

Appendix 1

NORTH EAST DERBYSHIRE DISTRICT COUNCIL

EXTRACT OF CABINET MINUTES OF 11 JUNE 2014

MINUTE NO 82 – URGENT BUSINESS (PUBLIC SESSION) LOCAL GOVERNMENT PENSION SCHEME DISCRETIONS 2014

82 Urgent Business (Public Session)

Cabinet agreed to consider the following item of business in the public session of their meeting.

Cabinet considered Report No NB/05/14/TM – Local Government Pension Scheme Discretions 2014. The purpose of the report was to:-

- Consider the proposed policy on those discretions which the Council has to make, publish and keep under review under the Local Government Pension Scheme following new Regulations.
- Consider delegating the authority to vary the general policy where individual circumstances dictate that considering a variation to the standard policy may be appropriate.
- Consult on the approach where consideration to vary a standard policy is appropriate.
- Consider the approach where a decision to vary the standard policy may be inappropriate.

Reason for Urgency

Cabinet agreed to consider the report as a matter of urgency as the Council was required to have a Local Government Pension Scheme Discretions 2014 in place by 30 June 2014. Unfortunately this had proved a complex matter and it had taken some time to prepare the Scheme. Nonetheless it remained necessary to have a Scheme in place by the due date and this Cabinet meeting was the only opportunity to have the arrangements agreed formally, therefore the matter was urgent.

Cabinet was advised that a new Local Government Scheme had been introduced and changes to pension arrangements had taken place with effect from 1 April 2014. Under the Pension Scheme Regulations employers were required to formulate, publish and keep under review a Policy Statement in relation to the exercise of a number of discretions that were available. The Policy Statement was to be in place by 30 June 2014. In addition to producing a new Policy Statement in respect of certain discretions available in the 2014 Scheme it was necessary to draw up a separate list of discretions which may still apply in respect of leavers after 31 March 2008 and before April 2014. Some discretions available prior to 2014 had been removed and others had been replaced and this necessitated updating the Council's Policy Statement on Discretions. The Council's existing discretions relating to the Compensation Regulations were not affected by the report submitted.

A common aspect of the Council's current Pension Scheme Discretions Policy was that generally the discretions would not apply but it was necessary to allow for this general approach to be varied should circumstances of a particular case make this stance inappropriate. When making such decisions each case would be considered on its own

merits and full reasons would be given for the outcome. The initial application would be directed to the Chief Financial Officer (Executive Director – Operations) who would take a view if it was appropriate to consider a Discretionary Award and then a report would be taken to Cabinet recommending a corresponding budgetary position be established. In a case where the Chief Financial Officer did not support such an application the individual making the application, if they were not satisfied with the decision, could appeal to Cabinet for a view of that decision. Such an appeal would be made in the first instance to the Chief Executive who would arrange for a report to be taken to Cabinet. The employee/former employer concerned would be allowed to submit a written Statement of Case while the Chief Financial Officer would provide a written statement setting out the reasons why the application should be rejected.

Attached as Appendix 1 to the report was a list of discretions for which employers must consider in a Policy Statement made under the 2014 Scheme. The Council's proposed position was based on the Discretions approved by Derbyshire County Council.

Cabinet was advised that the matter had been considered by the Council JCG who had established a Working Group to consider the detail. The Working Group had met and agreed to the approach detailed in the report.

RESOLVED That Cabinet:-

- (1) Approves the Council's Policy Statement in respect of the discretions under the Local Government Pension Scheme 2014 as detailed in **Appendix G** to these Minutes.
- (2) Delegates authority to the Chief Financial Officer to make an assessment of applications received to vary the general approach to the exercise of the discretions under the Local Government Pension Scheme and to report to Cabinet requesting its approval of budgetary provision if appropriate.

Reasons for Decisions

- (1) The position of this Council on the Local Government Pension Scheme Discretions 2014 is that discretions will only be applied where this does not involve additional strain on the pension fund or additional cost to the Council.
- (2) The Council's policy is generally in accordance with that adopted by Derbyshire County Council, and the overall approach is consistent with that of other local authorities.
- (3) Whilst the general approach is not to exercise any discretion where there is a cost to the Council, there may be some circumstances where this approach is too restrictive and discretionary powers will be exercised and appropriate appeal arrangements made.

