



Local Pension Board

Date Thursday 6 September 2018
Time 2.00 pm
Venue Committee Room 2 - County Hall, Durham

Business

1. Apologies for Absence
2. Declarations of Interest (if any)
3. The Minutes of the Meeting held on 14 June 2018 (Pages 3 - 6)
4. Observations from Pension Fund Committee held on 6 September 2018
5. Training
6. Work Plan
 - a) Local Government Pension Scheme Administering Authority and Employer Discretions (Pages 7 - 16)
 - b) Review of Work Plan
7. Date of Next Meeting
8. Any Other Business

Helen Lynch
Head of Legal and Democratic Services

County Hall
Durham
29 August 2018

To: **The Members of the Local Pension Board**

Scheme Employer Representatives

Councillors A Hopgood and F Tinsley

Scheme Member Representatives

IR Densham, N Hancock and G Sykes

Contact: Jill Errington

Email: 03000 269703

DURHAM COUNTY COUNCIL

At a Meeting of **Local Pension Board** held in Council Chamber - County Hall, Durham on **Thursday 14 June 2018 at 2.00 pm**

Present:

Scheme Employer Representatives:

Councillors A Hopgood and Fraser Tinsley

Scheme Member Representatives

Ian R Densham and Neville Hancock

Officers:

Nick Orton – Pensions Manager

Beverley White – Finance Manager – Pensions and Technical

1 Election of Chair

Nominations were sought for a scheme employer representative to chair the Board for the ensuing year.

AGREED that Councillor Amanda Hopgood be elected Chair of the Local Pension Board for the ensuing year.

2 Apologies for Absence

Apologies for absence were received from Geoff Sykes, scheme member representative and Bryan Smith, Legal Manager – Litigation.

3 Declarations of Interest (if any)

There were no declarations of interest.

4 Minutes

The Minutes of the meeting held on 7 December 2017 were agreed as a correct record and were signed by the Chairman.

5 Local Pension Board Recommendation - Meeting Arrangements

Board Members considered the Pension Fund Committee's response to the Board's recommendation in relation to meeting arrangements.

The suggestion was made that consideration be given to providing questions to the Managers in advance of each meeting which would further help the Committee to

maximise the time spent with Managers to discuss their performance. It was noted that arrangements would change with the implementation of pooling in that a Customer Relationship Manager would attend on behalf of the BCPP to discuss performance.

The Board **AGREED** to continue to monitor the current arrangements and review again following the implementation of pooling.

6 Observations from Pension Fund Committee held on 14 June 2018

Ian Densham, Neville Hancock and Councillor Hopgood (for part of the meeting) were in attendance at the Pension Fund Committee and provided observations.

Board Members were encouraged that the Committee was taking the opportunity to question the Managers, guided by suggested questions from the Independent Adviser based on the attending Managers' performance in the quarter. This had improved the Committee's challenge of the Managers.

AGREED that the information given be noted.

7 Training

Nick Orton advised that the Pension Fund Committee and the Local Pension Board had been asked to complete a training needs analysis, and the next step was to meet with the Chairman and Vice-Chairman of Pension Fund Committee to discuss the needs that had been identified by Members and proposed training.

With regard to specific training for the Local Pension Board, Members had completed the Pensions Regulator's on-line training module but the suggestion was made that Nick Orton approach colleagues in the pool to establish if their Local Pension Boards had received other specific training. Neville Hancock advised that the Shadow Scheme Advisory Board had undertaken research into training requirements, and he would find out what progress had been made with that research and report back to the Board.

AGREED that the information given be noted and further information on specific training for Local Pension Boards be awaited.

8 Work Plan

a Communications Review

The Board considered the report of the Corporate Director of Resources which provided Board Members with details of how different stakeholder groups received communication from the Pension Fund, and explained current plans to develop the Communication Strategy (for copy see file of Minutes).

Board members referred to the provision of newsletters for all categories of member and discussed the feasibility of electronic communication, including the Annual Benefit Statement.

Members noted that current communication arrangements with scheme members and employers met legal requirements, and Nick Orton advised that Officers were exploring the provision of some on-line information for active members. The Authority also hoped to roll out employer access to the Fund's on-line system to update new scheme members and leavers.

Ian Densham asked if the information provided to scheme members was affected by the new requirements under GDPR. Nick Orton explained that the Authority had a legal obligation to provide and publicise information about the scheme to members, and a privacy notice had been produced to reflect this, using a notice which had been developed nationally. As part of GDPR a retention document had been produced which specified the retention period for holding scheme member information.

