

Decision Maker: General Purposes & Licensing Committee

Date: 27^h November 2018

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **LOCAL GOVERNMENT PENSION SCHEME (AMENDMENT) REGULATIONS 2018**

Contact Officer: Fahar Rehman, Pensions Manager
Tel: 020 8461 7024 E-mail: fahar.rehman@bromley.gov.uk

Tammy Eglinton, Head of HR Consultancy
Tel: 020 8 313 4209 E-Mail: tammy.eglinton@bromley.gov.uk

Chief Officer: Director of Finance
Director of Human Resources

Ward: Borough Wide

1. Reason for report

1.1 This report provides details of required amendments to the Council's published discretionary policies arising from the Local Government Pension Scheme (Amendment) Regulations 2018 and of a new requirement for exit credits to be paid.

2. **RECOMMENDATION(S)**

2.1 The General Purposes and Licensing Committee is requested to:

- (i) note the changes to the Local Government Pension Scheme Regulations and how they impact on employer discretions relating to early payment of retirement benefits (3.2).
- (ii) note the consultation from MHCLG regarding the intention of Regulations to pay early retirement benefits from age 55 rather than at age 55 (3.2.3.6).
- (iii) agree the updated discretionary policies arising from these changes as detailed in Appendix 2;
- (iv) note the change in Regulation that requires payment of exit credits to employers that exit the fund (3.3);

Corporate Policy

1. Policy Status: Existing Policy: The Council's pension fund is a defined benefit scheme operated under the provisions of the Local Government Pension Scheme (LGPS) Regulations, for the purpose of providing pension benefits for its employees.
 2. BBB Priority Excellent Council
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Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: N/A
 3. Budget head/performance centre: Pension Fund.
 4. Total current budget for this head: £40.7m expenditure (pensions, lump sums, etc); £52.5m income (contributions, investment income, etc); £1,046m total fund market value at 30th September 2018)
 5. Source of funding: Contributions to Pension Fund
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Staff

1. Number of staff (current and additional): n/a
 2. If from existing staff resources, number of staff hours: n/a
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Legal

1. Legal Requirement: Statutory Requirement The Local Government Pension Scheme Regulations 2013 (as amended)
 2. Call-in: Not Applicable:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 6,071 current employees; 5,256 pensioners; 5,729 deferred pensioners as at 30th September 2018.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Council Wide

3. COMMENTARY

- 3.1.1 The Local Government Pension Scheme (LGPS) Regulations 2013 and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 resulted in significant changes to the LGPS which came into force on 1st April 2014. Details were reported to General Purposes and Licensing Committee on 10th June 2014. The report also provided details of the Councils' published discretionary policies, amended to reflect the updated Regulations.
- 3.1.2 The LGPS (Amendment) Regulations 2018 introduce some further changes requiring amendments to the Council's published discretions which are detailed below.
- 3.1.3 Another significant change arising from the 2018 Regulations is a new requirement for the Pension Fund to pay any surplus (exit credit) to an employer exiting the fund. This is detailed in section 3.3.

3.2 Discretionary Policies

- 3.2.1 Under LGPS Regulations, employers and administering authorities are required to formulate and keep under review a statement of policy on various employer discretions where the employer is able to apply flexibility to the Regulations. Regulation 60 requires a scheme employer or administering authority to publish a written statement of its policy relating to certain of these discretionary functions.
- 3.2.2 Although there are number of individual discretions, they can be summarised as relating to funding of additional pension contributions, the operation of early retirement and flexible retirement provisions and the award of additional pension.

3.2.3 Funding of Additional Pension:

- 3.2.3.1 Active members may purchase additional annual pension (up to a maximum amount of £6,822 from 1st April 2018 to be increased by annual pensions increase) by entering into an agreement to pay additional pension contributions. The cost is determined by the Government actuary and contributions can be made by way of either a lump sum payment or regular contributions. A scheme employer has discretion to contribute to the cost of these additional contributions, either in full or in part.
- 3.2.3.2 The Council's policy is that this discretion would not normally be applied due to the additional costs that would be incurred. However, exceptionally it may be in the Council's interests to consider this option in which case Members' agreement would be required taking into account legal, financial and HR advice appropriate to the individual circumstances.

3.2.3.3 There are no changes arising from the 2018 Regulations.

3.2.3 Early / Flexible Retirement:

- 3.2.3.1 An employer, former employer or an administering authority where the employer no longer participates in the Fund may agree to waive, in whole or in part, any reduction to benefits that applies on early retirement (from age 55) or flexible retirement. Under the 2013 scheme, active members and deferred members with benefits accrued from 1st April 2014 may choose to take their pension benefits from age 55 (previously age 60) without their employer's consent although actuarial reductions will be applied unless the employing authority agrees to waive them.

