



London Borough of Hammersmith & Fulham

COUNCIL

25 FEBRUARY 2015

**LOCAL GOVERNMENT PENSION SCHEME 2014 – DISCRETIONARY POLICIES**

**Report of the Cabinet Member for Finance: Councillor Max Schmid**

**Open Report**

**Classification:** For Decision

**Key Decision:** No

**Wards Affected:** All

**Accountable Executive Director:** Jane West, Executive Director for Finance and Corporate Governance

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**1. EXECUTIVE SUMMARY**

- 1.1. This report sets out the main changes to the Local Government Pensions Regulations 2013 which come into effect in April 2014 and seeks approval to the setting of the local pension policy statement both as an employer and as an authority administering a local pension fund.
- 1.2. Attached to this report as Appendix 1 is a paper prepared by Capita Employee Benefits, called “The Local Government Pensions Scheme 2014”.
- 1.3. The changes affect the following LGPS members:

	Active members	Deferred	Pensioner	Total
HF Fund total members	3,800	5,600	4,600	14,000

- 1.4. In addition to the changes to the pension regulations the council is required to review its local pension’s policy and in particular to address those areas where there is local discretion with regard to how certain regulations in the LGPS are applied. It is a requirement for each scheme employer, including the Council, to

make a written statement of its local discretionary policy on the areas where there is local discretion.

- 1.5. The purpose of this report is to ask The London Borough of Hammersmith and Fulham to decide the local policy statement which falls into two parts: local policy which the council is setting as an *authority administering a local pension fund*, into which some other employers are also admitted. Other employers include some local voluntary-aided schools and academies and various transferee admission bodies who have admission agreements related to services which have been contracted out.
- 1.6. The distinction being made here is that local *employer* policy relates to Council employees only (and the other admitted employers will make their own policy on these points). Where the Council sets local policy as an *administering authority*, then this applies to everyone in the local scheme, including those individuals employed elsewhere.
- 1.7. The main policy changes are the removal of the employer discretion to increase the total membership of an active member and the addition of the discretion for an administering authority to fund in whole or in part a scheme member's absence due to a trade dispute or a period of absence with employer permission. Other changes proposed in this paper are to align the policies of The London Borough of Hammersmith and Council and The Royal Borough of Kensington and Chelsea.
- 1.8. The local policies describes in this report do not apply to Councillors.

## **2. RECOMMENDATIONS**

- 2.1 The Council is recommended to:
  - (a) Adopt as local employer discretionary policy the positions set out in paragraphs 5 – 5.5.
  - (b) Delegate to the Bi-Borough Director of Human Resources (in conjunction with the Executive Director for Finance and Corporate Governance as relevant with regard to the policies set out at paragraphs 5.3 (Discretion to permit flexible retirement) and 5.4 (Discretion to permit early payment of pension) of this report the power to make decisions on any application for the Council to exercise its discretionary powers via the Council's Adjudicating Panel.
  - (c) Adopt as an administering authority policy the positions set out in paragraphs 6 – 6.3.

## **3. REASONS FOR DECISION**

- 3.1 The Local Government Pension Scheme regulations 2013 set up a new regime for the Local Government Pension Scheme which came into force in April 2014.
- 3.2 The new legal regime will provide for benefits to accrue on a 'career average revalued earnings' basis rather than a 'final salary scheme' and for the normal retirement age at which a member can draw benefits without actuarial

reductions to be the same as the age at which the person is entitled to draw state retirement pension.

#### 4. INTRODUCTION & BACKGROUND

4.1 The changes to the LGPS scheme which came into effect from April 2014 were significant and are summarised below:

- a) A Career Average Defined Benefit Scheme
- b) Normal Pension Age in line with the member's State Pension Age
- c) 9 contributions bands resulting in greater contributions for scheme members earning more than £43,000

<i>Band</i>	<i>Pensionable pay range for an employment</i>	<i>Contribution rate for that employment – Current Final Salary Scheme</i>
1	Up to £13,700	5.5%
2	£13,701 to £16,100	5.8%
3	£16,101 to £20,800	5.9%
4	£20,801 to £34,700	6.5%
5	£34,701 to £46,500	6.8%
6	£46,501 to £87,100	7.2%
7	More than £87,100	7.5%
<i>Band</i>	<i>Pensionable pay range for an employment</i>	<i>Contribution rate for that employment – Career Average Scheme from 1/4/2014</i>
1	Up to £13,500	5.5%
2	£13,501 to £21,000	5.8%
3	£21,001 to £34,000	6.5%
4	£34,001 to £43,000	6.8%
5	£43,001 to £60,000	8.5%
6	£60,001 to £85,000	9.9%
7	£85,001 to £100,000	10.5%
8	£100,001 to £150,000	11.4%
9	£150,001 or more	12.5%

