



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

PENSIONS AND INVESTMENTS COMMITTEE

WEDNESDAY, 6 DECEMBER 2023

Report of the Director of Finance and ICT

**Statement of Policy on the Administering Authority's Discretions
Local Government Pension Scheme (LGPS)**

1. Purpose

- 1.1 To seek approval for the Statement of Policy (the Policy) on the Administering Authority's Discretions in respect of the Local Government Pension Scheme (LGPS) attached as Appendix 2.

2. Information and Analysis

- 2.1 Under the LGPS regulations there are a number of areas where administering authorities and employers are permitted a level of discretion in the way they apply the rules locally for LGPS members.

Each LGPS administering authority and employer is required to agree and publish its own statement of policy around how it will apply the discretions within the LGPS and related legislation, where it is required to make a decision.

Regulation 60(1) of The Local Government Pension Scheme Regulations 2013 requires administering authorities to publish a mandatory written statement reflecting their policy in relation to the waiving of actuarial reductions when scheme members retire following employment with an employer which has ceased to participate in the relevant LGPS fund.

Whilst administering authorities have a mandatory responsibility to publish a statement setting out how they will apply the discretion relating to Regulation 60(1), it is considered to be best practice to also set out how other discretions within the LGPS and related legislation will be applied.

The discretions where administering authorities are required to make a decision are wide-ranging, and in many cases, rarely applied.

The previous full review of Derbyshire Pension Fund's (the Fund) Statement of Policy on Administering Authority LGPS Discretions was undertaken by Committee at its meeting on 8 May 2019.

A minor amendment was subsequently made in August 2020 to update the policy following the appointment of a new Adjudicator for the consideration of appeals against the Fund.

2.2 The administering authority discretions relate to regulations which apply to LGPS membership for current and former scheme members included in the following statutory instruments and their subsequent amendments:

- The Local Government Pension Scheme Regulations 2013
- The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014
- The Local Government Pension Scheme (Administration) Regulations 2008
- The Local Government Pension Scheme (Benefits, Membership, and Contributions) Regulations 2007
- The Local Government Pension Scheme (Transitional Provisions) Regulations 2008
- The Local Government Pension Scheme Regulations 1997
- The Local Government Pension Scheme Regulations 1995
- The Registered Pension Schemes (Modification of Scheme Rules) Regulations 2011

2.3 Requirements when formulating policies

In formulating their discretionary policies, administering authorities and employers must take into account the following considerations:

- Avoid setting policies which may lead to a serious loss of confidence in the public service
- Ensure that the policies are workable, affordable and reasonable, especially with regard to foreseeable costs
- Ensure that the policies are non-discriminatory
- Avoid blanket or fettered (overly restrictive) policies
- Keep the policies under regular review

2.4 Areas of discretion for administering authorities

Areas of LGPS management where administering authorities are required to apply their discretionary controls include the following:

- Pension fund governance
- Appeals and the adjudication of disagreements
- Admission agreements
- Employer management
- Payments relating to deceased members
- Transferring or linking of pension benefits
- Discretions relating to employers which no longer participate in the fund

2.5 Acting where a member's employer has ceased participation in the Fund

Where a member's former employer has ceased to be a Scheme employer (for example, where it has gone into liquidation) Derbyshire County Council, as the administering authority, acts as the employer or former employer with respect to making decisions which the defunct employer would have been required to make, and as such, is required to publish its mandatory discretions.

In order to meet the requirement under Regulation 60(1) of The Local Government Pension Scheme Regulations 2013, the Policy includes a written statement reflecting the administering authority's approach in relation to the waiving of actuarial reductions when scheme members retire following employment with an employer whose active participation in the Fund has ended.

2.6 Statement of policy update

A review of the last statement of policy identified that a number of minor technical amendments were required.

Discretions which sit with the Adjudicator for appeals are no longer included in the Policy.

Some discretions previously not included have been added to the Policy and reflect:

- Procedures applicable to Derbyshire Pension Board, including appointments and membership
- Approval for admission agreements to take retrospective effect where necessary
- Exit arrangements for employers

3. Costs relating to the application of discretions

- 3.1 Local Government Pension Scheme benefits are paid from the Pension Fund. Any additional pension costs incurred in exercising discretions are either reflected in the individual employer's contribution rate or invoiced directly to the relevant employer by the Fund.
- 3.2 Any costs relating to the administering authority applying the employer discretions set out in this report in respect of employers no longer participating in the Fund will be shared by all active participating employers.

4. Implications

- 4.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

5. Background Papers

- 5.1 The current Statement of Policy on Administering Authority LGPS Discretions is held on the Fund's website

6. Appendices

- 6.1 Appendix 1 – Implications
- 6.2 Appendix 2 – Draft Statement of Policy on Administering Authority LGPS Discretions.

7. Recommendation(s)

That Committee approves the draft Statement of Policy on Administering Authority LGPS Discretions included at Appendix 2.

8. Reasons for Recommendation(s)

- 8.1 One of the functions of the Committee is to consider the Administering Authority's Discretions Policy

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Appendix 1

Implications

Financial

1.1 See paragraph 3 of the report

Legal

2.1 Under Regulation 60(1) of the Local Government Pension Scheme Regulations 2013, administering authorities of LGPS funds are required to publish a written statement reflecting their policy in relation to the waiving of actuarial reductions when scheme members retire following employment with an employer which has ceased to participate in the relevant LGPS fund.

Human Resources

3.1 None

Information Technology

4.1 None

Equalities Impact

5.1 None

Corporate objectives and priorities for change

6.1 None

Other (for example, Health and Safety, Environmental, Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 None