



COUNCIL FUNCTIONS COMMITTEE

Tuesday, 23rd July, 2013

7.00 pm

Town Hall, Watford

Please note the start time of this meeting.

Publication date: 15 July 2013

CONTACT

If you require further information or you would like a copy of this agenda in another format, e.g. large print, please contact Jodie Kloss in Democracy and Governance on 01923 278376 or by email to legalanddemocratic@watford.gov.uk .

Welcome to this meeting. We hope you find these notes useful.

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COMMITTEE MEMBERSHIP

Councillor M Watkin (Chair)

Councillor M Hofman (Vice-Chair)

Councillors L Ayre, N Shah, P Taylor, M Turmaine and D Walford

AGENDA

PART A - OPEN TO THE PUBLIC

1. **APOLOGIES FOR ABSENCE/ COMMITTEE MEMBERSHIP**

2. **DISCLOSURE OF INTERESTS (IF ANY)**

3. **MINUTES**

To submit for signature the minutes of the meeting held on 28 February 2013.

4. **PENSIONS AUTO-ENROLMENT** (Pages 1 - 6)

Report of the Head of Human Resources

5. **LOCAL GOVERNMENT PENSION SCHEME DISCRETION STATEMENT** (Pages 7 - 12)

Report of the Head of Human Resources

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Part A

Report to: Functions Committee
Date of meeting: 23 July 2013
Report of: Head of Human Resources
Title: Pensions Automatic Enrolment

1.0 **SUMMARY**

1.1 The objectives of the report are to familiarise Functions Committee with Pensions Automatic Enrolment and the implications for Watford Borough Council; and

2.0 **RECOMMENDATIONS**

2.1 To recommend that (a) transitional delay and (b) postponement are adopted by the Council.

Contact Officer:

For further information on this report please contact: Brian Kane, HR Officer
Telephone extension: 8313 E-mail: Brian.Kane@watford.gov.uk

Report approved by: Cathy Watson, Head of Human Resources.

3.0 **DETAILED PROPOSAL**

3.1 **Background**

3.1.1 As part of a Government response to reports indicating both that longevity has increased, and that many individuals are making no provision for their retirement other than relying on basic State pension provision, the Pension Act 2008/2011 compels all UK employers with more than 50 employees to automatically enrol employees defined as 'eligible job holders' into a qualifying pension scheme.

3.1.2 An 'eligible job holder' is defined as an employee who is 22 or over but under 75, and who earns over £9440 (the current tax free allowance, and therefore subject to change) per annum.

3.1.3 This is being done on a staged basis, dependent on the numbers of employees in each organisation. The staging date for Watford Borough Council is **1 January 2014**.

3.2. **Details**

3.2.1 The Local Government Pension Scheme is classified as a qualifying pension scheme and under its existing regulations, any new joiners should already be automatically enrolled into the scheme, although they are currently given the option to 'opt out'

before they are formally enrolled.

3.2.2 A high number of employees are already members, with **230 employees** (approximately 82% of staff) projected to be in the scheme at the staging date of 1 January 2014. There are projected to be **50 non members** at the same date.

3.2.3 Under the new automatic enrolment process, employees will not be able to 'opt out' until after they have formally entered the scheme.

3.3 **Transitional Delay**

3.3.1 Transitional delay is a facility whereby it is possible to defer auto enrolment for existing employees (who have already opted out of the LGPS) until **30 September 2017**.

3.3.2 Any new starters (and existing job holders who become 'eligible job holders' for the first time) must still be auto enrolled and the scheme is still open for all employees to join themselves at any time.

3.3.3 Hertfordshire County Council and many local authorities have opted for transitional delay.

3.3.4 There are significant financial implications associated with the decision to use transitional delay – as detailed in section 00000. On the basis of these, it is recommended that transitional delay is adopted by the Council.

3.4 **Postponement (for individual employees)**

3.4.1 There is also an option to postpone auto enrolment for employees on casual or seasonal contracts for **up to 3 months** from their start date.

3.4.2 It is recommended that this facility is adopted, as it would enable the earnings of casual staff to be fully assessed to see if they meet the 'eligible job holder' criteria before enrolling them.