- d) Benefits accrued at 1/49<sup>th</sup> of pensionable pay paid in each year
- e) Member can opt for 50/50 and pay half contributions for half benefits (1/98<sup>th</sup> accrual) for an unlimited period of time
- f) Member can opt to take voluntary payment of benefits from age 55
- g) Option to buy additional pension through payment of Additional Pension Contributions (APCs) to:
  - a. Increase retirement benefits (up to £6,500); or

- b. cover a period of authorised absence or trade dispute
- h) A new definition of pensionable pay to include hours worked including non-contractual overtime and additional hours for part time employees
- i) Revaluation of benefits in line with two indices depending on status of member
- j) A vesting period of 2 years (i.e. in the new scheme members may request a refund of contributions if less than two years in the scheme – currently 3 months)

## **5. STATEMENT OF LOCAL EMPLOYER POLICY**

5.1 There are four specific matters on which the Council needs to declare its local policy as employer. These are set out below, and for each matter there is a reference to the relevant statutory regulation, a brief explanation of the issue, current policy and a recommended local policy:

### **5.2 Discretion of employer to award additional pension**

*Regulation 31 (LGPS Regs 2013 (replacing Reg 12 LGPS Benefit Regs 2008))*

The regulation gives an employer the power to award up to £6,500 per year additional pension (increased in April each year by the Pensions Increase Act) to an active member of a scheme who is dismissed by reason of redundancy or business efficiency on retirement.

#### ***Current Local Policy: The London Borough of Hammersmith and Fulham***

*The Council will consider any requests to exercise its discretion under this regulation in the light of all relevant considerations, including the likely costs and benefits. However an award of an additional pension to a Scheme member who voluntarily leaves employment will only be made in very exceptional circumstances.*

#### **Recommended local policy**

The council will consider any requests to exercise its discretion under Regulation 31 (LGPS 2013) in the light of all relevant consideration. However an increase to total pension to an active member who is dismissed by reason of redundancy or business efficiency on retirement under Regulation 31 will only be made in exceptional circumstances, because of the cost implications.

### **5.3 Discretion to permit flexible retirement**

*Regulation 30(6) and 30(8) LGPS Regs 2013 (replacing Reg 18 LGPS Benefit Regs 2008)*

This regulation enables an employer to let an employee aged over 55 or more reduce his/her hours or grade and receive immediate payment of all or part

payment of the pension benefits to which that member would be entitled in respect of that employment, adjusted by the amount shown as appropriate in actuarial guidance issued by the Secretary of State.

If the employee would suffer an actuarial reduction in the pension and lump sum due to the early payment, the regulations confer a further discretion for the employer, at its own cost, to waive that reduction in any particular case.

**Current Local Policy:**

**The London Borough of Hammersmith and Fulham**

*Applications for flexible retirement will be considered on an individual basis in view of all relevant considerations including the likely costs and benefits. Percentage reductions if applicable will be made in line with the tables supplied by the Government Actuary. The Council may exercise its discretion not to apply reductions in exceptional circumstances.*

**Recommended local policy**

The Council will consider allowing flexible retirement to an employee aged 55 or more only where no costs occur to the pension fund from flexible retirement. No waiver will be made in such a case.

If flexible retirement is requested in relation to a reduction in contractual hours, requests will only be considered where the reduction in contractual hours is at least 40%. Under this arrangement the employee would not be permitted to work more than 3 days per week. Also, this discretion may only be used where the employing department can demonstrate that there is no adverse impact to service users.

The Council wishes to support employees who wish to have a gradual transition to full retirement via a reduction in working hours or a reduction in responsibility, so will be minded to support applications from members who have attained age 60. In all cases, support will be required from the employing department who will need to submit a business case detailing how the service will be maintained to the Council's Adjudication Panel.

**5.4 Discretion to permit early payment of pension**

*Regulation 30(5) and 30(8) LGPS Regs 2013 (replacing Reg 30 LGPS Benefits Regs 2008)*

Under this regulation a member of the pension scheme aged 55 or over may elect to receive immediate payment of their retirement benefits, subject to the consent of their employer. An application may be made by either a current employee or a former employee holding deferred benefits. This regulation gives a further discretion to the employer, at its own cost, to waive any actuarial reduction.

**Current Local Policy: The London Borough of Hammersmith and Fulham**

*Applications for early payment of benefits will be considered on an individual basis in view of all relevant considerations, including the likely costs and benefits and taking into account any protection rights that may be held by individuals. Percentage reductions, if applicable, will be made in line with the tables supplied by the Government Actuary. The Council may exercise its discretion not to apply reductions in exceptional circumstances.*

**Recommended local policy**

Current employees: The Council may agree to an application from a current employee under this Regulation only in a case where there is no cost whatsoever to the Council or the local pension fund and the employer has demonstrated that there will be no negative impact on service delivery to the Council's customers, with an explanation of how that employee's work will be undertaken in future. No waiver of actuarial reduction will be made in such a case.