(Chief Executive/
Assistant Director – Human Resources and Payroll/
Executive Director – Operations)

Appendix G

Local Government Pension Scheme 2014 – Employer Discretions North East Derbyshire District Council For post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)	
Discretion	Recommendation
<p>Additional Pension Contributions Regulation 16(2) (e) and 16(4)(d) of the LGPS Regulations 2013</p> <p>Whether, how much, and in what circumstances to contribute to a shared cost Additional Pension Contribution (APC) scheme.</p> <p>An APC is payment of pension contributions to cover a break in pensionable service. If the break in service is an authorised break, for example, the no pay period of maternity leave and the person opts to pay for the break within 30 days from the end of the break, the shared costs APC automatically applies. The shared cost is split two thirds employer, one third scheme member.</p> <p>The Council needs to consider a shared cost APC in exceptional circumstances, where a person opts to pay for the break after 30 days up to a period of 12 months, from the end of the break.</p>	<p>If the person opts to pay an APC to buy extra pension after 30 days and within one year of the break the shared cost option does not apply.</p>
<p>Flexible Retirement – Regulation 30 (6) and Transitional Provision Regulations 2014 Regulation 11(2)</p> <p>Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)</p>	<p>That in accordance with the Council’s existing policy on flexible retirement, this discretion would normally be awarded only in cases where there is no additional cost to the Council.</p>
<p>Flexible Retirement (Routine Cases) – Regulation 30 (8) of the LGPS Regulations 2013</p> <p>Whether to waive, in whole or in part actuarial reduction on benefits on flexible retirement.</p>	<p>That the Council has a general policy that any flexible retirement must normally be at no cost to the Council.</p> <p>Where there is no cost to the Council approval of flexible retirement requests are delegated to the Chief Executive Officer, with a right of appeal to the Council’s Elected Member Appeal Panel, should a flexible retirement request be refused.</p>

Local Government Pension Scheme 2014 – **Employer Discretions North East Derbyshire District Council For post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)**

Discretion	Recommendation
	<p>However, where the Council is seeking volunteers for flexible retirement as a way to avoid compulsory redundancies etc., the Council may consider bearing the cost to ensure there is no reduction in the employee's pension in order to secure the financial benefits arising from reducing employee numbers. In these exceptional cases, a report will be submitted to Cabinet for its consideration.</p>
<p>Policy for Flexible Retirement (Routine Cases) - Regulation 30 (8) of the LGPS Regulations 2013</p> <p>An employer can consent to a reduction in an employee's hours or grade and consent to the release of pension benefits where the employee is aged 55 and over.</p> <p>For the purpose of this policy, requests for flexible retirement can be categorised as follows:</p> <ul style="list-style-type: none"> • Category one - Employee is age 60 or over - There is no cost to the council as the employee is at or past their earliest retirement date. If they do not meet the Rule of 85 (*1) their pension benefits will be reduced to reflect early payment. • Category two - Employee is age 55 or over but less than 60 and does not meet the Rule of 85 until on or after their 60th birthday. In this case the regulations allow for the cost of the early payment of pension benefits to be borne by the employee so as to avoid a pension fund shortfall. The benefits are actuarially reduced to reflect the fact that they are paid early. 	<p>That the Council has a general policy that any flexible retirement for category one and category two cases must normally be at no cost to the Council.</p> <p>Where there is no cost to the Council approval of flexible retirement requests are delegated to the Chief Executive Officer, with a right of appeal to the Council's Elected Member Appeal Panel, should a flexible retirement request be refused.</p> <p>However, where the Council is seeking volunteers for flexible retirement as a way to avoid compulsory redundancies etc., the Council may consider bearing the cost to ensure there is no reduction in the employee's pension in order to secure the financial benefits arising from reducing employee numbers. In these exceptional cases, a report will be submitted to Cabinet for its consideration.</p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Cabinet recommending that a corresponding budgetary provision is established. In a</p>

Local Government Pension Scheme 2014 – Employer Discretions North East Derbyshire District Council For post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)

Discretion	Recommendation
<ul style="list-style-type: none"> Category three - Employee is age 55 or over but less than 60 and does meet the Rule of 85 either at the date of flexible retirement or at a later date that is before their 60th birthday. In this case we would have to meet the Pension Fund shortfall arising from the early payment of pension benefits from the date when the Rule of 85 is met. <p>(*1 The Rule of 85 is where the sum of the scheme member's age plus period of membership in the Pension Scheme (both in whole years) is 85 or greater).</p>	<p>position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal to Cabinet for a review of that decision. Such an appeal should be made in the first instance to the Chief Executive who will arrange for a report to be taken to Cabinet. The employee/former employee concerned will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</p>
<p>NOTE Increases in hours after taking flexible retirement</p>	<p>Where an employee has been allowed to reduce their hours for the purposes of flexible retirement they will not be allowed to increase them on a permanent basis. Where it is in our interests, a temporary increase in hours for a period not exceeding six months can be permitted. The temporary increase in hours must be authorised by the chief officer.</p> <p>An employee who has reduced their hours and taken flexible retirement must only be allowed to work additional hours or overtime at the same level that applied prior to the reduction in contractual hours. The aim is to prevent employees compensating for a reduction in contractual hours by working additional hours and overtime. The chief officer must approve requests for temporary increases in additional hours and overtime in advance.</p>
<p>Retirement at age 55 - Regulation 30(8) of the LGPS Regulations 2013</p>	<p>That the Council has a general policy not to agree to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws</p>

Local Government Pension Scheme 2014 – **Employer Discretions North East Derbyshire District Council For post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)**

Discretion	Recommendation
<p>Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age.</p>	<p>before normal pension age. The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Cabinet recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal to Cabinet for a review of that decision. The employee/former employee will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</p>
<p>Additional Pension - Regulation 31 of the LGPS Regulations 2013</p> <p>Whether to grant additional pension to an active member or within six months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 p.a.)</p>	<p>That the Council has a general policy not to agree to grant additional pension to an active member or within six months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 p.a.)</p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Cabinet recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the</p>

Local Government Pension Scheme 2014 – Employer Discretions North East Derbyshire District Council For post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)	
Discretion	Recommendation
	<p>application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal to Cabinet for a review of that decision. The employee/former employee will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</p>
<p>Switching on the Rule of 85 - Transitional Provision Schedule 2, paragraph 2(2) of the Transitional Provision Regulations 2014</p> <p>Whether to ‘switch on’ the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.</p>	<p>That the Council has a general policy not to agree to switch on the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.</p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Cabinet recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal to Cabinet for a review of that decision. The employee/former employee will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</p>
Compassionate Grounds - Transitional Provision 3(1),	That the Council has a general policy not to waive any actuarial reduction on

Local Government Pension Scheme 2014 – **Employer Discretions North East Derbyshire District Council For post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)**

Discretion	Recommendation
<p>Transitional Provision Schedule 2, paragraph 2(1) and 2(2), of the Transitional Provision Regulations 2014 and Regulations B30(5) and B30A(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007</p> <p>Decide whether to waive any actuarial reduction on pre and/or post April 2014 benefits paid early on compassionate grounds.</p>	<p>pre and/or post April 2014 benefits paid early on compassionate grounds.</p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Cabinet recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal to Cabinet for a review of that decision. The employee/former employee will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</p>

Local Government Pension Scheme 2008 – Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1 April 2008 and before 1 April 2014

Discretion	Recommendation
<p>Switching on the Rule of 85 - Transitional Provision Schedule 2, paragraph 2(2) of the Transitional Provision Regulations 2014</p> <p>Whether to 'switch on' the 85 year rule for a deferred member voluntarily drawing benefits on or after age 55 and before age 60.</p>	<p>That the Council has a general policy not to agree to switch on the 85 year rule for a deferred member voluntarily drawing benefits on or after age 55 and before age 60.</p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Council recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer</p>
<p>Compassionate Grounds - Regulation 30(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007</p> <p>Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30</p>	<p>That the Council has a general policy not to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30.</p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Cabinet recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal to Cabinet for a review of that decision. The employee/former employee will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the</p>

Local Government Pension Scheme 2008 – Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1 April 2008 and before 1 April 2014

Discretion	Recommendation
	application should be rejected.
<p>Compassionate Grounds - Regulation 30A(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007</p> <p>Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A.</p>	<p>That the Council has a general policy not to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30A.</p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Cabinet recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal to Cabinet for a review of that decision. The employee/former employee will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</p>

Local Government Pension Scheme 1997 –Discretions in relation to active councillor members and councillor members who ceased active membership on or after 1 April 1998 and any other scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008

Discretion	Recommendation
------------	----------------

Local Government Pension Scheme 1997 –Discretions in relation to active councillor members and councillor members who ceased active membership on or after 1 April 1998 and any other scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008

Discretion	Recommendation
<p>Compassionate Grounds - Regulation 31(5) of the LGPS Regulations 1997</p> <p>Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31 March 1998/pre 1 April 2008 leaver or councillor leaver.</p>	<p>That the Council has a general policy not to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31 March 1998/pre 1 April 2008 leaver or councillor leaver.</p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Cabinet recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal to Cabinet for a review of that decision. The employee/former employee/councillor will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</p>
<p>Optant Out Payments - Regulation 31(7) of the LGPS Regulations 1997</p> <p>Decide whether councillor optants out and pre 1 April 2008 employee optant outs only get benefits paid from normal retirement date (NRD) if</p>	<p>That councillor optants out and pre 1 April 2008 employee optant outs will only be allowed to get benefits paid from normal retirement date (NRD).</p>

Local Government Pension Scheme 1997 –Discretions in relation to active councillor members and councillor members who ceased active membership on or after 1 April 1998 and any other scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008

Discretion	Recommendation
employer agrees.	

Local Government Pension Scheme 1997 – Discretions relating members who ceased active membership before 1 April 1998

<p>Grant application for early payment deferred benefits on or after age 50 on compassionate grounds</p>	<p>That the Council has a general policy not to waive, on compassionate grounds, the actuarial reduction applied to benefits paid before 1st April 1998.</p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Cabinet recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal for a review of that decision by writing to the Chief Executive Officer. The employee/former employee/councillor will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</p>
--	--

Local Government Pension Scheme 1997 –Discretions in relation to active councillor members and councillor members who ceased active membership on or after 1 April 1998 and any other scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008

Discretion	Recommendation

Minute Extract 0611/MD