LOCAL GOVERNMENT PENSION SCHEME REGULATIONS

ROYAL BOROUGH OF GREENWICH

STATEMENT OF POLICY - EXERCISE OF DISCRETIONARY FUNCTIONS

The new Local Government Pension Scheme 2013 (new LGPS), which commences on 1 April 2014, has two sets of regulations that will govern how it operates:

1. The Local Government Pension Scheme Regulations 2013. These are referred to as the 2013 Regulations.
2. The Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014. These are referred to as the Transitional Regulations 2014.

These Regulations contain discretionary provisions, which apply to the Royal Borough of Greenwich as an employing authority of the pension funds administered by the Royal Borough of Greenwich and the London Pension Fund Authority.

Under regulation 60(1)(a) of the 2013 Regulations, the Royal Borough of Greenwich is required to prepare and publish its policies under the 2013 Regulations:

2013 Regulations

1. Regulation 16 (2) (e) & 16 (4) (d) – Shared Cost Additional Pension Contributions (SCAPC).
2. Regulation 30 (6) – Flexible retirement.
3. Regulation 30 (8) – Waiving Actuarial Reduction on flexible and voluntary retirement.
4. Regulation 31- Power of employing authority to award additional pension.

Under Schedule 2 of the Transitional Regulations 2014, the RBG is also required to prepare and publish its policies on the following:

Transitional Regulations 2014

5. Schedule 2 – Switching on of 85 year rule for member voluntarily drawing benefits on or after age 55 and before age 60 and the application of reductions for early payment.

1. Regulation 16 – Shared Cost Additional Pension Contributions

Discretion

Under the new LGPS, employees in the Scheme may choose to buy extra annual pension, up to a maximum as set in Regulation 31, using an Additional Pension Contribution (APC) contract. The employer has the discretion to fund in part or full the cost of the APC.

Regulation

(1) An active member who is paying contributions under Regulation 9 (contributions) may enter into arrangements to pay additional pension contributions ("APCs") by regular contributions in accordance with paragraph (2).

(2) Where APCs are to be paid by regular contributions, the arrangements mentioned in paragraph (1)—may be funded in whole or in part by the member's Scheme employer.

(3) An active member who is paying contributions under Regulation 9 (contributions) may enter into arrangements to pay additional pension contributions ("APCs") by lump sum contribution in accordance with paragraph (4).

(4) Where APCs are to be paid by a lump sum contribution, the arrangements mentioned in paragraph (3)—may be funded in whole or in part by the member's Scheme employer.

Background

There is a current facility to buy additional pension using Additional Regular Contributions (ARCs), however the Royal Borough of Greenwich does not have the discretion to contribute to the cost.

Resolution

It is recommended that the Royal Borough of Greenwich resolves not to fund, in part or full, the cost of APC's, as there are no identifiable, significant benefits to the Royal Borough of Greenwich. There is an alternative means of enhancing benefits (see Regulation 31).

2. Regulation 30 (6) – Flexible retirement

Discretion

Under the new LGPS, the current flexible retirement (from age 55) provisions continue. However, it should be noted that whereas under the 2008 Scheme a member only required 3 months' membership to be entitled to flexible retirement, under the 2014 Scheme the qualifying period of membership is 2 years.

Regulation

An active member who has attained the age of 55 or over who reduces working hours or grade of an employment may, with the Scheme employer's consent, elect to receive immediate payment of all or part of the retirement benefits to which that member would be entitled in respect of that employment if that member were not an employee in local government service on the date of the reduction in hours or grade, adjusted by the amount shown as appropriate in actuarial guidance issued by the Government Actuary Department.

Background

This power was introduced under the 2008 Pension Scheme Regulations. It gives the scheme member the possibility of avoiding the abrupt change from employment to retirement and the employer greater flexibility in managing its workforce.

