

# REPORT TO COUNCIL

REPORT OF: CLLR PAUL CARPENTER  
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REPORT NO.: HR & OD 95 updated

DATE: 3<sup>rd</sup> March 2008

<b>TITLE:</b>	<b>New look pension scheme policy statement</b>
<b>FORWARD PLAN ITEM:</b>	Yes
<b>DATE WHEN FIRST APPEARED IN FORWARD PLAN:</b>	September 2006
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	<b>Policy</b>

<b>COUNCIL AIMS/PORTFOLIO HOLDER NAME AND DESIGNATION:</b>	Paul Carpenter, Deputy Leader Portfolio holder for HR & OD	
<b>CORPORATE PRIORITY:</b>	Use of Resources	
<b>CRIME AND DISORDER IMPLICATIONS:</b>	N/A	
<b>FREEDOM OF INFORMATION ACT IMPLICATIONS:</b>	N/A	
<b>INITIAL EQUALITY IMPACT ASSESSMENT</b>	<b>Carried out and appended to report?</b>  <b>Yes</b>	<b>Full impact assessment required?</b>  <b>No</b>
<b>BACKGROUND PAPERS:</b>	SD 13 report to Council & appendix <a href="http://moderngovsvr/mgConvert2PDF.asp?ID=4523&amp;J=3">http://moderngovsvr/mgConvert2PDF.asp?ID=4523&amp;J=3</a> <a href="http://moderngovsvr/mgConvert2PDF.asp?ID=4525&amp;J=3">http://moderngovsvr/mgConvert2PDF.asp?ID=4525&amp;J=3</a> Statutory Instrument 2007 No. 1166	

## **1. INTRODUCTION**

The changes to the local government pension scheme have been anticipated for some time. The primary legislation to effect the changes was passed in April 2007 to come into effect on 1<sup>st</sup> April 2008. It changes the basis of the scheme as well as its practical operation. This report and policy statement is based on the advice and guidance supplied by Local Government Employers (LGE) and the Department for communities and local government (DCLG) to date. It is likely that there will be amendments to the legislation. To enable the effective introduction of the scheme we are required to restate the Councils discretions alongside the scheme changes. This report was considered and approved at the cabinet meeting dated 11<sup>th</sup> February 2008.

## **2. RECOMMENDATIONS**

- 2.1. The council adopts the policy statement detailed in appendix 1 of this report.
- 2.2 The council adopts the discretions detailed in section 3 of the policy statement and requires that they be formally notified to the pension scheme administrators.
- 2.3 The council notes that the policy statement is subject to the outcomes of the consultation with the unions.
- 2.4 The council notes that the policy statement may be subject to further changes arising from DCLG & LGE guidance

## **3. DETAILS OF REPORT**

- 3.1 The new look pension scheme 2008 is significantly different to the scheme based on the 1997 regulations.

The major changes are:

- Eligibility to join the scheme is restricted to employees with an employment contract of over 3 months. Existing employees automatically move over to the new scheme.
- Employee contributions change from a flat rate of 6% to a range of contributions between 5.5% and 7.5%. The bands are based on income – so those on lower salaries pay lower contributions than those on higher salaries. There is no change to the definition of pensionable pay.
- Craft and manual worker contributions (formerly at a flat rate of 5%) are on a phased programme so that they are integrated into the same income based bands over the next 3 years.
- The benefits payable on retirement are made on a different calculation base 60<sup>ths</sup> rather than 80<sup>ths</sup>. Existing employees who retire will receive pension benefits derived from 2 sets of calculations based on old scheme membership and new scheme membership.
- Lump sum pensions are not an automatic feature of the new scheme as they are in the current scheme. In the new scheme employees can elect to

commute part of their pension to a lump sum if they wish on a 1:12 basis. The maximum allowed is 25% of the capital value of benefits.

