

Hampshire Fire and Rescue Authority

Human Resources Committee

Item 12

19 January 2011

Local Government Pension Scheme – Discretionary Powers

Report of the Chief Officer

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1 Summary

- 1.1 In accordance with the Local Government Pension Scheme (LGPS) Regulations, the Service has adopted a number of discretionary powers.
- 1.2 Following changes to the scheme in April 2008, the criteria of some of the Service's discretionary powers changed with effect from 1 April 2008 or 1 April 2010.
- 1.3 In July 2010, the Hampshire Fire and Rescue Authority (HFRA) Human Resources (HR) Committee approved changes in the policy, on the basis that further changes would be necessary to fully comply with the LGPS discretionary powers and this is the purpose of this paper.

2 Recommendations

- 2.1 HR Committee approve the proposed amendments to the LGPS discretionary powers policy to be taken forward through the Service's consultation process. Please refer to Appendix A for the revised HFRS policy.
- 2.2 HR Committee agree that the target date for the revised policy to become effective will be from 31 March 2011.
- 2.3 HR Committee approve the amendment to the posts responsible for HFRS's discretions under the LGPS; these will be Chief Officer and all Directors in conjunction with the Service's Treasurer.
- 2.4 HR Committee agrees that the existing policy is withdrawn immediately as it is ultra vires. In the unlikely event that the policy must be referred to prior to 31 March 2011, the existing policy may be used provided the specific discretion appropriate to the issue is not prohibited.

3 Introduction and Background

- 3.1 With effect from 1 January 2004 the Chief Officer and Deputy Chief Officer (now Director of Service Delivery), in liaison with the Director of Corporate Services, have delegated powers of discretion. In the past these powers of discretion within the LGPS have been used to agree benefits including efficiency of service, redundancy (voluntary and compulsory), early retirement, augmentation of service for a new scheme member or retiring scheme member, reducing an employee's contribution after 40 years service, and shared cost of additional voluntary contributions.
- 3.2 The LGPS was amended with effect from 1 April 2008, although a number of the changes did not fully take effect until 1 April 2010. These changes include the age at which individuals become entitled to certain benefits under the Service's adopted discretionary powers in the event that they retire or are made redundant. In most cases, the discretionary powers applied to individuals who are age 50 and over and this changed to age 55 or over. However, between the dates 1 April 2008 and 1 April 2010, it remained at age 50 provided the individual joined the scheme before 1 April 2008. This extension no longer applies.

4 Amendments

- 4.1 A paper to the HR Committee submitted in July 2010 covered the qualifying age for most discretions within the LGPS and this was changed from 50 years to 55 years.
- 4.2 Under the LGPS regulations all employers are required to have a written policy on the following discretionary powers:
1. Power to increase the total membership of an active member
 2. Power to award additional pension
 3. Decision to allow flexible retirement
 4. Choice of early pension payment

The revised policy is set out in Appendix A.

- 4.3 Appendix A also details updated optional discretions that HFRS already has in place.
- 4.4 Amendments have been made based on guidance from Hampshire County Council (HCC) Pensions Department and the policy adopted by HCC for its own employees.
- 4.5 The proposals contained in this paper and the attached appendix, will require consultation with employee representatives before being brought forward as a formal policy of the Service. Recommendation 2.1 asks the HR Committee to approve these proposals to be taken forward into consultation and then

adoption. A target date for this has been set as 31 March 2011.

5 Resource Implications

- 5.1 Financial. The discretions require that HFRS consider early payment of benefits to eligible LGPS members which, if permitted, would be at a cost to the Service. The actual cost would vary in each case so it is not possible to state in advance what this would be. However, there would be cost to almost all such decisions.

6 People Impact Assessment

- 6.1 The changes to the LGPS have effectively worsened the terms and conditions of employment for LGPS members. In the event of redundancy or early retirement, members of this employee group who are also aged between 50 and 55 years would have previously received enhanced benefits in accordance with the discretionary powers. Where this is the case, individuals could feel aggrieved that the conditions have changed to their material detriment on the basis of their age. However, this is beyond the control of HFRS and cannot be avoided.
- 6.2 HFRS has a duty to ensure that as far as possible, it has robust and fair processes that are applied to all employees where redundancy situations arise to ensure that risks of external challenge are minimised. It similarly has a duty to ensure that it uses public funds wisely and in accordance with its financial rules.

7 Conclusion

- 7.1 HFRS must comply with the conditions of the discretion under the LGPS and ensure that all discretions are applied consistently, fairly and with affordability in mind.

Background Information (Section 100D of Local Government Act 1972)

The following documents disclose the facts or matters on which this report, or an important part of it, is based and has been relied upon to a material extent in the preparation of the report:

- Hampshire Fire & Rescue Authority LGPS Discretionary Powers as at October 2007
- Hampshire County Council Revised LGPS Policy Statement 23 July 2008
- LGE Circular 207 February 2008
- LGE Circular 235 March 2010

Note: The list excludes: (1) published works; and (2) documents that disclose exempt or confidential information defined in the Act.

