of Human Resources. In the case of tier one and two officers of the council the award will be subject to appropriate Council Member body approval.

4.3 That the decision of the Pensions Committee of 18th September 2008 regarding reinstatement of a child's pension is noted.

4.4 That policy on releasing Deferred Benefits early approved by urgent action on 5th November 2008 is noted.

4.5 That confirmation that the Council does not provide a Shared Cost AVC Scheme is noted.

5 Reason for Recommendations

5.1 The Pension Scheme rules specify that a Policy Statement is published to explain how discretions under the pension scheme may be exercised.

5.2 Policy decisions are required in respect of awards of added membership, added pension, and other monetary payments

6 Summary

6.1 Award of Additional Membership (augmentation) (Regulation 12¹)

6.2 The new scheme rules allow the Council to award up to 10 years added membership to active members. Added membership can be awarded at any time prior to a member leaving or retiring.

6.3 There is a capital cost attached to an award of added membership which will vary according to the age of the member at the time the award is made. This cost would be charged to the relevant Service/Business Unit

6.4 Due to the current economic situation it is not proposed to exercise this discretion.

6.5 Award of Added Pension (Regulation 13²)

6.6 This is a new provision which allows the Council to award units of annual pension of £250 a year up to a maximum of £5000. Added Pension can be awarded in addition to increased membership under para.4 above.

6.7 There is a capital cost attached to an award of added membership which will vary according to the age of the member at the time the award is made. This cost would be charged to the relevant Service/Business Unit.

6.8 Due to the current economic situation it is not proposed to exercise this discretion.

6.9 Compensation for loss of Office

¹ Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended)

² As above

6.10 The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 allows the Council to award up to 104 weeks pay on termination of employment.

6.11 There are occasions during the course of an employment relationship when it is beneficial to both parties – employer and employee – to end the contract in a reasonable way. The vast majority of the time the employee resigns or the employer dismisses the employee using agreed procedures. There are, however, rare occasions when the termination of the employment relationship, in a mutually beneficial way, is facilitated by the award of a monetary sum.

6.12 Where such an award is contemplated the calculation will be based on meeting the best interests of the council having regard to factors including

- The pay and local government service of the individual.
- Costs to the council of continuing employment
- Benefits to the council for termination of employment
- The requirement that payments are objectively justified in line with age discrimination legislation.

6.13 Where such an award is proposed appropriate sign off and consultation will be sought with the relevant Service Cabinet Member and Cabinet Member for Resources, the Section 151 Officer and the Head of Human Resources.

6.14 In the case of tier one and two officers of the council the award will be subject to appropriate Council Member body approval.

6.15 Payments under these provisions are not chargeable to the Pension Fund. The cost of any such award would be charged to Service / Business Unit budgets.

6.16 Miscellaneous Updates

6.17 The current policy statement has been updated to reflect.

- a) the policy decision of Pensions Committee 18th September 2008 on disregarding breaks in education for a Child's Pension and
- b) the reinstatement of the policy regarding the release of Deferred Benefits early) by Urgent Action 5 November 2008. The policy has been amended to reflect current advice that a member with Deferred Benefits which began before 1st April 2006 can request early payment from age 50 subject to employer consent.
- c) Confirmation that the Council does not provide a Shared Cost AVC scheme.

7 Chief Financial Officer Comment

7.1 Costs incurred by the exercise of the discretions detailed in this report will be charged to service/Business Unit budgets. Budget holders will need to manage any costs within approved budgets. The Chief Financial Officer agrees with the Service Financial comments set out in section 11 of the report.

8 Head of Legal Services Comment

8.1 The Head of Legal Services has been consulted on the content of this report, which identifies accurately the discretionary powers available to the Council as employer under the Regulations indicated. The recommendations set out in the report constitute a lawful exercise of these discretionary powers. The consideration of any individual case must take into account the provisions of the Employment Equality (Age) Regulations 2006 and, as appropriate, a decision made in such a case should be capable of justification as a proportionate means of achieving a legitimate business objective. This includes cases considered under the provisions of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006

9 Head of Procurement

Not applicable

10 Equalities & Community Cohesion Comment

10.1 The recommendations in this report have had regard to the Employment Equality (Age) Regulations 2006.

11 Service Financial Comments

11.1 The Council's Section 151 Officer will ensure that a sound business case supports any recommendations for the exercise of the discretions referred to above.