- Benefits are calculated on an employee's final pay. In the 2008 scheme it now permits the best of the last three years pensionable pay to be used.
- Employees can remain in the scheme when aged over 65 and their benefits will be actuarially increased. They must draw their pension benefits before age 75.
- Voluntary early release of pension benefits will be subject to actuarial reduction (subject to the old "rule of 85" protections that are in transitional arrangements).
- Flexible retirement is permitted with employer consent.
- Benefits paid on death in service are improved to beneficiaries.
- For employees permanently incapable of work through ill health there is the introduction of two tier ill health benefits based on the likelihood of gaining gainful employment.
- There is provision in the scheme for employees to buy additional scheme membership/ additional voluntary contributions.
- The earliest age at which benefits become payable rises from 50 to 55, with transitional arrangements in place for existing members until 2010.

3.2 All staff will be briefed on the new look pension scheme via nationally produced information and information provided by our scheme administrators at Lincolnshire County Council. There will be information provided for reference on the intranet.

The intention is to deliver this information in March 2008 when the latest guidance has been received.

3.3 There are considerable practical and administrative issues to address to enable the implementation of the scheme for April 2008 and a project plan is being implemented.

#### **4. CHANGES TO THE NEW 2008 SCHEME**

4.1 From the briefings and guidance received to date there are still parts of the new regulations that require amendment and / or further clarification. For example the regulations permit flexible retirees to draw all or part of their benefits. We are awaiting guidance as to how part payment is intended to operate.

4.2 The consultation on a possible 3<sup>rd</sup> tier Illhealth retirement has closed but as yet we have not received any indication as to whether this option will come to fruition.

The proposal is that employees who are permanently incapable of doing their present job can retire and draw their benefits accrued to date, without enhancement, if it is judged by the specialist occupational health physician that they could obtain gainful employment soon after retirement from their existing employment. We have been led to believe that this may be introduced for the start of the new scheme.

- 4.3 Annual reviews of contribution bands are a feature of the scheme.
- 4.4 There will be a considerable impact on occupational health services in relation to Illhealth retirement certification.

## **5. OTHER OPTIONS CONSIDERED AND ASSESSED**

This report and policy is to achieve legislative compliance.

The alternative to this local pension scheme would be to adopt the County Council scheme. The County Council's current policy is significantly different to this policy in relation to discretion 7, where the County Council adopts the discretion to augment pensionable service up to a maximum of 10 years, and will do so sparingly. This is a significant benefit to an employee however it can be at a considerable cost to the council and given the financial position it seems inappropriate to commit to a discretion that increase costs.

The County Council has not yet updated its discretions and policy statement for the new look pension scheme.

## **6. COMMENTS OF SECTION 151 OFFICER**

The attached policy statement incorporates the safeguards and improvements in administration implemented following the review of the Council's existing Pensions Policy under the old scheme, which were adopted following discussions with the Pension Scheme Administrators and District Audit. In particular, the fact that each application for early release of pension will be considered on its own merits and will be evaluated on the basis of a business case, employment law and legal issues.

The report highlights that the Council has the option to either vary employees' contribution bands during the year or adopt the same policy as the scheme administrators (Lincolnshire County Council) to review annually providing the scheme delivers the contribution rate required. The attached policy adopts the same approach as the County Council, the financial impact of this option should be minimal, however, this aspect of the policy should be kept under review to ensure that the scheme delivers the contribution rate required.

## **7. COMMENTS OF MONITORING OFFICER**

I am advised this policy has been introduced to update existing arrangements and introduce new requirements in accordance with The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 007 - statutory instrument 2007 No. 1166.

Further changes to the legislation are expected within the next year which will require further amendments to the policy. The policy will be kept under constant review.

## **8. COMMENTS OF SERVICE MANAGER FOR HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT**

The new look pension scheme policy statement needs to be in place for the 1<sup>st</sup> April 2008 to ensure continuity between the current pension scheme policy statement which must end on 31<sup>st</sup> March 2008 and the new arrangements that apply from 1<sup>st</sup> April 2008.