AGREED that the information given be noted and Officers explore the feasibility of electronic communication with members of the pension scheme in future.

b Internal Dispute Cases, and Pensions Ombudsman Cases

The Committee considered a report of the Corporate Director of Resources which provided Board Members with a summary of the outcomes of internal dispute cases or Pensions Ombudsman cases the Pension Fund had been involved in since April 2015 (for copy see file of Minutes).

AGREED that the information given be noted.

9 Date of Next Meeting

AGREED that the next meeting be held on Thursday 6 September 2018 at 2.00pm following Pension Fund Committee.

10 Any Other Business

i) Scheme member/employer representation on the BCPP Joint Committee

Neville Hancock referred to the discussion at the Pension Fund Committee concerning the appointment of a scheme member and scheme employer to the BCPP Joint Committee, and that Trade Unions were lobbying for a scheme member position due to their capacity to represent members. The Shadow Scheme Advisory Board had recommended that in most circumstances it would expect a scheme member and scheme employer to be represented on the Joint Committee.

Board Members were in agreement that one scheme member and one scheme employer should be represented and noted that this had been supported by the Pension Fund Committee. Members also agreed that

consideration should be given to a suitable recruitment process, given the number of scheme members and employers.

Following discussion it was **AGREED** that a letter be sent to the Chairman of the Pension Fund Committee advising of the Board's support to the appointment of a scheme member and scheme employer on the Joint Committee, and that the pool consider a practical recruitment process.

ii) **Filling of Vacant Positions – Pension Fund Committee**

Board Members asked for an update in respect of the vacant positions on the Pension Fund Committee. Nick Orton advised of the recent appointment of Andy Broadbent, Further Education Colleges representative, and reported that interviews for two pensioner representatives were due to take place in the next few weeks.

AGREED that the information given be noted.

Local Pension Board

6 September 2018

Local Government Pension Scheme Administering Authority and Employer Discretions



John Hewitt, Corporate Director of Resources

Purpose of the Report

1. The purpose of this report is to advise the Board of the choices available to the administering authority and to employers under the regulations governing the Local Government Pension Scheme (LGPS), and how these are being exercised within the Pension Fund.

Background

2. Under the regulations governing the LGPS administering authorities and employing authorities have a number of separate choices in relation to benefits or options that can be made available to scheme members under those regulations. These are usually referred to as administering authority discretions and employer discretions. The two appendices to this report set out the main administering authority discretions (Appendix A) and the employer discretions (Appendix B) made by the Council, along with some of the rationale behind those policy decisions.
3. Other employing authorities within the Pension Fund are able to choose how to exercise their employer discretions under the LGPS regulations. Most employers choose to exercise their discretions in a similar way to the Council, especially in those areas that can incur a cost to the employer such as the early release of unreduced pension benefits and the awarding of additional pension.

Recommendation

4. The Board is asked to note this report and provide any comments on the way the Council exercises its discretions under the LGPS.

Contact: Nick Orton

Tel: 03000 269798

Appendix A – Administering Authority Discretions

Discretion	Regulation	Council's policy	Rationale / comment
<p>Whether to require a satisfactory medical before agreeing to an application to pay an Additional Pension Contribution / Shared Cost Additional Pension Contribution</p>	<p>R16(10)</p>	<p>A medical will not be required in respect of applications to pay Shared Cost Additional Pension Contributions following authorised unpaid leave of absence. For any other Shared Cost Additional Pension Contribution applications or for any application to pay (member only) Additional Pension Contributions, a letter from the individual's GP will be required stating they are in reasonably good health for their age. This letter will not be required if the additional contributions are being paid as a one-off lump sum.</p>	<p>Pension bought through paying Additional Pension Contributions is normally paid for over a number of years. If contributions are not continued for the full contract only a pro-rated amount of pension is credited except in cases of ill-health retirement or death in service. Requiring a medical protects the Pension Fund / pension fund employers from having to meet the extra cost in cases where an individual takes out a contract already aware of their poor state of health.</p> <p>Medicals are not required in respect of shared cost additional pension contributions as these are by their nature small amounts which relate to authorised unpaid leave of absence.</p>