12 Use of appendices / Tables and photographs

12.1 Appendix 1 is a draft Policy Statement.

13 Local Government (Access to Information) Act 1985

(List background documents)

Draft Pensions Policy Statement

Advice from LGPC on early release of Deferred Benefits

Appendix 1

POLICY STATEMENT ON THE USE OF ITS DISCRETIONARY POWERS:

Reviewed and updated by General Purposes Committee on 14 April 2009

Part 1

The Local Government Pension Scheme (Benefits, Membership and Contributions) (Amendment) Regulations 2007.

The Local Government Pension Scheme (Administration) Regulations 2008 Regulation 66

The Council and its employing bodies are required to make decisions on the use of the discretionary powers granted under relevant legislation as set out below.

Scheme members not employed by the Council must refer to the Policy Statement issued by their employing body.

Councillor Members should refer to Part 2

((Employee Members)).

1. Choice of early payment of pension (Regulation 30)

A member who leaves a local government employment before entitlement to immediate payment of benefits may choose to receive payment of them once he/she has attained age 55. (age 50 for members on 31st March 2008 who make an election before 31st March 2010).

For a member under age 60, an election is ineffective without the consent of his/her employer.

Unless the member is a 'protected member', the member's pension will be subject to an actuarial reduction if claimed before age 65. The Council can determine on 'compassionate grounds' that the actuarial reduction will not apply. (see paragraph 5 below)

Policy Decision:

The Council's policy is to allow early payment of benefits as provided by Regulation 30 where there is a clear financial or operational advantage to the Council in doing so.

The Council will consider waiving any actuarial reduction on 'compassionate grounds' as defined in Paragraph 4 of the Policy Statement below.

Each case will be considered on its merits and will be subject to approval by the Chief Financial Officer acting under delegated powers.

Any Capital Cost arising will be met from Service / Business Unit budgets and will be paid into the Fund within a three month period.

First and second tier Officers will require Member approval.

2. Early Retirement on Redundancy and Business Efficiency

Members age who has attained age 55 and who are retired on redundancy or efficiency grounds have entitlement to immediate payment of unreduced benefits. A member in the scheme at 31st March 2008 retains the right to immediate payment of benefits having attained age 50 provided they are retired on redundancy or business efficiency before 1st April 2010.

The scheme rules allow the Council to award added membership and or added pension at retirement. Compensation regulations preclude the award of added membership where monitory compensation is paid.

Policy decision:

Any Capital Cost arising from an early retirement on redundancy or business efficiency will be met from Service/Business Unit budgets and must be paid into the Fund within a three month period.

Each case will be considered on its merits and will be subject to approval by the Section 151 Officer acting under delegated powers.

Members retired on redundancy/business efficiency grounds will not be awarded added membership or added pension.

First and second tier Officers will require Member approval

3 Early payment of Deferred Benefits (Regulation 30)

Deferred Benefits apply to members who leave the Local Government Pension Scheme early with at least 3 months' membership or transferred-in membership. They become payable at age 65.

The Scheme Rules allow early payment of benefits before age 65 but between ages 55 -59*, require employer's consent.

Benefits claimed before age 65 may be subject to a reduction unless the Council agrees to waive the reduction on 'Compassionate Grounds' (see 5 below).

*(Deferred Member benefits which began before 1st April 2006 can be claimed from age 50. Deferred Member benefits for a member which began after 1st April 2006 can be claimed from age 50, provided the election is made before 1st October 2010.)

Policy Decision:

The Council's policy is to allow early payment of Deferred Benefits only if the case can be considered on 'Compassionate Grounds' as defined in paragraph 5 below or otherwise where there is no financial disadvantage to the Council for doing so.

Each case will be considered on its merits and will be subject to approval by the Section 151 Officer acting under delegated powers.

4 Flexible retirement (Regulation 18)

The Council will consider applications for Flexible Retirement from scheme members age 55 and over. Flexible Retirement is linked to the Council's existing policies on Flexible Working and extending employment beyond age 65. It provides opportunities for re-skilling and redeploying older workers across the workforce as well as retaining skills and experience as part of a transition towards retirement.

Flexible Retirement allows scheme members age 55 and over to apply to transfer to a lower graded post or to reduce hours of employment and at the same time access their retirement benefits. Both the transfer to a lower graded post or reduction in hours of work and the early release of retirement benefits is an employer discretion. As a minimum requirement, a member's pay must reduce by at least four spinal points or the equivalent in reduced hours.