## **9. CONCLUSION/SUMMARY**

The new look pension scheme commences in April 2008 and the statutory regulations prescribe its operation. This report and policy statement is to ensure that the council is compliant with the new regulations. The policy statement in appendix 1 has been reviewed by the Lincolnshire pension administrators as technically correct.

## **10. CONTACT OFFICER**

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**SKDC Statement of Pensions Policy****"New Look" scheme 2008****Effective from 1<sup>st</sup> April 2008****1. Introduction**

- 1.1 This policy applies to all employees who are members of the local government pension scheme. Employees must have a contract of employment for more than 3 months duration in order to be entitled to join the scheme.
- 1.2 It defines the discretions applied by this Council as required in the legislation. It also details the different retirement arrangements that are available within legislation and the pension regulations.
- 1.3 It reflects current regulations, practices and arrangements and is in accordance with decisions made by the Council on 26th October 2006 and the cabinet decision on 11<sup>th</sup> February 2008.
- 1.4 The policy notes that transitional arrangements are in place for what are known as "rule of 85" retirements as part of the transitional arrangements between the old scheme which closes on 31<sup>st</sup> March 2008 and this "new look" scheme to be introduced on 1<sup>st</sup>. April 2008

**2. Principles**

- 2.1 The Council will treat each individual retirement case on its merits.
- 2.2 Decisions relating to retirement will be made following consideration of the relevant decision criteria, the business implications, financial implications, employment law considerations and legality of each case.
- 2.3 Each decision will be made free from discrimination on the grounds of gender, race, disability, age, religious belief, sexual orientation or any other personal criteria.
- 2.4 Employees will pay pension contributions according to the bands determined nationally. These bands are subject to review and may change. At the start of the scheme the bands are detailed in the following table and contributions are based on whole time equivalent pensionable pay.

<b>BAND</b>	<b>RANGE</b>	<b>CONTRIBUTION RATE</b>
1	£0 - £12,000	5.5%
2	£12,001-£14,000	5.8%
3	£14,001 -£18,000	5.9%
4	£18,000-£30,000	6.5%
5	£30,001-£40,000	6.8%
6	£40,001-£75,000	7.2%
7	£75,001 +	7.5%

- 2.5 Employees will be advised of their pension bands at the start of each financial year. The Council will adopt the same policy as the County Council in relation to the setting and review of bandings on an annual basis as long as the scheme delivers the required contribution rate.

2.6 Existing craft / manual workers who pay contributions at the protected 5% contribution rate will be brought into line with all other scheme members from 1<sup>st</sup> April 2011 in accordance with a nationally agreed progression. Currently these are :

1 <sup>st</sup> April 2008	5.25%
1 <sup>st</sup> April 2009	5.5%
1 <sup>st</sup> April 2010	6.5%
1 <sup>st</sup> April 2011	Standard bands

NB if their correct contribution band would be less than 6.5% then the 2007 table should be followed

2.7 Employees have the right to pay additional regular contributions of £250 per year or multiples thereof to a maximum of £5000 and these and / or AVC's are requested direct from the pension administrators who obtain calculations from the government actuary.

### **3. Discretions**

Under the Pension Regulations there is a requirement for employers to publish their discretionary provisions and deposit them with the pension scheme administrators. This part of the policy details those discretions.

#### **3.1 Discretion 1**

Since April 2006 there is no ceiling on the years of service that can count for pensionable service. Where employee contributions had been waived in the past, the service in question will be awarded to the individual without payment of the arrears of employee contributions. Employer contributions will have been paid anyway.

This discretion notes that it is no longer relevant to waive employee contributions and will adopt the discretion to award previously waived service without the employee being asked to pay previously waived contributions. This is in line with the County Council's policy.

#### **3.2 Discretion 2**

The addition of additional year's membership to a new employee within 6 months of commencing employment.

