

## **Cabinet – 21 March 2007**

### **Local Government Pension Scheme (LGPS) – Discretionary Payments Policy Statement**

**Portfolio:** Councillor John O'Hare - Resources

**Service:** Council wide – all services

**Wards:** All

**Key decisions:** Yes

**Forward plan:** Yes

#### **Summary of report**

Regulation 106 of the LGPS 1997 requires employers to formulate, publish and keep under review a policy statement in relation to the exercise of a number of discretions under the LGPS. The existing policy was last reviewed and published in October 2004. The 2006 LGPS Amendment Regulations and the 2006 Discretionary Compensation Regulations require a review of the policy. In formulating and reviewing the policy employers are required to have regard to the extent to which the exercise of their discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service and be satisfied that the policy is workable, affordable and reasonable. All decisions contained within the policy need to be objectively justifiable if challenged. The employer must publish a written statement of the policy which cannot be implemented until one month has elapsed from the publication of the new policy.

#### **Recommendations**

- (1) That the new Policy Statement at **Appendix 1** be approved.
- (2) That publication of the policy will be made within one month and be applied where applicable from that date.

#### **Resource and legal considerations**

Following removal of the 2000 Regulations, the power to award compensatory added years is no longer available. There is a new discretionary power under the 2006 Regulations to award lump sum compensation of up to a maximum of 104 weeks pay to eligible employees irrespective of their age. Payment can be made up to 6 months after the date of termination. There is still a discretionary power available to augment a member's LGPS service under regulation 52 of the 1997 Regulations. The Policy Statement at **Appendix 1** sets out the recommended guidance in terms of the adoption of the above. The financial implications will be managed from within existing resources and will be reported routinely to senior management.

## **Citizen impact**

All decisions should be made by considering that, in exercising the discretionary powers contained within the policy statement, the funding of such can be managed and does not place a financial burden on the council tax.

## **Community safety**

None directly arising from this report.

## **Environmental impact**

None directly arising from this report.

## **Performance and risk management issues**

The proposals seek to mitigate financial risk to the council in applying these discretions. A biannual report to SLT will monitor the cost and implications of decisions made. A detailed policy guidance note ensures the Policy Statement is applied consistently throughout the Council.

## **Equality implications**

In formulating the Policy Statement particular consideration needs has been given to compliance with age and other discrimination legislation.

## **Consultation**

Consultation has been held with SLT and the employee relations forum.

## **Vision 2008**

The Policy Statement is a legal requirement and will ensure continued robust financial management arrangements.

## **Background papers**

The 2000 Policy Statement, guidance notes to assist in decision making and application of the policy and statutory guidance.

## **Author**

Wendy Moore,  
Payroll and Pensions Manager  
☎ 652915, ✉ [mooreww@walsall.gov.uk](mailto:mooreww@walsall.gov.uk)



**Carole Evans – Executive Director**  
**5 March 2007**



**Councillor J O'Hare – Deputy Leader**  
**9 March 2007**



## **Local Government Pension Scheme (LGPS) Regulations Policy Statement for all eligible employees**

Under Regulation 106 of the LGPS Regulations 1997, (as amended), each scheme employer must publish and keep under review a Statement of Policy to explain how it will apply certain discretions allowed under the Pension Regulations.

This statement is applicable to all employees of Walsall Council who are eligible to be members of the LGPS.

Before the exercise of any discretion it will be necessary in each individual case to consider the full financial cost to the council and the Pension Fund.

### **Policy Statement**

#### **Part 1 - Discretions to be applied at the start of the employment contract**

##### **1. Regulation 7 (9): Admission to the pension scheme of non-pensionable employees**

**This is an existing policy decision – no policy change.**

<b>Explanation</b>	<b>Council Policy</b>
The council have the discretion to allow a member who has opted out of the scheme more than once to re-join the scheme	The council have adopted this discretion in full.

##### **2. Regulation 23(4): Reduction in pay certificate**

**This is an existing policy decision – no policy change.**

<b>Explanation</b>	<b>Council Policy</b>
The council must decide whether to issue a certificate of reduced pay if an employee through no fault of their own suffers a reduction in their rate of pay	The council will issue a reduced pay certificate where an employee has a reduction in pay through no fault of their own.

### 3. Regulation 121: Power to allow transfer values to be accepted after 12 months' Membership

This is an existing policy decision – no policy change.

<b>Explanation</b> This discretion allows the extension of the 12 month time limited transfer of pension rights from previous funds to be extended	<b>Council Policy</b> To allow this discretion in limited circumstances only. Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.
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### 4. Regulation 67: Shared cost AVC (additional voluntary contributions)

This is an existing policy decision – no policy change.

<b>Explanation</b> This discretion allows the council to maintain and contribute to an employee's Additional Voluntary Contribution Scheme	<b>Council Policy</b> The Council have <u>NOT</u> adopted this discretion.
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### 5. Regulation 32: Re-employed and rejoining deferred members

This is an existing policy decision – no policy change.