In considering Flexible Retirement both the needs of the member and the Service must be taken into account. Initial approval rests with the Service Chief Officer e.g. Assistant Director or equivalent with final approval by the Deputy Head of Personnel.

The early release of benefits before age 65 has the potential to incur an actuarial reduction in benefits. The Council's Section 151 Officer has delegated authority to waive any actuarial reduction, but only in exceptional circumstances that benefit the business and operational needs of the service. The cost to the Fund will be met from the Service budget.

Acceptance of Flexible Retirement debars the member from changing their job to a post offering higher pay within the Council or from returning to employment on higher pay with the Council for a period of not less than three years.

5 Discretion to waive an actuarial reduction under Regulation 30

The Council has discretion to waive an actuarial reduction arising from Regulation 30, on compassionate grounds.

Policy Decision:

Although the term compassionate grounds is not defined in the regulations, the Council's policy is to apply the following definition:-

'Compassionate Grounds means that the scheme member is required to look after a sick dependant relative on a whole time basis, is therefore unable to take up gainful employment, and in consequence is suffering financial hardship.'

In addition, the Council will satisfy itself that the sick dependant relative has a permanent long-term condition with a reasonable life expectancy having regard to his/her age.

Each case will be considered on its merits and will be subject to approval by the Section 151 Officer acting under delegated powers.

6 Payment of Death Grants for Active Members Regulation 23, Deferred Members Reg.32 and Pensioner Members Regulation 35.

A death grant will usually be paid in accordance with the member's nomination or, where there is no nomination, to the legal personal representatives. However where it is considered that:

- a) an existing nomination may no longer reflect the member's intentions (for example there is a subsequent marriage, divorce or children) or,**
- b) there is a deserving recipient (who must be have been his relative or dependant at some time) who would otherwise be excluded by payment to the Estate or,**
- c) payment to the Estate may be inappropriate for other reasons (for example where inheritance tax may be a factor if payment were made to the Estate).**

Payment may be made in the manner and proportions the Council believe appropriate in the circumstances of the case.

In all cases, the release of the Death Grant is delegated for approval to the Section 151 Officer.

7 Disregarding a break in full-time education for a Childs Pension payment to continue.

- a. Where there is a break in full-time education or training, the Chief Financial Officer will decide whether such a break can be ignored on the child's return to full-time education or training**
- b. The Section 151 Officer will have regard to the circumstances of each case within the guideline that the break should not generally extend beyond 12 months from the beginning of one academic year to the end of one academic year, or include periods of full-time employment of more then three months**
- c. Where the gap extends beyond the 12 month limit as described above, the child must be able to clearly demonstrate a clear intention to return to full-time education or training and has not undertaken paid employment as an alternative career option to returning to fill-time education or training**
- d. Where the Section 151 Officer deems it appropriate to ignore a break in full-time education or training, the child's pension will be reinstated from the re-commencement of full-time education or training or such earlier date as the Chief Financial Officer deems appropriate based on the individual circumstance of the case.**
- e. The exercise of this discretion will be reported to the Pensions Committee.**

8 Abatement (reduction) of pensions on re-employment

The pension payable to pensioner members who return to employment covered by the Local Government Pension Scheme is subject to an abatement at the Council's discretion.

The abatement rule allows a reduction in pension if the pension plus salary in the new employment is more than the salary at date of retirement.

The Council's policy is to abate a pension where the member retired on medical grounds and returns to employment or Office covered by the LGPS.

Abatement is also applied on re-employment or return to Office with Haringey Council or its employing bodies in circumstances where the member has retired early with no percentage reduction to the retirement benefits

Policy Decision:

Members of the Fund who commence re-employment or who return to Office after 31st March 1998 will be liable for an abatement in their pension in the circumstances described below.

The abatement will be calculated in accordance with the provisions of Schedule 5 to the Local Government Pension Scheme Regulations 1995.

Pensioner members who commence re-employment or return to Office in local government following retirement on medical grounds. or re-employment or return to Office with Haringey Council or its employing bodies in circumstances where the member has retired early with no percentage reduction to the retirement benefits will be subject to an abatement except in cases of Flexible Retirement agreed in accordance with Regulation 18.

8 Waiving of time limits

The Council's policy is to waive time limits set within the Pension Scheme Regulations where it is satisfied that the individual could not have known of the requirement to make an election at the proper time.