The Council does not adopt this discretion and notes that the County Council will be deleting the discretion.

#### **3.3 Discretion 3**

This discretion could enable the Council to share the cost of an additional voluntary contribution with the employee. The Council will not adopt this discretion.

#### **3.4 Discretion 4**

The granting widowers benefits for service between 1 April 1972 and 6 April 1988. This policy has now been applied to all relevant cases administered in the Lincolnshire scheme and it has been proposed to remove the discretion from the list.

The Council agrees to the deletion of the discretion.

### 3.5 **Discretion 5**

Employer consent retirement.

When an individual (whether an active member or a deferred member) exceeds the minimum age for the release of pension benefits on retirement (50 at present but increasing to 55 from 2010) they have the right to ask the employer to retire. The discretion, to give the employers consent to an early or flexible retirement, will be adopted by the council and will apply the following criteria to its approach. Each case will be assessed on the merits of its individual business case, which takes into account the following: Long term savings, affordability, skill retention, interests of efficiency and with no adverse effects on service delivery. Efficiency is defined as "efficiency shall include but not be limited to both financial savings and or quantifiable quality improvements judged on a case by case basis". As a general principle the council requires a reduction in working hours of 33% or a significant reduction in grade for an efficiency to be considered material in flexible retirement requests.

### 3.6 **Discretion 6**

The use and definition of compassionate grounds. The Council will adopt the discretion to not reduce pension benefits or release benefits on compassionate grounds. The Council will rely on the County Council's definition of compassionate grounds in this discretion. The County Council's definition is currently:

"Situations of severe personal distress resulting from non financial circumstances affecting the individual or close relative (e.g. spouse, child, parent) leading to unavoidable financial hardship".

Confirmation by the Pension Fund Medical Practitioner would also be required, where relevant.

### 3.7 **Discretion 7**

This allows the Council to augment an employee's pension membership up to a maximum of 10 years augmentation. The capital cost of the augmentation has to be paid, as a lump sum, into the pension fund. The Council will not apply this discretion.

### 3.8 **Discretion 8**

This allows the Council to award additional pension membership up to £5000 per annum.

The Council will not adopt this discretion.

## 4. Retirement options

There are many different retirement options available under the regulations. The decision about each retirement request must define the type of retirement as defined in this policy and in the regulations.

### 4.1 **Procedure**

A formal process will determine each case on its merits, in accordance with this policy statement and the current pension regulations. Consideration of the request for retirement will be made by the following people:

- The relevant service manager, for the business case / implications/ efficiency proposals

- HR & OD for the employment law considerations
- S151 Officer for the financial implications
- Monitoring Officer for the lawfulness of each case
- The Chief Executive makes the final determination on the basis of the advice received and only at that point can any retirement proceed.

Notification of retirements must be made to the portfolio holder on a case by case basis by the Human Resources and Organisational Development Service Manager.

The Human Resources and Organisational Development Manager must make an annual report of all retirements to the Cabinet.

#### 4.2 **Normal retirement age**

The normal retirement age is defined as 65 for all employees born after 1st April 1956. There are transitional arrangements in place for employees born before that date.

#### 4.3 **Retirement at normal retirement age**

In accordance with the age discrimination regulations 2006, employees will be asked if they wish to consider working beyond normal retirement age. They will be asked for their preferences 6 months prior to their 65<sup>th</sup> birthday. The decision whether an employee can continue working beyond the age of 65 is made on a case by case basis and is subject to the employer giving their consent. The consent decision will be reviewed.