<b>Explanation</b> This discretion allows the extension of the 12 month time limited election to aggregate previous periods LGPS service.	<b>Council Policy</b> To allow this discretion in limited circumstances only. Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.
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## Part 2- Discretions to be applied during employment

### 6. Regulation 31: Early payment of Retirement benefits at the employees request

This is a revised policy decision.

<b>Explanation</b> a) An employee can request that the council grant them early retirement between 50 and 60 years old. (Employees aged over 60 who were members at 1 April 1998 do not need their employer's consent) b) For a member who joined the Scheme prior to 1 October 2006 where the members age and pension service (in whole years) equals less than 85 then reduced benefits would be payable. For a member who joined the scheme on or after 1 October 2006, then reduced benefits would be payable if taken before age 65.	<b>Council Policy</b> a) The Council have adopted this regulation to be used in exceptional circumstances only. Exceptional circumstances are defined in the detailed guidelines. b) Where early retirement is granted the conditions opposite will apply.  Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.
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## 7. Regulation 31(2) – Former Members Request for Early Payment of Benefits

This is a revised policy decision.

<p><b>Explanation</b></p> <p>From age 50 former members with deferred benefits have the right to apply for early payment of their retirement benefits. Early payment will be subject to the employers consent.</p> <p>For a member who joined the Scheme prior to 1 October 2006 where the members age and pension service (in whole years) equals less than 85 then reduced benefits would be payable. For a member who joined the scheme on or after 1 October 2006, then reduced benefits would be payable if taken before age 65</p>	<p><b>Council policy</b></p> <p>The Council have adopted this regulation to be used in exceptional circumstances only.</p> <p>Exceptional circumstances are defined in the detailed guidelines.</p> <p>The council will consider each specific case which will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.</p>
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### Part 3 – Discretions to be applied at the termination of employment

## 8. Regulation 52 (augmentation): Added service

This is a revised policy decision.

<p><b>Explanation</b></p> <p>The Council have the discretion to award to an active member an additional period of scheme membership (added years) through augmentation.</p>	<p><b>Council Policy</b></p> <p>The council have adopted this discretion which may be used but only in the case of some compulsory redundancies on the joint authority of the relevant Executive Director with overall responsibility for the service in which the employee works, the Executive Director (CFO) and the Head of Human Resources and Development.</p> <p>Each award will be subject to a cap of 1 added year and will only be considered for a salary graded employee who is paid less than scale point 29.</p> <p>Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.</p>
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## 9. Regulation 35 – Requirement as to time of pension payment

This is a new policy decision.

<p><b>Explanation</b></p> <p>A member who is aged 50 or over and with their employers' consent reduces their hours/or grade, can, but only with the agreement of the employer, make an election to the administering authority (West Midlands Pension Fund) for payment of their accrued benefits without having retired from that employment.</p> <p>If payment occurs before the age of 65, the benefits are actuarially reduced.</p> <p>The employer may chose to waive the reduction in whole or part. The cost of the waiving will have to be paid to the fund.</p>	<p><b>Council Policy</b></p> <p>The council will consider a waiver in exceptional circumstances only.</p> <p>Exceptional circumstances are defined in the detailed guidelines.</p> <p>Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.</p>
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### Part 4 - Early Termination of Employment (Discretionary Compensation)

## 10. Regulation 5 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006

This is an existing policy decision– no change proposed.

<p><b>Explanation</b></p> <p>The council may decide to calculate a redundancy payment entitlement as if there had been no limit on the amount of the week's pay used in the calculation</p>	<p><b>Council Policy</b></p> <p>The council have decided to adopt this discretion and base redundancy payment calculations on an unrestricted week's pay</p>
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## 11. Regulation 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006

This is a new policy decision.

<p><b>Explanation</b></p> <p>A one-off lump sum compensation payment may be awarded to an employee up to a maximum value of 104 weeks pay (2 years) inclusive of any redundancy payment made.</p>	<p><b>Council Policy</b></p> <p>The council have decided to adopt this discretion in part and will award an additional lump sum compensation payment equal to the value of the statutory redundancy payment – maximum payment 30 weeks – but only in cases of some compulsory redundancies on the joint authority of the relevant Executive Director with overall responsibility for the service in which the employee works, the Executive Director (CFO) and the Head of Human</p>
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	<p>Resources and Development. Each award will be subject to a cap to be paid to an employee who is paid less than scale point 29.</p> <p>Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.</p>
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**Part 5 – Appeal Process**

**12. Regulation 98(5)(c): Internal Dispute Resolution Procedure (IDRP)**

**This is an existing policy decision – no change proposed.**

<p><b>Explanation</b> Responsibility for determination of LGPS disputes under the first stage of the procedure now lies with a “Specified Person” at the employing authority.</p>	<p><b>Council Policy</b> Any disputes about decisions made under the LGPS should be sent in writing to:</p> <p>The Executive Director (Corporate Services) The Council House Walsall Council WS1 1TW <b>or</b> The Chief Executive</p> <p>If the complaint relates to member of the corporate services directorate.</p>
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Employees wishing the council to exercise these discretions are required to apply in writing to their Executive Director. A decision will be given in writing following the request as soon as possible and in any event no later than 3 calendar months after the date the written request is received.

**March 2007**