Discretion	Regulation	Council's policy	Rationale / comment
Whether to require any strain on Fund costs to be paid "up front" by employing authority following payment of benefits under R30(6) (flexible retirement), R30(7) (redundancy / business efficiency), or the waiver (in whole or in part) under R30(8) of any actuarial reduction that would otherwise have been applied to benefits which a member voluntarily draws before normal pension age or to benefits drawn on flexible retirement	R68(2)	Employers will be required to pay these strain costs either as a one-off lump sum due from the individual's retirement date or in five annual instalments with the first instalment due on the individual's retirement date. Where payment by instalments is selected an interest element will be added to each payment.	Few (if any) employers choose the five instalment approach to making early retirement strain costs. This is presumably owing to the interest rate applied, which was set some years ago and was intended to reflect the return on investment the Pension Fund could expect – it equates to 8% a year compound interest.
Whether to require any strain on Fund costs to be paid "up front" by employing authority following flexible retirement under R30(6) or waiver of actuarial reduction under TPSch 2, para 2(1) or release of benefits before age 60 under B30 of B30A	TPSch 2, para 2(3)	Employers will be required to pay these strain costs either as a one-off lump sum due from the individual's retirement date or in five annual instalments with the first instalment due on the individual's retirement date. Where payment by instalments is selected an interest element will be added to each payment.	

Discretion	Regulation	Council's policy	Rationale / comment
Decide to whom death grant is paid	TP17(5) to (8) & R40(2), R43(2) & R46(2)	Discretion to be exercised by the Pensions Manager on behalf of the Corporate Director of Resources under delegated powers to make payments in accordance with any nominations received or to anyone who would appear to be the beneficiary.	This is a practical approach, to delegate authority to officers to ensure the payment of death grants can be processed promptly.
Whether to pay death grant due to personal representatives or anyone appearing to be beneficially entitled to the estate without need for grant of probate / letters of administration where payment is less than amount specified in s6 of the Administration of Estates (Small Payments) Act 1965		The Pensions Manager on behalf of the Corporate Director of Resources will make payments under the small payments legislation under delegated powers.	
Allow transfer of pension rights into the Fund	R100(7)	To allow transfers of pension rights into the Fund (provided the time limits set out in the regulations have been adhered to)	Allows scheme members the option to transfer-in pension rights from other schemes. Relies on factors (currently provided by the Government Actuary's Department) ensuring the liabilities transferred in appropriately match the assets transferred in.
Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	R100(6)	To allow the 12 month time-limit for transfers-in to be extended, provided the relevant scheme employer has agreed to the extension	Makes accepting late transfers-in an issue for the scheme employer (as they will pick up any additional defined benefit pension risk if the transfer proceeds).

Discretion	Regulation	Council's policy	Rationale / comment
Decide to treat child as being in continuous education or vocational training despite a break	RSch 1 & TP17(9)	Exercise discretion to ignore breaks in education or vocational education if the break does not exceed one year	This allows for those receiving a child's pension because they are under age 23 and in full-time education or vocational training to continue to receive a child's pension after a break in education / vocational training of up to a year (although payment does not continue during that break). Note a scheduled school / college / university holiday does not constitute a break for these purposes.
Decide policy on abatement of pre 1 April 2014 element of pensions in payment following re-employment	TP3(13) & A70(1)* & A71(4)(c)	Abatement of pensions will not apply with the exception of the abatement of old 'added years' pensions as required under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 and 2006	In line with many other administering authorities, the Council does not apply 'abatement'. It was always difficult to administer and enforce, as well as being a concept which is difficult to reconcile with the relaxation of HMRC's restrictions (from April 2006) around drawing a pension and continuing to work, and with general modern employment practices.

Appendix B – Employer Discretions

Discretion and regulation	Council's policy	Rationale / comment
Whether to grant additional pension to a member (initially up to £6,500 a year – now (2018/19 up to) [R31]	The Council will only consider exercising this discretion where it is in the Council's financial interests to do so.	Very unlikely to be in an employer's financial interest to award additional pension, 'switch on' the rule of 85, waive actuarial reductions or pay for some or part of a scheme member's additional pension purchase when not required to do so.
Whether to allow the rule of 85 to be "switched on" for members who would normally meet the rule but who will not if they draw the benefits age 55-59 [TPSch2, para 1(1)(c)]	The Council will only consider exercising this discretion where it is in the Council's financial interests to do so.	
Waiving actuarial reduction on early retirement (age 55+) – for both active, deferred members & suspended tier 3 ill health pensions [R30(8)]	The Council will only consider exercising this discretion where it is in the Council's financial interests to do so.	
Whether to it make either a regular or lump sum Additional Pension Contribution (APC) to a member's account (part or whole funding this) [R16(2)e & R16(4)d]	The Council will only consider exercising this discretion where it is in the Council's financial interests to do so. Note: for cases where a member has a period of authorised unpaid leave of absence and chooses within 30 days of return to work to pay a Shared Cost APC to cover the amount of pension 'lost' during that period of absence, the employer must contribute 2/3rds of the cost to a Shared Cost APC; there is no discretion)	