If an employee wishes to retire at age 65 they will receive their pension entitlement in full i.e. without actuarial reduction after their 65<sup>th</sup> birthday. Their pension and any retirement grant (lump sum) will be calculated on actual contributions. Retiring employees will find that their pension is made up of 2 calculations based on their scheme membership prior to 1<sup>st</sup> April 2008 and their scheme membership post 1<sup>st</sup> April 2008

The differences in calculations are as follows:

<b>Pre 1<sup>st</sup> April 2008 service under 1997 regulations, as amended</b>	<b>Post 1<sup>st</sup> April 2008 service under new 2008 scheme regulations, as amended.</b>
Final years pensionable salary divided by 80 multiplied by number of years and days pension scheme membership	Final years pensionable salary (or best of the last 3 years) divided by 60 multiplied by number of years and days pension scheme membership
Automatic tax free lump sum calculated as 3/80ths of final pensionable salary multiplied by number of years and days pension scheme membership	No automatic tax free lump sum. Pension is commutable at the rate of £1 of annual pension for a £12 lump sum, to a maximum of 25% of the capital value of accrued benefits at the date of retirement

#### **4.4 Working beyond 65 and retirement after normal retirement date.**

If the Council consents to an employee continuing to work beyond age 65, the employee can continue to contribute to the pension scheme in accordance with regulation 17. Their employment will be reviewed in line with the consent given. In accordance with the pensions regulations they must draw their pension benefits before the day before their 75<sup>th</sup> birthday. Benefits payable after age 65 will have actuarial enhancement. Additional contributions to the pension scheme are "banked" and are paid out at the final retirement date.

#### **4.5 Retirement between the ages of 60 – 65**

Retirement between the age of 60 & 65, at the employee's request, does not require the consent of the employer. The normal procedure must still be used. The pension will have an actuarial reduction to take account of the early release before normal retirement age of 65.

#### **4.6 Retirement between the ages of 50 – 59**

When an employee who is a scheme member before 31<sup>st</sup> March 2008 and wishes to draw benefit before 31<sup>st</sup> March 2010 requests retirement, the Council may consent to the retirement of an individual aged between 50 & 59 and the employees retirement benefits are subject to an actuarial reduction if they do not meet the 'Rule of 85' transitional arrangements. For new scheme members and for those employees wishing to seek a pension release under employer consent after 1<sup>st</sup> April 2010, the lower age limit will be 55. Employer consent will only be given in accordance with the criteria detailed in discretion 5.

#### **4.7 Retirement in the interests of the efficiency of the service.**

Retirements that fall under this criteria (regulation 19) is where the consideration of the early retirement of the individual (aged 50, or from 1<sup>st</sup>. 2010, aged 55, is considered for an interest of efficiency pension release is at the request of the employer.

Employer Consent to retirement on the grounds of the efficiency of the service has the effect that the benefits paid to the employee are unreduced and the Council takes the actuarial strain.

The Council has already defined interests of the efficiency of the service on 26<sup>th</sup> October 2006 as "efficiency shall include (but not be limited to) both financial savings and or quantifiable quality improvements judged on a case by case basis".

#### **4.8 Redundancy**

Under regulation 19, any employee aged 50 who is made redundant is entitled to a release of pension. From 2010 employees must be aged 55 or over. These benefits are paid unreduced to the redundant post holder and the Council takes the actuarial strain. The Councils policy is to avoid redundancy situations wherever possible.

Compensation payments for the redundancy of employees aged over 50 continue at the statutory level for those whose redundancy effects a release of pension, in accordance with the Council's decision on compensatory payments made on 26<sup>th</sup> October 2006.

#### 4.9 **Flexible retirement**

Regulation 18 permits flexible retirement from age 50, (or from age 55 from 1<sup>st</sup> April 2010).

The council will exercise the discretion to support flexible retirement. This option allows individuals to retire from their substantive post and continue in employment at a lower grade or with reduced hours.

Flexible retirement benefits are paid subject to an actuarial reduction.

Under the current regulations the employee can continue to accrue pension scheme membership benefits for the new role. When they fully retire and are no longer in employment the pension payments are recalculated.