9 Medical clearance to purchase Additional Pension (ARCs) Regulation 23 (administration) Regulations

An application to purchase additional pension will only be accepted if the member makes a declaration that he/she is in reasonably good health and has not been seen by a medical practitioner within the last 12 months or otherwise where the member provides a report by a registered medical practitioner of the results of a medical examination undertaken at the member's own expense.

10 Attributing salary bands

The New Look LGPS moves from a flat rate 6% contribution to a rate based on the member's salary band. (see On-Line Guide Thinking of Joining)

Attributing a member to a salary band is an employer decision.

On 1st April 2008, the Council will attribute salary bands based on the member's basic annual pensionable pay on 1st April plus variable pensionable pay (bonus, sleeping-in allowance etc) earned over the last twelve months.

New starters will be attributed to a salary band on appointment.

No interim changes will be made to attributed salary bands to take account of promotions or reductions but a review will take place on the 1st April in each year. The exception will be back dated pay awards to 1st April.

This approach is not expected to have any adverse effect on achieving the target income from employee contributions of 6.3% although the position will be reviewed in the light of experience over the forthcoming inter-valuation period. Informal advice from the Council's actuary anticipates an income of 6.7% based on the 2007 valuation data.

To ensure the smooth implementation of this change any variations to this policy are delegated to the Head of Personnel subject to approval at the next available meeting of General Purposes Committee.

Policy decision:

That salary bands are attributed on 1st April based on basic annual pensionable pay plus variable pensionable pay over the last twelve months.

New starters to be attributed a salary band on the first day of membership based on basic annual pensionable pay.

That with the exception of back-dated pay awards to 1st April, no variation will be made to a member's attributed salary band other than at each annual review date on 1st April of each subsequent year.

To ensure the smooth implementation of this change any variation to this policy is delegated to the Head of Human Resources subject to approval at the next available meeting of General Purposes Committee.

11 Shared Cost Additional Voluntary Contribution Scheme

The Council's policy is not to make use of this discretion at the present time.

Part 1B

Discretions exercised by Haringey Council in accordance with provisions of

The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended) and the Local Government (Discretionary Payments) Regulations 1996 as amended

Staff of Employing Bodies should ask their Personnel Officer for a copy of their Policy Statement regarding the discretions listed below.

1 Compensation for Redundancy

Compensation on redundancy will be based on ; 1 weeks pay for each complete year of service up to a maximum of 20 years total service.

2 Increase of 1996 Act Redundancy Payments

The redundancy payment is based on the actual weekly rate of pay at the relevant date. (This is usually but not always, the date notice is given).

3 Compensation for termination of employment on Business Efficiency Grounds

3.1 That an award of Monetary Compensation of up to 104 weeks pay be considered as part of a package to facilitate termination of employment in a manner which is beneficial to both the Council and the employee. Each case to be considered on its merits within the framework of the Compensation Regulations and have regard to:-

- 1. The employee's pay and local government service**
- 2. Costs to the Council of continuing employment**
- 3. Benefits to the Council in terminating employment**
- 4. The requirement that payments are objectively justified in conformity with age discrimination legislation.**

3.2 That the costs of an award be charged to the relevant Service / Business Unit budget.

3.3 Sign-off will be in consultation with the relevant Service Cabinet Member and Cabinet Member for Resources, the Section 151 Officer and Head of Human Resources for approval except for tier one and tier 2 Officers who require an appropriate Member body approval.

3.4 This award will not apply in cases where retirement benefits are released early.

4 Injury Allowances: Summary of current Policy

An Injury allowance may be paid to an employee who sustains an injury or contracts a disease as a result of anything he/she was required to do in carrying out their work; and either:-

Is certified as being permanently incapacitated and ceases employment. or

Suffers a reduction in pay.

In deciding on the amount of Injury Allowance payable, the Council takes into account all the circumstances of the case.

The maximum amount payable is 85% of Final Pay.

Injury Allowances in payment are reviewed annually, and at age 65.

Each case is referred for a decision to the Section 151 Officer acting under delegated authority.

5 Gratuities for Non- Pensionable Service: Summary of current Policy:

Gratuities are paid to retiring employees for service with the Council during which they were not eligible to join the Local Government Pension Scheme.

Part Time employees who worked at least 15 hours per week for 35 weeks a year can count service up to 31/3/1987 for gratuity entitlement.

Part Time employees who worked less 15 hours per week can count service up to 16/8/1993.

Gratuity payments do not apply to casual employment

The payments are calculated on 3.75% of Annual Pay for each year of gratuity service as described above.

The employee can choose between a once off lump sum or an annuity payment.