3.4.3 This would reduce both direct employer pension costs and administrative costs.

3.5 **Main duties**

3.5.1 The London Pensions Fund Authority (LPFA), which administers the LGPS on behalf of Hertfordshire County Council, has issued detailed auto enrolment programme guidance and draft documentation for the Hertfordshire councils. It will provide advice and guidance throughout the programme.

3.5.2 The main duties for the council are as follows:

- The Council must notify all its employees of the staging date approximately 6 months before the date (a general notice on the Intranet/notice-boards will be sufficient)
- The Council must inform all directly affected members (those being enrolled, and if transitional delay is being used – those for whom transitional arrangements are being invoked).

- One month before the staging date, the Council must identify all employees who are 'eligible job holders'
- From 1 January 2014 the Council must automatically enrol all 'eligible job holders' into the Scheme, except those for whom transitional delay has been invoked (and these individuals must be written to and again offered the opportunity to join the Scheme). The Council must, every three years, automatically re-enrol those who choose to opt out.
- The Council is not permitted, either on or before the staging date, to inform staff who are to be auto enrolled that they can opt out of the Scheme if they wish.
- Staff who are automatically enrolled and then wish to opt out must apply directly to the Pensions Fund *Administering Authority* (Hertfordshire County Council), not the *Employing Authority* (Watford Borough Council).
- As noted above, any staff who opt out of the pension scheme after auto enrolment must be automatically re-enrolled after 3 years.
- The council must provide information to eligible and non-eligible jobholders about auto enrolment and pensions. Under existing LGPS regulations all staff under 75 who are not 'eligible job holders' retain the right to join the LGPS.
- After the staging date, the Council must keep accurate records and continue to monitor worker's age, employment/contractual status and earnings and automatically enrol them in the LGPS if they become 'eligible job holders'.
- The Council must prevent unfair treatment of workers on grounds related to the employer duties (e.g. inducing a candidate during recruitment to opt out of the pension scheme or assessing a candidate during recruitment regarding their potential pension scheme membership).
- The Council must inform the Pensions Regulator within 3 months of the staging date that the council has complied with its duties, or that it has applied the transitional delay and/or postponement option.

4.0 IMPLICATIONS

4.1 Financial

- 4.1.1 The introduction of Pensions Automatic Enrolment will have financial implications. When an employee is enrolled into the Local Government Pension Scheme the employer pays the associated employer contribution rate to the Scheme. For WBC this is currently 26.8%
- 4.1.2 This will be offset marginally by a reduction in employer National Insurance contributions of approximately 3.4% as employees move from being 'contracted-in' to the State pension scheme to being 'contracted-out' i.e. members of the LGPS as an occupational scheme. However, if the proposed Single Tier State pension is introduced in 2017, this reduction will cease.
- 4.1.3 If the transitional delay option is not used and the existing 50 staff who are non members are automatically enrolled on 1 January 2014 (on the basis of an average salary of £27,195) the additional maximum potential employer contribution (at 26.8%) would be approximately **£364,413 per annum**. This is a 'worst case' scenario.
- 4.1.4 Research indicates that approximately 30% of staff auto enrolled into pension schemes will opt out. In local government this figure is likely to be higher as the sector already runs a type of auto enrolment scheme, and additional deductions from pay

may not be seen as good value by casual and part time employees on lower incomes. Some predictions have indicated that up to 90% of auto enrolled staff will opt out of the LGPS. The financial cost of this 'best case' scenario would be £36,441 per annum.

4.1.5 Pensions auto enrolment is intended to increase the number of individuals contributing to pension schemes, and would therefore increase employer contribution costs. However, it is possible that raising awareness of occupational provision may have an unintended effect. The impact of LGPS membership on low paid workers' entitlement to state benefits at retirement may make existing LGPS members who are on low pay leave the scheme. It is therefore possible that the Pensions Act will be amended in coming years to introduce auto enrolment with no opt out mechanism.

