

REPORT TO RESOURCES PDG

REPORT OF: Executive Manager - Commercial

REPORT NO: COM003

DATE: 26th January 2017

TITLE:	Pensions Policy Statement 2017	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	To note the proposed updates to the Council's Pension Policy Statement.	
EXECUTIVE MEMBER: NAME AND DESIGNATION:	Cllr Frances Cartwright Executive Member for Governance	
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INITIAL IMPACT ANALYSIS: Equality and Diversity	Carried out and Referred to in paragraph (7) below	Full impact assessment Required: No
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	<p>The Council's Pensions Policy 2014 http://moderngovsvr/mgConvert2PDF.aspx?ID=12545</p> <p>The LGPS 2014 website www.LGPS2014.org</p> <p>Additional Pension Policy Statements Officer Decision 17th September 2013 ..\\Pension Administrators templates Aug 2013\\SKDC Pension additional statements signed October 2013.pdf</p> <p>Statutory Instrument 2013 No. 2356 dated 19th September 2013 http://www.lgpsregs.org/images/SI/2014regsSept2013</p> <p>HR Guidance updated 13th December 2013 http://www.lgpsregs.org/images/Versions/HRv2.0</p>	

1. RECOMMENDATIONS

- 1.1 That the Resources PDG note the required updates to the Council's Pensions Policy Statement.

2. PURPOSE OF THE REPORT

- 2.1 There is a requirement on employers to formulate, publish and keep under review a policy statement in relation to the exercise of a number of discretions under the Local Government Pension Scheme (LGPS).
- 2.2 The ability to exercise discretions within a Pension Policy provides a flexibility that could aid in the recruitment, reward and retention of staff.
- 2.3 Any discretion adopted would need to be considered in line with the principles detailed within the policy, and each case would be considered on its own merits to determine whether the discretion would be exercised or not.
- 2.4 It is essential to update the Council's Pension Policy Statement to ensure ongoing compliance in the light of guidance received from the Council's pension scheme administrators, West Yorkshire Pension Fund (WYPF).

3. DETAILS OF REPORT

- 3.1 Section 5 of the Council's Pensions Policy Statement includes a number of discretionary statements that require the Council to explicitly state their position. Advice from WYPF has been taken into account as part of the review to ensure that the Council's policy position is clear and robust. WYPF have advised that the following are specific mandatory discretions that the Council must include:
- Switching on the 85 Rule – *Regulation 1(1)(c)*
 - Early Payment of Deferred Pensions for members who left before 1st April 2014 – *Regulation 30(2) and 30(5) of the LGPS Benefits Regulations 2007 & Regulation 31(2) & Regulation 31(5) of the LGPS Regulations 1997*
 - Early Payment of Deferred Pensions for members who left before 1st April 2014 and have ceased to be entitled to a tier 3 ill health benefit – *Regulation 30A(3) and 30A(5) of the LGPS Benefits Regulations 2007*
- 3.2 The Local Government Pension Scheme (LGPS) Regulations specify that employers are required to make and publish a clear policy statement on how they will exercise these discretions. Hence the need to update the Council's existing policy document, and to expand upon some of the existing discretions.
- 3.3 In order to comply with all the above mandatory requirements the existing Pensions Policy Statement 2014 has been amended under Section 5 'Discretions'. More specifically the amended discretions can be found within the draft Pensions Policy Statement 2017 (attached to this report) as follows:
- Paragraph 5.2 Regulation 16 Shared cost Additional Pension Contributions
 - Paragraph 5.6 Regulation 30 (6) & 32 (4) Flexible Retirement
 - Paragraph 5.7 Regulation 30 (8) Actuarial Reductions
 - Paragraph 5.8 Regulation 31 Award of Additional Pension
 - Paragraph 5.16 Switching on the 85 Rule – *Regulation 1(1)(c)*

- Paragraph 5.17 Early Payment of Deferred Pensions (i.e. those that left the scheme before 2014)
- Paragraph 5.18 Early Payment of Deferred Pensions for members who have ceased to be entitled to a tier 3 ill health benefit(i.e. those that left the scheme before 2014)

3.4 All discretions will continue to be exercised on a case by case basis taking account of business needs, in accordance with the Principles of the Pensions Policy Statement found within section 4 (page 2) of the attached draft Statement.

3.5 Further to this, external legal advice received states that the employer should set out the criteria upon which the discretions will be based; the Pensions Policy Statement does not have to include details of the criteria but it is recommended that a separate procedure is formulated so that the employer and employee both know what is expected. A separate supporting procedure outlining the criteria that will be applied has therefore been developed to support, and give transparency to this process.

3.6 A further change has been made to the Pensions Policy Statement at paragraphs 4.3 and 6.6.1 to remove the guideline of a specific percentage reduction in hours for flexible retirement. This will further serve to ensure that we do not fetter the Council's discretion, as requests for flexible retirement should be approached on the basis of the overall business case. The authority has an accompanying flexible retirement procedure document that is used to guide managers through the process. The guideline percentage forms part of this guidance document which allows for a reduction in overall employment costs, not simply the contracted hours.

4. OTHER OPTIONS CONSIDERED

4.1 No other options have been considered as the proposed updates to the Council's Pensions Policy Statement are required by the LGPS Regulations.

5. RESOURCE IMPLICATIONS

5.1 N/A.

6. RISK AND MITIGATION

6.1 By adopting the proposed amendments the Council will be fully compliant with LGPS regulations.

7. ISSUES ARISING FROM IMPACT ANALYSIS

7.1 The proposal has no issues arising from impact analysis.

8. CRIME AND DISORDER IMPLICATIONS

8.1 The proposal has no implications for crime and disorder.

9. COMMENTS OF FINANCIAL SERVICES

- 9.1 Potential financial impacts will be taken on a case by case basis with a full financial appraisal being completed.

10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

- 10.1 In circumstances where a local authority seeks to fetter a discretion by reducing the scope or removing its application altogether, it may give rise to a challenge by way of judicial review on the ground of illegality. Where a local authority is afforded discretion it must seek to apply it consistently.
- 10.2 The Council's Constitution (Article 16, Page 146, paragraph 17) states that the decision making body in respect of "The approval of key people and organisational development strategies and policies that have significant financial implications e.g. remuneration/pay, pensions, redundancy", is the Executive and, the function has been delegated to the Executive Member with responsibility for people and organisational development.

11. COMMENTS OF OTHER RELEVANT SERVICES

- 11.1 No further comments.

12. APPENDICES:

Appendix 1 – Draft Pensions Policy Statement 2017

Appendix 2 – Comparison of discretions within the 2014 and 2017 Pension Policy Statements