A Death Gratuity is also paid if an employee dies in Service.

The Death Gratuity is paid to an employee's dependants. It is calculated on 3.75% of Annual Pay for all local government service up to 31/3/1987. It is payable to members of the Local Government Pension Scheme and non-scheme members alike.

Contact information:

**Contact the Pensions Team at:-
Alexandra House 10 Station Road London N22 7TR**

Tel Number 020 8489 5916

E-Mail Pensions.Mailbox@haringey.gov.uk

Important Note:

Nothing stated above confers any statutory rights or overrides the provisions of the Local Government Pension Scheme and Compensation Regulations or related legislation.

In the event of any dispute over your pension benefits, the appropriate legislation will prevail

Part 2 (Councillor Members)

COUNCIL'S POLICY STATEMENT ON THE USE OF ITS DISCRETIONARY POWERS:
The Local Government Pension Scheme Regulations 1997 (as amended) Regulation 106

The Council is required to make decisions on the use of the discretionary powers granted under relevant legislation as set out below.

The policy was updated by Pensions Panel on 10th October 2005

1. Voluntary early retirement from age 50 (Regulations 31)

Subject to the Council's consent, the Scheme Rules allow councillor members who cease to be a member of the Council between the ages of 50 – 65 to claim immediate payment of benefits. Early payment of benefits in these circumstances incur a cost to the Fund.

Policy Decision:

The Council will not exercise its discretion to release retirement benefits early to councillor members who cease or have ceased to be a member of the Council age 50 and under 65.

2. Early payment of Benefits from age 65 (Regulations 31)

If on ceasing to be a member of the Council the member's age and membership¹ equate to 85 or more, benefits are payable immediately and in full. If not, they are reduced by reference to tables produced by the Government Actuary.

The Council has discretion to waive this reduction.

If the benefits are left in the fund until age 65, they are paid without any actuarial reduction.

Waiving the actuarial reduction in these circumstances incurs a cost to the Fund

Policy Decision:

That the Council will not exercise its discretion to waive the actuarial reduction for councillor members who cease to be a member of the Council and claim immediate payment of benefits.

3. Re-employed pensioners – Abatement of pensions (Regulation 109)

The pension payable to pensioner members who return to employment or Office covered by the Local Government Pension Scheme is subject to an abatement at the Council's discretion.

All members of the Fund who commence re-employment or who return to Office will be liable for an abatement in their pension except where Regulation 18 (Flexible Retirement) applies. The abatement will be calculated in accordance with the provisions of Schedule 5 to the Local Government Pension Scheme Regulations 1995. In general terms, this requires abatement where pensionable earnings and pension on re-employment / return to Office, exceed pensionable earnings on retirement.

Policy Decision:

The Council's policy is not to abate a pension in all cases except of :-

re-employment or return to Office in local government following retirement on medical grounds. or

re-employment or return to Office with Haringey Council or its employing bodies in circumstances where the member has retired early with no percentage reduction to the retirement benefits.

4. Waiving of time limits

¹ For councillor members, this means membership as a councillor member in the Haringey Council Pension Fund

The Council's general policy is to waive time limits set within the Pension Scheme Regulations where it is satisfied that the individual could not have known of the option at the proper time. Each case is considered on its merits having regard to the interests of the employee and the Council's trusteeship of the pension fund.

Policy Decision:

That the time limits set within the Pension Scheme Regulations will be waived where the member could not have known of the requirement to make an election at the proper time.

Waiving restriction on entry to the Fund Regulation 7 (9)

The regulations permit elected members to opt in and opt out of the scheme. The regulations restrict the right to opt in if a member has opted out more than once. The Council has discretion to waive this restriction.

Policy Decision

The Council's policy is not to restrict re-entry to the Fund where a member has previously elected to opt out more than once.

Important Note:

Nothing stated above confers any statutory rights or overrides the provisions of the Local Government Pension Scheme and Compensation Regulations⁴ or related legislation.

In the event of any dispute over your pension benefits, the appropriate legislation will prevail

For more information contact the Pensions Team at:-

Alexandra House 10 Station Road London N22 7TR

Tel Number 020 8489 5916

E-Mail Pensions.Mailbox@haringey.gov.uk

⁴ The main scheme regulations referred to are :-

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended)

The Local Government Pension Scheme (Administration) Regulations 2008 (as amended)

The Local Government Pension Scheme (Transitional Provisions) Regulations 2008 (as amended)

The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended).