

General Purposes Committee Meeting	
Meeting Date	6 th October 2014
Report Title	Employer Pension Discretions
Cabinet Member	Cllr Ted Wilcox, Cabinet Member for Performance
SMT Lead	Mark Radford, Director of Corporate Services
Head of Service	Dena Smart, Head of HR Shared Services
Lead Officer	Dena Smart, Head of HR Shared Services
Key Decision	No
Classification	Open
Forward Plan	Reference number:
Recommendations	1. That the General Purposes Committee agree the amended policy on Employer Discretions as set out in draft at Appendix I.

1 Purpose of Report and Executive Summary

- 1.1 The Local Government Pension Scheme (LGPS) regulations changed significantly in 2013; under the regulations all employers must set their own policy on some of the regulations. With the change to the regulations the employer discretions have to be reviewed, agreed and published to staff.

2 Background

- 2.1 Within the Local Government Pension Scheme regulations there are several terms about which each employer must have a policy and this should be communicated to employees within the scheme. If the employer does not have a policy then the pension scheme administrator will either refer every case separately to the employer or default to the minimums set out in the regulations. The last time this policy was amended was July 2010 but with the major reform of the LGPS in 2013 the regulations have changed and under Regulation 60(1) of the Local Government Pension Scheme Regulations 2013, it is compulsory for all employers to make a policy decision under Regulations 16(2)(e), 16(4)(d), 30(6), 30(8) and 31 and Paragraph 2(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and amendments) Regulations 2014 .

3 Proposals

- 3.1 The pension regulations are extremely complicated and the council relies upon the advice of the pension administrators to guide us in the pension discretions policy. The practice in previous years within SBC and most other employers in

Kent have been to mirror the same discretions as Kent County Council (KCC) and the attached policy reflects this.

- 3.2 The draft discretions, which are consistent with the approach taken by KCC are designed to minimise the cost implications for SBC as an employer but also ensure that the council does not fetter its decision making powers by limiting its ability to make alternative decisions in exceptional circumstances.

4 Alternative Options

- 4.1 The General Purposes Committee must ensure that the Council has a policy on these employer discretions. If the Committee did not agree to adopt the amended policy the council would not meet its statutory requirements. The Committee could choose to vary the wording of the policy in some way but further advice would need to be taken to ensure that the change did not constitute a breach of the regulations.

5 Consultation Undertaken or Proposed

- 5.1 Consultation has been undertaken with the KCC pension administrators and briefings have been organised for staff on general pension matters during October. The national changes to the LGPS were in full consultation with trade unions and employers.

6 Implications

Issue	Implications
Corporate Plan	The pension provisions are an integral part of the council's pay and reward strategy.
Financial, Resource and Property	All pension scheme changes have some impact on the ultimate cost of the scheme; these have been anticipated within current budgets.
Legal and Statutory	There is a legal requirement for us to have a policy on the Employer Discretions and for this policy to be up to date. Local Government Pension Scheme Regulations 2013 LGPS (Transitional Provisions, Savings and amendments) Regulations 2014 .
Crime and Disorder	None identified at this time
Sustainability	None identified at this time
Health and Wellbeing	None identified at this time

Risk Management and Health and Safety	There are risks to the Council if it does not have a published policy; the purpose of this paper is to ensure the Council meets this legal requirement.
Equality and Diversity	None identified at this time

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Draft Pension Discretionary Policy

8 Background Papers

None

DRAFT
Swale Borough Council
Policy and Procedural Issues
Local Government Scheme Regulations
Employer Discretions

This paper confirms the pension policy of Swale Borough Council as it relates to the exercise of discretions contained in the Local Government Pension Scheme Regulations 2013 and the LGPS (Transitional Provisions, Savings and amendments) Regulations 2014. Last updated June 2014.

The policy statement applies to all members of staff who are eligible to be members of the LGPS, as defined in the regulations i.e. employees with a contract of employment of over 3 month's duration and who are under 75 years of age and are contractually enrolled at the start of employment. Those with contracts of less than 3 months, including casuals, can join but need to elect to do so.

Employees who are members of the pension scheme are only entitled to receive pension benefits if they have 2 years or more service. Under LGPS 2014 Regulation 18, if an employee leaves within 2 years of the start of their employment their contributions can be repaid or transferred to another scheme, unless there is some fraudulent offence or misconduct in connection with the employment

Principles

The Authority will treat any individual retirement case and decisions on its merits.

Decisions relating to retirement will be made taking into account the business case and business implications, the financial implications, employment law consideration, the regulations and the legality of each case. It may also take into account long term savings, affordability, skills and skills retention and impact on service delivery.

The definition of business efficiency shall include, but not be limited to financial savings and/or quality improvements judged on a case by case basis.

Each decision will be made free from discrimination on the grounds of any protected characterising – age, disability, gender reassignment, marriage or civil partnership, pregnancy & maternity, race, religion and belief, sex, sexual orientation or any other personal criteria.

The Authority's decisions relating to retirement and the release of pension benefits will be in line with the current pension regulations. These regulations may be updated from time to time and the Authority will default to the regulations if the policy is not explicit on any current or future regulation.

Decisions relating to the release of deferred benefits to former employees will refer to the relevant pension policies applicable at the time of their employment. In such cases,

the decision as to the release of deferred benefits will be on a case by case basis and will take into account the criteria detailed in these principles. Guidance may be sought from the pension administrators as required.