Hampshire Fire and Rescue Authority
Local Government Pension Scheme (LGPS)
Discretionary Powers Policy

1 Introduction

- 1.1 Hampshire Fire and Rescue Service (HFRS) is required to have a policy for Discretionary Powers applicable to members of the Local Government Pension Scheme (LGPS).
- 1.2 There are four discretions that HFRS is required to have a written policy on:
- a. Power to increase the total membership of active members;
 - b. Power to award additional pension;
 - c. Decision to allow flexible retirement; and,
 - d. Choice of early payment pension.
- Any other discretions in this policy are those which HFRS has chosen to adopt.
- 1.3 The LGPS is offered to all employees of HFRS, full time and part time, who are employed under 'Green Book' conditions, Control Room staff who are employed under 'Grey Book' conditions and other 'Grey Book' conditions employees, now qualifying to join the LGPS, following the introduction of the New Firefighter Pension Scheme (NFPS).
- 1.4 Hampshire Fire and Rescue Authority (HFRA) agree to the discretionary powers under the Local Government (Discretionary Payment) (Amendment) Regulations 1999 and the LGPS Regulations 1997 contained within this policy. They were agreed by the HFRA in 2004, 2005, 2006, 2007, 2010 and January 2011.
- 1.5 The HFRA authorise the Chief Officer and all HFRS Directors, in conjunction with the Service's Treasurer, to hold delegated powers for HFRS under the LGPS.

2 Increasing total membership of active members

- 2.1 Where an employee is retired on the grounds of efficiency, HFRS will consider buying additional membership based on an amount no greater than the payment the employee would have received had they been made redundant.
- 2.2 The decision will be made jointly by the Service's Chief Officer and Directors.

3 Awarding of additional pension

- 3.1 HFRS will not consider awarding additional annual pension.

4 Flexible retirement

- 4.1 An employee aged 55 or over may request to reduce their hours of work or grade and where this is accommodated, HFRS will consider consenting to pension benefits being paid.
- 4.2 The decision will be made jointly by the Service's Chief Officer, Directors and the Service's Treasurer who will consider all requests on their merits giving due regard to the Service's best interests, the employee's best interests and the affordability of the request.
- 4.3 Where this is agreed, HFRS will normally expect to see a significant reduction in hours or salary, i.e. 40%.

5 Early retirement reduction for flexible retirement

- 5.1 HFRS will consider waiving any reduction in benefits under the '85 year rule' in exceptional circumstances.
- 5.2 The decision will be made jointly by the Service's Chief Officer, Directors and the Service's Treasurer who will consider all requests on their merits giving due regard to the Service's best interests, the employee's best interests and the affordability of the request.

6 Early payment of pension

- 6.1 HFRS will consider consenting to the immediate payment of pension benefits for employees over the age of 55 who request to retire voluntarily.
- 6.2 The decision will be made jointly by the Service's Chief Officer, Directors and the Service's Treasurer who will consider all requests on their merits giving due regard to the Service's best interests, the employee's best interests and the affordability of the request.

7 Early Retirement on Compassionate Grounds

- 7.1 The Service will consider early retirement requests on their merits for past and present employees over 55 in exceptional circumstances compassionate grounds without reduction of benefits under the schemes 85 year Rule. Exceptional circumstances will normally be where an individual is leaving their employment due to full time caring responsibilities for a dependant.
- 7.2 The decision will be made jointly by the Service's Chief Officer, Directors and the Service's Treasurer who will consider all requests on their merits giving due regard to the Service's best interests, the employee's best interests and the affordability of the request.

8 Aggregation of previous periods of membership

- 8.1 Employees can join previous periods of LGPS employment with current membership within 12 months of rejoining the scheme.

9 Transfer of pension rights

- 9.1 HFRS will only allow transfer of pension rights from a compatible external pension provider into the LGPS if a request to do so is made within 12 months of the employee becoming an LGPS member.

10 Counting Service before 6 April 1998 for widowers pension

- 10.1 The Service will allow eligible women to count service from 1 April 1972 to 5 April 1988 to enable an equalisation of benefits for the spouses of male and female contributors to LGPS.

11 Reducing a Pension whilst a pensioner is re-employed

- 11.1 The Service will abate or suspend pensions for ex HFRS employees during re-employment in a job which is eligible for the LGPS and total income from new pay and pension exceeds final pay.

12 Redundancy (voluntary or compulsory)

- 12.1 The Service will make redundancy payments calculated on actual weekly pay rather than the statutory amount, or whichever is greater.
- 12.2 Where an employee has accepted voluntary redundancy or is made redundant on a compulsory basis, they may request to buy additional membership for the portion of their redundancy payment that is over and above the statutory minimum. Employees wishing to take this option must request to do so before their employment with HFRS ends.
- 12.3 For LGPS members aged 55 and over, and who are accepted for voluntary redundancy or made redundant on a compulsory basis, immediate payment of benefits applies.

13 Effective date of implementation

- 13.1 This policy will apply from 31 March 2011.