Discretion and regulation	Council's policy	Rationale / comment
<p>Whether all or some pension benefits can be paid if an member aged 55 or over reduces their hours/grade and continues to work ("flexible retirement"), and whether to waive some or all of any actuarial reduction that applies on flexible retirement. [R30(6) & R30(8)]</p>	<p>The Council will consider applications for "flexible retirement" on an individual basis. Decisions will be made on the merits of each case, considered in the following context:</p> <ol style="list-style-type: none"> 1) The proposed reduction in hours or grade required to facilitate flexible retirement must be compatible with the requirements of the Service. 2) If a reduction in hours is proposed, it must be by a minimum of 20%. 3) A flexible retirement request which causes a cost to the Council (including any request to waive some or all of the actuarial reductions that apply) would normally be refused except in exceptional circumstances, for example <ol style="list-style-type: none"> a) where the Corporate Director, Resources deems it to be in the interests of the authority to pay the cost and there are sound financial reasons for doing so. Any recommendation must be approved by the HR Committee or b) on the grounds of compassion where in the opinion of the Corporate Director, Resources, the special factors surrounding the application, along with the appropriate supporting evidence provided, justify such a recommendation. Any such recommendation should also take into account the Council's ability to meet the cost of granting such a request. 	<p>Very occasionally flexible retirement cases that involve a cost can be considered to meet the financial criteria. For example, if an individual is reducing their hours and this is a permanent reduction in the organisation's establishment there will be a saving which can be set against the cost of early release of benefits.</p>

Discretion and regulation	Council's policy	Rationale / comment
Whether, how much, and in what circumstances to contribute to a shared-cost Additional Voluntary Contribution (SCAVC) arrangement [R17(1) & Definition of SCAVC in Schedule 1]	The County Council does not propose to establish a SCAVC arrangement at the present time. The potential introduction of such arrangements will be reviewed when the County Council element of the Pension Fund is certified by the Actuary as being fully funded i.e. that assets cover 100% of liabilities	Some employers in other LGPS funds have introduced shared cost AVCs through salary sacrifice, as a way of reducing National Insurance costs for employers and the scheme members who pay AVCs this way. This is something that could be considered in future.
Whether to extend 12-month period to separate previous LG service. [R22(8)&(9)]	The Council (as a Scheme Employer) will only allow an extension to the 12-month period to separate previous local government service in exceptional circumstances, for example where it can be reasonably shown that the member was not provided with the required information within 9 months of starting employment.	Scheme members should be made aware of their options soon after they join the scheme.
Determine rate of employees' contributions. [R9(3)]	The Council will review all employees contribution band on a monthly basis, and in addition whenever an employee's contractual hours or rate of pay changes.	The Council's approach has changed from annual to monthly reassessment of contribution bands.
Whether to extend 12-month period to allow a transfer-in of non-LG pension rights. [R100(6)]	The Council (as a Scheme Employer) will only allow an extension to the 12-month period to transfer-in non-local government pension rights in exceptional circumstances, for example where it can be reasonably shown that the member was not provided with the required information within 9 months of starting employment.	Scheme members should be made aware of their options soon after they join the scheme.

Discretion and regulation	Council's policy	Rationale / comment
<p>Whether or not, when calculating assumed pensionable pay when a member is:</p> <ul style="list-style-type: none"> • on reduced contractual pay or no pay on due to sickness or injury, or • absent during ordinary maternity, paternity or adoption leave or during paid additional maternity, paternity or adoption leave, or • absent on reserve forces service leave, or • retires with a Tier 1 or Tier 2 ill health pension, or • dies in service <p>to include in the calculation the amount of any 'regular lump sum payment' received by the member in the 12 months preceding the date the absence began or the ill health retirement or death occurred. A 'regular lump sum payment' is a payment for which the member's employer determines there is a reasonable expectation that such a payment would be paid on a regular basis</p> <p>[R21(4)(a)(iv), R21(4)(b)(iv) and R21(5)]</p>	<p>As the Council rarely makes any 'regular lump sum payments', this decision will be taken on a case by case basis.</p>	<p>The regulations have changed recently to allow further discretion for employers when determining 'assumed pensionable pay' in these cases.</p>