Former employees: The Council may agree to an application from a former employee holding deferred benefits, under this Regulation only in a case where there is no cost whatsoever to the Council or the local pension fund. No waiver of actuarial reduction will be made in such a case. The Bi-Borough Director of Human Resources (DHR) will consider applications in conjunction with the Executive Director for Finance and Corporate Governance at Hammersmith and Fulham at the Council's adjudication panel.

**5.5 Permitting additional pension contributions**

*Regulation 16 LGPS Regs 2013 (new discretion part replacing Reg 22 and 23 Admin Regs 2008)*

*Regulation 22 LGPS (Administration) Regs 2008*

A member of the local pension fund can apply to make regular additional pension contributions. In that event, this regulation permits the administering authority, if it wishes, to require a medical report from the applicant, to show that he/she is in good health.

The new regulations enable a member of the local pension fund to apply to make additional pension contributions by regular contribution or lump sum contribution to cover a period of absence due to trade dispute or a period of absence with employer permission. In that event, this regulation permits the administering authority, if it wishes, to fund in whole or in part the absence. It also permits the administering authority to require a medical report from the applicant, to show that he/she is in reasonably good health.

**Current Local Policy (Reg 18 1997): The London Borough of Hammersmith and Fulham**

*Time limits for elections to pay back contributions will be set in relation to each individual case and as and when each situation arises.*

**Recommended local policy**

The Council will not fund in whole or in part pension contributions to cover a period of absence due to a trade dispute. The Council will only in exceptional circumstances fund in whole or in part pension contributions to cover a period of absence with employer permission.

If the period of absence relates to a medical condition the Council will always require a medical report from an applicant – obtained at the applicant’s cost – before agreeing any additional pension contributions.

**6. STATEMENT OF ADMINISTERING AUTHORITY POLICY**

6.1 There are two specific matters on which the Council needs to declare its local policy as an administering authority. These are set out below, and for each there is a reference to the relevant statutory regulation, a brief explanation of the issue, and a recommended local policy:

**6.2 Awarding Death Grant payments**

*Regulation 40 LGPS Regs 2013 (replacing Reg 23 Admin Regs 2008)*

This regulation gives an administering authority absolute discretion as to the person to whom a death grant payment should be made.

**The London Borough of Hammersmith and Fulham Current Local Policy**

Decisions about the payment of death grants will be considered and made by the Bi-Borough Director of Human Resources.

**Recommended local policy**

The Council will decide to whom death grants should be paid, taking into account, but not limited to any “expression of wish” form.

Where there is no “expression of wish” form or an existing nomination which may no longer reflect the scheme member’s intentions, for example there is a subsequent marriage, divorce or children, letters of administration or grant of probate may be requested.

### 6.3 **Paying Child Pensions**

*Schedule 1 LGPS Regs 2013 (replacing Reg 26 Admin Regs 2008)*

Under this schedule, an administering authority has the discretion to treat a child's full-time education or vocational training as continuous, ignoring any break.

**The London Borough of Hammersmith and Fulham Current Local Policy:**  
Applications for reinstatement of children's pensions will be considered on an individual basis in the light of all relevant considerations and will be decided on the merits of each case.

#### **Recommended local policy**

The Council will take into account the circumstances of each individual case which will include consideration of the reasons for the break, e.g. unplanned change in circumstances or bereavement.

## **7. CONSULTATION**

7.1 These regulations are the culmination of over two years discussion and consultation with all local government pension scheme interested parties, which began with the publication of Independent Public Service Pensions Commission's final report in March 2011.

7.2 At the June 2010 Budget the Government invited Lord Hutton of Furness to chair the Independent Public Service Pensions Commission. The purpose of the Commission was to carry out a "fundamental structural review" of public service pensions provision, and to make recommendations on pension arrangements that are "sustainable and affordable in the long term, fair to both the public service workforce and the taxpayer, and consistent with the fiscal challenges ahead, while protecting accrued rights".

7.3 The main recommendation from the Commission's final report was that the current final salary public service pension schemes should be replaced by new schemes which would continue to be defined benefit schemes with pension entitlement linked to salary, but rather than being linked to an employee's final salary, pension benefits would be linked to career average earnings.

## **8. EQUALITY IMPLICATIONS**

8.1 There are no equality implications.

## **9. LEGAL IMPLICATIONS**

9.1 This report has been reviewed by Tasnim Shawkat for legal implications.



## **10. FINANCIAL & RESOURCES IMPLICATIONS**

10.1 This report has been reviewed by Andrew Lord for any financial / resource implications.

## **11. RISK MANAGEMENT**

11.1 The Council's administrative systems that support these regulations, and those of any of its third party pension administration providers, will be upgraded to ensure that all of the new regulations are enacted.

## **12. PROCUREMENT & STRATEGY IMPLICATIONS**

12.1 There are no procurement / strategy implications.

### **LOCAL GOVERNMENT ACT 2000** **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	LGPS Scheme	Debbie Morris	FCS Room 142 HTH

#### **LIST OF APPENDICES:**

**Appendix 1: The Local Government Pensions Scheme 2014 – Capita Employee Benefits**