- 3.2.3.2 Currently in considering applications for early/flexible retirement the Chief Officer's Early Retirement Panel may exercise discretion to waive any actuarial reduction of pension benefits in individual cases based on the demonstrable benefits of the business case including the cost, impact on the service, officer's contribution to the service and any compassionate grounds. The cost factor is also a key consideration.
- 3.2.3.3 This is in line with the Council's Flexible Retirement Policy and Pay Policy Statement (reported to General Purposes & Licensing Committee on 6th February 2018 and full Council on 26th February 2018).
- 3.2.3.4 The changes arising from the 2018 Regulations are:
- 3.2.3.5 Deferred members, including Councillors, who left before 1st April 2014 can also now access actuarially reduced pension benefits from the age of 55 without their employers consent.
- 3.2.3.6 Due to an anomaly in the Regulations, members who left the scheme before 1st April 1998 can only access their pension early at age 55 (rather than from age 55). On 4th October 2018 The Ministry of Housing, Communities and Local Government (MHCLG) began an 8 week consultation to make a technical amendment to the Regulations to reflect the true intention to allow payment of benefits from age 55 rather than at age 55.
- 3.2.3.7 As a result of the changes to the LGPS relating to early release of pension benefits for deferred members who left the scheme before 1st April 2008, the employer discretion to allow early access to benefits between the ages of 50 and 60 has now been amended to ages 50 to 55.
- 3.2.3.8 In summary, there are no significant changes to the Council's existing discretionary policies relating to flexible and early retirement, merely an extension to cover scheme members who left the scheme before 1st April 2014.

3.2.4 Award of Additional Pension

- 3.2.4.1 An employer may award an active pension scheme member, or someone who leaves employment on grounds of redundancy or business efficiency, additional pension of up to the additional pension limit (£6,822 from 1st April 2018 increased by annual pensions increase). This replaced a previous discretion to award additional service ("added years") for pension purposes. The cost of awarding additional pension is determined by the Government actuary and is met in full by the employer.
- 3.2.4.2 The Council's current policy, as reflected in the 2018/19 Pay Policy Statement for Chief Officers, is that the Council would not normally agree any discretionary increase in or enhancement of pension entitlement. However, exceptionally, it may be in the Council's interests to consider this option in which case Members' agreement would be required taking into account legal, financial and HR advice appropriate to the individual circumstances.
- 3.2.4.3 There are no changes arising from the 2018 Regulations.

3.2.5 Non-Mandatory Discretions

- 3.2.5.1 There are a large number of other existing policies and discretions relating to the Council's responsibilities under LGPS Regulations which are not required to be published under Regulation 60. These are continuously reviewed and have been updated to reflect any required changes arising from the 2018 Regulations.

3.2.5.2 Appendix 1 provides a summary of the Council's current published discretionary policies and the updated position, reflecting changes introduced by the 2018 Regulations, is summarised in Appendix 2.

3.3 Requirement to Pay an Exit Credit

3.3.1 Employers in the London Borough of Bromley Pension Fund include Admitted Bodies and Scheduled Bodies. Admitted Bodies are employers that do not have automatic right of access to the LGPS but have been admitted in to the Bromley Fund through a signed and sealed admission agreement. This would include employers relating to outsourced services.

3.3.2 Scheduled Bodies are public bodies that have an automatic right to access the LGPS and an example of this is Academies.

3.3.3 An Exit event (Cessation) for an employer occurs when either the contract ends or when there are no remaining active members working for the employer.

3.3.4 On Cessation, the Administering Authority instructs the scheme actuary to carry out a Cessation Valuation to determine the value of the Exiting employer's assets and liabilities. Employers are required to pay any outstanding deficit to the Pension Fund where liabilities are greater than the value of the assets.

3.3.5 Exit Credits relate to instances where the assets of an employer exiting the pension fund are greater than their pension liabilities based on calculations by the scheme actuary. Under LGPS 2013 Regulations, there was no legal requirement for the pension fund to return such a surplus to an exiting employer.

3.3.6 Regulation 13 of the LGPS (Amendment) Regulations 2018 introduces a new requirement for the Pension Fund to pay any surplus to an employer exiting the Pension Fund within 3 months of the exit event.

3.3.7 This change in Regulation requires an amendment to the Fund's Termination Policy. This will be reported to the Pensions Investment Sub Committee as part of the Pension Fund Annual Report.

4. POLICY IMPLICATIONS

4.1 The Council's Pension Fund is a defined benefit scheme operated under the provisions of the Local Government Pension Scheme (LGPS) Regulations for the purpose of providing pension benefits for its employees.

5. FINANCIAL IMPLICATIONS

5.1 There are no additional costs arising from the discretionary policies set out in this report as they are, in the main, a continuation of existing policies.

6. LEGAL IMPLICATIONS

6.1 The Public Service Pensions Act 2013 provides primary legislation for all public service schemes including the LGPS 2014.

6.2 Regulation 60 of the LGPS Regulations 2013 requires the Council to prepare and publish a written policy on certain discretions.

7. PERSONNEL IMPLICATIONS

- 7.1 Council officers liaise with the Council's Pensions Contractor, Liberata, to ensure that there is regular communication with members about their pension benefits to enable them to make informed decisions about their pensions. Information is disseminated by regular newsletters advising members of any updates or changes to the Local Government Pension Scheme Regulations.

Non-Applicable Sections:	Procurement Impact on Vulnerable Adults and Children
Background Documents: (Access via Contact Officer)	Public Service Pension Act 2013 LGPS Regulations 2013 LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 LGPS (Amendment) Regulations 2018