The Council's policy is that any consent given for flexible retirement will only be given in the interests of the efficiency of the service. The Council has already defined interests of the efficiency of the service on 26<sup>th</sup> October 2006 as "efficiency shall include (but not be limited to) both financial savings and or quantifiable quality improvements judged on a case by case basis".

It will take into account service delivery / efficiency considerations, skill retention and the financial implications of the cost of early release in every case.

The scheme permits a partial release of benefit.

#### 4.10 **Transitional arrangements under the "rule of 85"**

The rule of 85 is satisfied if, at the time an individual starts to draw their pension, their pension scheme membership and their age add up to 85.

The rule of 85 has now been removed in respect of the benefits built up in the future. Members of the pension scheme as at 30<sup>th</sup> September 2006 and who meet the rule of 85 are protected up to 2016 & beyond that, they are on a sliding scale of actuarial reductions up to 31<sup>st</sup> March 2020. The rule of 85 is under review nationally.

The Council will consider each request to retire under the Rule of 85 transitional arrangements and will give its consent in accordance with the regulations and where the retirement can be shown to be in the interests of the efficiency of the service.

#### 4.11 **Ill health retirement**

The "new look" scheme introduces a 2 tier ill health benefits scheme for all employees with more than 2 years pension scheme membership.

Regulation 20 permits retirement on ill health grounds i.e. that the ill health or infirmity of mind or body renders the employee permanently incapable of discharging efficiently the duties of their current employment and that they have a reduced likelihood of obtaining gainful employment ( whether in local government or otherwise) before normal retirement age.

When permanent incapacity has been determined, the payment of benefit will accord with the relevant level.

### **Level 1**

When an employee has their employment terminated because of permanent ill health and where the employee is unlikely to obtain gainful employment within a reasonable period of time but is likely to obtain gainful employment before age 65, the pension payable is based on accrued membership + 25% of the difference between leaving and age 65.

### **Level 2**

Where an employee has no reasonable prospect of obtaining gainful employment before age 65, the pensionable pay will be based on accrued membership + 100% of prospective membership between leaving and age 65.

Gainful employment is defined as "paid employment for no less than 30 hours per week for a period of not less than 12 months".

A release of pension on ill health grounds is made by specialists employed by the Councils Occupational Health advisers who must issue a certificate that details both permanent incapacity and the likelihood of being able to obtain other gainful employment in a reasonable time.

#### **4.12 Retirement of the grounds of incapacity.**

When an employee suffers from ill health and when medical certification cannot be made, an employee can ask for employer consent to an early retirement. The Council may consent to the retirement of an individual under regulations 18 & 19 and the employee's retirement benefits are subject to an actuarial reduction if they do not meet the 'Rule of 85' transitional arrangements.

#### **4.13 Retirement on compassionate grounds.**

The council will consider requests for retirement on compassionate grounds in accordance with regulation 30. The Council has adopted the County Council's definition, which is currently:

"Situations of severe personal distress resulting from non financial circumstances affecting the individual or close relative (e.g. spouse, child, parent) leading to unavoidable financial hardship". The normal request to retire procedure must be followed. If consent is given for a retirement on compassionate grounds the pension is not actuarially reduced.

### **5. Certificates of protection / deferment.**

These were a feature of the 1997 regulations but have been removed in the 2008 regulations. In its place is the provision that a person whose pensionable pay is reduced because they have chosen to continue on local government employment at a lower grade or with less responsibility than their previous post may choose to have their final pay calculated as the average of their annual pensionable pay in any 3 consecutive years ending 31<sup>st</sup> March within the last 10 years prior to retirement.

## **6. Appeal Procedure**

Individuals have the right to appeal to their employer against a decision to release a pension. They must submit their grounds for an appeal in accordance with the Councils grievance procedure.

Individuals who have had their pension released and who have a grievance relating to their actual pension payments must, in the first instance, appeal to an independent person appointed by the Council. This is someone who has not been involved in the pension release decision in any way and is usually a member of the strategic management team.