Regulation 9 (1) & (3) - Contributions

Swale Borough Council will apply the nationally determined employee contribution rates and bands. These are subject to change and may be varied.

Swale Borough Council will pay the rate of contributions determined in the regulations for employees whose pay is reduced through ill health or during authorised unpaid leave, including child related leave.

The calculation of pensionable pay will include basic annual salary plus any other pensionable salary items including – Market Supplement/ Premium, Overtime, Bonus, Honorarium, Salary Supplements. The pensionable pay will be reviewed monthly and based on earnings for that month to identify the appropriate band and contribution percentage

Swale Borough Council will notify employees of their individual contribution rates in their payslips or by letter at least annually.

Regulation 16 (2)e and 16 (4)d – Shared Cost Additional Pension Contributions (SCAPC)

It is not Swale Borough Council's general policy to operate a SCAPC where a scheme member wishes to purchase extra annual pension (up to the limit defined in the regulations).

Where a scheme member has a period of child related leave or authorised unpaid leave and elects, within 30 days of return to work, to pay a SCAPC to cover the amount of pension 'lost' during the period of absence, in these circumstances Swale Borough Council is required to contribute 2/3rds of the cost. If an election is made after the 30 day time limit the full costs will be met by the scheme member.

Employees who have the option to pay contributions in respect of a period of unpaid absence must elect to do so within 30 days of the date of the notice issued to them by the Human Resources Section stating the amount of contributions to be paid. This time limit may be extended by the Head of Human Resources if the employee can demonstrate exceptional circumstances so as to justify an extension of time.

TP Regulations 1(1)(c) of Schedule 2 – whether to allow the rule of 85 to be 'switched on' for members age 55-59.

It is not Swale Borough Council's general policy to make use of the discretion to 'switch back on' the 85 year rule protections unless there are clear financial or operational advantages to the council. Each case will be considered on its merits by Head of Human Resources, the Head of Finance and the relevant Director.

Regulation 17 (1) – Shared Cost Additional Voluntary Contributions (SCAVC)

It is not the current policy of the Borough Council to operate a shared cost Additional Voluntary Contribution Scheme for employees. However, this policy will be reviewed from time to time by the Head of Human Resources in conjunction with the Chief Finance Officer, subject to Member's approval.

Regulation 21 (5) – In determining Assumed Pensionable Pay whether a lump sum payment made in the previous 12 months is a 'regular lump sum'.

Swale Borough Council will maintain a list which details what Swale Borough Council considers being a regular lump sum payment made to our employees to be used in the calculation of the Assumed Pensionable Pay

Regulation 22 (7)(b) & 22 (8)(b) - Aggregation of Benefits

Employees who have previous LGPS pension benefits in England and Wales will automatically have these aggregated with their new LGPS employment unless they elect within 12 months of commencing membership of the LGPS in the new employment to retain separate benefits. Swale Borough Council has the discretion to extend this period beyond 12 months and each case will be considered on its own merits by the Head of Human Resources, the Head of Finance and the relevant Director.

Regulation 30(6) – Flexible Retirement

It is Swale Borough Council's policy to only provide consent for flexible retirement and the immediate payment of benefits where there are clear financial or operational benefits to the council. Any such consent requires the agreement of the Head of Human Resources and the relevant Director and each case would be considered on its merits.

If consent has been given under Regulation 30 (6) it is not Swale Borough Council's general policy to waive any actuarial reduction unless there are exceptional circumstances.

Regulation 30(8) Waiving of Actuarial Reductions

It is not the policy of the Borough Council to give consent to the immediate payment of benefits to employees under this regulation unless there is a demonstrable benefit to the organisation which would take full account of any extra costs to be borne by the Authority. In circumstances where a request is made for an early payment of a deferred benefit this is unlikely to be granted except in the most extreme cases of hardship; circumstances must be exceptional and would not reasonably be expected to prevail i.e. the occurrence of a disaster or accident etc. Financial hardship alone would not normally be deemed sufficient. Any such consent shall be agreed by the Head of Human Resources, Head of Finance and the relevant Director taking account of all the details involved in the case.

Where a scheme member has previously been awarded a preserved benefit, it is not generally the policy of Swale Borough Council to give consent under this regulation to the early payment of benefits, however each request will be considered and full account taken of any costs to be borne by the authority. Any consent shall be agreed by the Head of Human Resources, Head of Finance and the relevant Director taking account of all the details involved in the case. It is not the council's general policy to waive any actuarial reduction in these circumstances.

Regulation 31 – Award of Additional Pension

Swale Borough Council has the discretion to award additional pension (up to the additional pension limit defined in the regulations) to an active member or within 6 months of leaving the scheme to a scheme member who was dismissed on grounds of redundancy or business efficiency.

Swale Borough Council will only exercise this discretion in exceptional circumstances and where there is a proven total benefit to the organisation which includes any costs that might be borne by the authority. Any consent shall be agreed by the Head of Human Resources, Head of Finance and the relevant Director taking account of all the details involved in the case.

Regulation 100 (6) – Aggregation of Benefits

If a scheme member wishes to transfer any pension benefits they have built up in other schemes to the Local Government Pension Scheme, it is the policy of Swale Borough Council that the election must be made within 12 months of the Pension Section being notified that the employee has become an active member of the Kent Scheme.

If the 12 month period has elapsed then the member may make a case for any exceptional circumstances to be considered by the Head of Human Resources, the Head of Finance and the relevant Director within Swale Borough Council and by the Pension Scheme Administrator, both organisations must agree to the late transfer.