

Hampshire Fire and Rescue Authority

Human Resources Committee

Item 12

13 July 2010

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.

2 Recommendations

- 2.1 That the Human Resources (HR) Committee approve that the discretionary powers adopted by HFRS be amended with immediate effect in accordance with changes to the LGPS.
- 2.2 That the HR Committee request the HR Director to initiate a review of the discretionary powers Hampshire Fire and Rescue Service (HFRS) currently has for the LGPS.

3 Introduction and Background

- 3.1 With effect from 1 January 2004 the Chief Officer and Deputy Chief Officer, with 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 are in respect of 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, this has now 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 Where discretionary powers for benefits are based on the age of a scheme member, the qualifying age has now changed. In the past the qualifying age was 50 years and is now 55 years.

4.2 Under the new 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
5. Extension of 12 month limit on transfer in of service

Further details of each of these are set out in Appendix A and it is recommended that the HR Director initiate a review of these powers and report back to this Committee with a proposed policy.

5 Risk Analysis

5.1 HFRA must amend its adopted discretionary powers in accordance with the changes to the LGPS Regulations. Failure to do so will result in our policy being contradictory to and outside of the conditions of the pension scheme. It would be unenforceable and no flexible or early retirement can be granted until the Authority has approved the policies required by the new regulations.

6 Resource Implications

6.1 Financial

In the event that an LGPS member, were to be made redundant or request to retire early they would need to satisfy the revised age criteria to receive the enhanced benefits of the discretionary powers. Changing the age criteria from over 50 years to over 55 years old reduces the occasions when the discretionary powers would apply. Therefore, the cost to HFRS would be less in these circumstances.

6.2 It should be noted that individuals employed on Green Book terms and conditions of employment who are not LGPS members may still be entitled to benefit from some of the discretionary powers.

7 People Impact Assessment

7.1 The changes to the LGPS have effectively worsened the terms and conditions of employment for LGPS members and employees who are non-LGPS members

but are employed under Green Book terms and conditions of service. In the event of redundancy or early retirement, members of this employee group who are also aged between 50 and 55 years will 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.

- 7.2 HFRS has a duty to ensure as far as it possibly can that robust and fair processes are applied to all employees where redundancy situations arise to ensure that risks of external challenge are minimised.

8 Conclusion

- 8.1 HFRS must apply the changes to the LGPS with immediate effect to ensure compliance with the conditions of the scheme. Furthermore, it is prudent to review the existing provisions and policy in light of the changes made to the pension scheme.

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.

Employer discretions that need to be supported by a written policy statement

1. Power to increase total membership of active members (regulation 12)

An employer can increase the total membership of an active member. The member's total additional membership under this regulation (including additional membership in respect of different employments) must not exceed 10 years. The employer will pay for the additional cost of this membership.

2. Power to award additional pension (regulation 13)

An employer can award an additional amount of pension to an active member, up to £5,000. The cost of providing this additional pension must be met by the employer.

3. Decision to allow flexible retirement (regulation 18)

Where with the consent of the employer, an employee aged 55 or more reduces their hours or grade, they can elect to receive all or part of their benefits immediately. (this is age 50 for existing members on 31 March 2008 leaving before 31 March 2010)

Any cost for early payment of the benefits would have to be met by the employer. Employers can also choose to waive the member's early payment reduction on compassionate grounds. This cost will also have to be met by the employer.

4. Choice of early payment of pension (regulation 30)

Employees leaving after age 55 can elect to receive benefits immediately if the employer consents.

(this is age 50 for existing members on 31 March 2008 leaving before 31 March 2010)

Any cost for early payment of the benefits would have to be met by the employer. Employers can also choose to waive the member's early payment reduction on compassionate grounds. This cost will also have to be met by the employer.

5. Extension of 12 month limit on transfer in of service (regulations 16 and 83)

Employees must elect to transfer in previous LGPS membership or other pension 2 months of joining the scheme. Employers can choose to extend this period