4.1.6 The Head of Strategic Finance has approved this report.

4.2 **Legal Issues** (Monitoring Officer)

4.2.1 There are no legal implications in following the recommendations outlined in this report. There are potential legal implications for wilful non-compliance with the legislation. The Pensions Regulator can impose penalties ranging from fines to imprisonment for employers who knowingly breach their duties and disadvantage their employees.

4.2.2 The Head of Democracy and Governance has approved this report.

4.3 **Equalities**

4.3.1 There are no known equalities implications.

4.4 **Potential Risks**

Potential Risk	Likelihood	Impact	Overall score
Increased expenditure as noted under Financial Implication	2	2	4
Penalties from the Pension Regulator as noted under Legal Implications	1	4	4

4.5 **Staffing**

4.5.1 There may be HR staffing implications given the increased administrative requirements of automatic enrolment, however this will be monitored as the programme progresses.

4.6 **Accommodation**

4.6.1 Not applicable

4.7 **Community Safety**

4.7.1 Not applicable

4.8 **Sustainability**

4.8.1 Not applicable

Background Papers

- <http://www.lpfa.org.uk/Employers/AUTOMATIC-ENROLMENT.aspx>

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Part A

Report to: Functions Committee
Date of meeting: 23 July 2013
Report of: Head of Human Resources
Title: Local Government Pension Scheme (LGPS) Discretions Policy

1.0 **SUMMARY**

- 1.1 Under the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2008, each Employing Authority is required to publish and maintain a Discretions Policy under the LGPS.
- 1.2 A Discretions Policy has been drafted with proposals on whether Watford Borough Council should adopt each of the discretions available to employers, or not (Appendix 1).

2.0 **RECOMMENDATION**

- 2.1 That the Local Government Pension Scheme Discretions Statement policy, as set out in Section 3 of the policy in Appendix 1 is approved by the Committee.

Contact Officer:

For further information on this report please contact: Brian Kane, HR Officer
telephone extension: 8313 email: Brian.Kane@watford.gov.uk

Report approved by: Cathy Watson, Head of Human Resources.

3.0 **IMPLICATIONS**

4.1 **Financial**

- 4.1.1 The Head of Strategic Finance comments that Appendix 1 does not involve the council in making any enhanced payments unless there is an overriding (financial) business case and would therefore support this Report.

4.2 **Legal Issues** (Monitoring Officer)

- 4.2.1 The Head of Democracy and Governance comments that the legal implications are contained in Appendix 1. It is a legal requirement to maintain and review a discretions policy..

4.3 **Equalities**

- 4.3.1 There are no known equalities implications.

4.4 Potential Risks

Potential Risk	Likelihood	Impact	Overall score
Not publishing a Discretion Statement in breach of the legislation.	1	3	3
Lack of transparency and potential for inconsistent decision-making if Discretion Statement not published.	1	3	3

4.5 Staffing

4.5.1 None

4.6 Accommodation

4.6.1 Not applicable

4.7 Community Safety

4.7.1 Not applicable

4.8 Sustainability

4.8.1 Not applicable

Appendices

Appendix 1: Draft WBC Policy - Local Government Pension Scheme Discretions Statement

Background Papers

No papers were used in the preparation of this report.

File Reference

None

APPENDIX 1

WATFORD BOROUGH COUNCIL

HR POLICY: Local Government Pension Scheme Discretions Statement

DATE ISSUED: July 2013

DATE REVIEWED:

1. INTRODUCTION

- 1.1 Under the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2008, each Employing Authority is required to publish and maintain a Discretions Policy under the LGPS. This document sets out below the discretions to be applied within Watford Borough Council.

2. SCOPE

- 2.1 This policy and procedure set out in this document applies to all Council employees, who are eligible to and have elected to join the Local Government Pension Scheme.

3. DISCRETIONS WITHIN THE SCHEME

3.1 Discretion of employer to increase total membership of active member (Regulation 12)

An employer *may* resolve to increase the total membership of an employee at any time whilst s/he is an active member of the Scheme with them. The maximum additional membership period that can be awarded is 10 years.

Watford Borough Council will not be adopting this discretion to increase total membership of active members.

3.2 Discretion of employer to award additional pension (Regulation 13)

An employer *may* resolve to award an employee, at any time whilst he is an active member of the Scheme with them, additional pension of not more than £5,000 a year payable from the same date as his pension is payable under any provisions of the Local Government Pension Scheme Regulations.

Watford Borough Council will not be adopting this discretion to award additional pension.

3.3 Discretion to permit flexible retirement and waive, in whole or part, actuarial reduction on benefits paid on flexible retirement (Regulation 18(1) and (3))

A member who has attained the age of 55 and who, with his employer's consent, reduces the hours he works, or the grade in which he is employed, may make a request in writing to the appropriate administering authority to receive all or part of his benefits under the Regulations, and such benefits may,

with the employer's consent, be paid to him notwithstanding that he has not retired from that employment.

If the payment of benefits takes effect before the member's 65th birthday they will be reduced in accordance with guidance issued by the Government Actuary unless the employer agrees to waive, in full or in part, any such reduction at their cost.

Watford Borough Council's Flexible Retirement Policy enables an employee, aged 55 or more, to apply to reduce his/her hours or grade, and receive part or full payment of pension benefits under the main LGPS regulations. The employee should be aware that the Council will not waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement. Consequently, the employee should be aware that they may suffer an actuarial reduction in their pension and lump sum due to the early payment. A copy of the Flexible Retirement Policy is available on the Intranet.

3.4 Discretion to permit early payment of pension (Regulation 30(2) and (5))

A member of the pension scheme aged 55 or more may apply for the early payment of their retirement benefits, subject to the consent of their employer. An application may be made by either a current employee or a former employee holding deferred benefits.

Watford Borough Council will agree to an application from a current employee only in a case where it is satisfied that there is a clear business benefit, and where the service are willing to reimburse to the pension fund any costs arising from the early retirement.

Applications should be made to the Head of Human Resources.

The Council will not consider an application from a former employee holding deferred benefits, where this incurs an additional cost to the Council.

The Council will not waive reductions on compassionate grounds for either a current employee or a former employee.

3.5 Discretion to permit late inward transfer of pension rights

A request to transfer pension rights into the LGPS must be made within twelve months of joining the scheme. Any request to transfer pension rights after the twelve month limit will be declined unless there are extenuating circumstances for the delay. Further information about the application process is made available to new employees or can be requested from the Human Resources department.

3.6 Discretion to grant an application for reinstatement of a suspended tier 3 ill health pension on or after 55 and before 60

Watford Borough Council will not be adopting this discretion to allow reinstatement of a suspended tier 3 ill health pension on or after 55 and before age 60.

3.7 Discretion to waive, on compassionate grounds, the actuarial reduction applied to the reinstatement of a suspended tier 3 ill health retirement pension paid early (i.e. on or after age 55 and before age 60).

Watford Borough Council will not be adopting this discretion to waive, on compassionate grounds, the actuarial reduction applied to the reinstatement of a suspended tier 3 ill health pension paid early.

3.8 Discretion to adopt an Injury Benefit Scheme

Watford Borough Council will not be adopting this discretion to adopt an Injury Benefit Scheme.

3.9 Discretion to extend the period for a member to elect to make absence contributions

This provides for a scheme member to pay optional contributions, for a period of unpaid absence from work, within 30 days of returning to, or of ceasing, employment. The employer can agree to extend this time limit.

Watford Borough Council will allow the extension of the period in cases where the member was not notified of the right to pay contributions.

3.10 Discretion to contribute to Additional Voluntary Contributions (AVCs)

An active member may elect to pay AVCs into a scheme established under contract between his appropriate administering authority and a body approved for the purposes of the Finance Act 2004.

An employer may contribute to the AVC scheme and where they do the AVC scheme is known as a shared cost additional voluntary contributions (SCAVC) arrangement and contributions to it as SCAVCs.

Watford Borough Council does not contribute to shared cost additional voluntary contributions.

4. DETERMINATION OF QUESTIONS AND DISPUTES

- 4.1 Any applications to deal with questions and disputes arising from the administration of the scheme membership must be made in writing to the Head of Human Resources, Watford Borough Council, Town Hall, Watford, Hertfordshire, WD17 3EX.

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