There are a number of factors an employer may wish to consider when devising a flexible retirement policy e.g. flexible retirement may: -

- be an effective means to reduce headcount
- help to avoid redundancies and the associated strain on Fund pension costs and redundancy payment / compensation costs
- enable the employer to retain or attain a balanced age profile within the workforce
- enable the transfer of skills / knowledge
- offer the opportunity of better succession planning and mentoring
- facilitate the retention of expertise, knowledge and contacts
- offer an acceptable solution to staff who are currently a blockage to promotion or reorganisation
- improve morale
- offer the flexibility and productivity associated with part-time working / downshifting

- assist staff to ease down into retirement
  - make a gradual adjustment to life without paid employment
  - gradually break free of the routine and habits of work
  - keep mentally / physically active

Further considerations in making a policy include: -

- Whether or not there should be a minimum reduction in hours or grade. The regulation do not specify a minimum but the Council may wish to rule out the possibility of having to consider requests involving minor changes to hours or grade, by specifying a minimum before flexible retirement will be considered.
- Whether or not, in reduction of hours' cases, to only give consideration where changes of hours are in the same job.
- Any cost to the pension fund, which has to be met by the employer. However, as cost can depend on age, the employer must be able to show that overall there has been no age discrimination.
- To simplify administration by not allowing a further flexible retirement to a member who had previously taken flexible retirement.
- To simplify administration by requiring a member to take all his benefits on flexible retirement.

Resolution

It is recommended that the current policy is not changed by resolving that:

Each flexible retirement request is to be considered on its merits but there has to be a reduction of at least 2/5ths of current working hours or a move to a new job that is at least one full grade lower. All benefits have to be taken and a member who has previously taken flexible retirement will not be able to do so again.

It has to be demonstrated that it is in the Council's economic and/or operational interests. All requests to be agreed by the relevant Chief Officer, the Director of Finance and the Head of Corporate Services.

3. Regulation 30 (8) – Flexible & Voluntary retirement - choice of early payment of pension (waiving all or part of any actuarial reduction)

Discretion

For voluntary retirement or where flexible retirement is agreed, the Royal Borough of Greenwich has the further discretion to waive in whole or part any actuarial reduction.

Regulation

A Scheme employer may agree to waive in whole or in part any reduction that would be required by paragraphs (5) (voluntary retirement) or (6) (flexible retirement).

Background

Benefits paid early due to flexible or voluntary retirement are calculated by reference to their actual membership without any enhancement. The benefits received will be subject to a percentage reduction due to the early payment. RBG can decide not to apply the reduction in part or in full.

Resolution

It is recommended that this discretion is used only where there is a clear financial or operational advantage to the Council. Such cases will need to be approved by the relevant Chief Officer, the Director of Finance and the Head of Corporate Services.

4. Regulation 31 - Power of employing authority to award additional pension

Discretion

Employers may resolve to award additional LGPS pension of not more than the maximum allowable per year.

Regulation

(1) A Scheme employer may resolve to award:-

(a) an active member;

or

(b) a member who was an active member who was dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency;

- additional annual pension of, in total, not more than the additional pension limit payable from the same date as any pension payable under other provisions of these Regulations from the pension account to which the additional pension is attached, provided that, in the case of a member falling within sub-paragraph (b), the resolution to award additional pension is made within 6 months of the date the member's employment ended.

Background

This power exists under Regulation 13 (2008) and allows the Council to increase a scheme member's benefits by awarding a set amount of pension; this power could be used to enhance benefits as the previous power under Regulation 12 (2008) will no longer be available.

Resolution

It is recommended to resolve that an award of additional pension may be made where:

a) The cost to the pension fund is met by the redundancy/efficiency payment enhancement that is awarded under the Discretionary Compensation Regulations 2006.

or

b) in exceptional circumstances subject to the approval of each case by the Chief Executive and Director of Finance.

Transitional Regulations 2014

5. Schedule 2 – Switching on of 85 year rule for member voluntarily drawing benefits on or after age 55 and before age 60 and the application of reductions for early payment.

Discretion

Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits:

- on or after age 55 and before age 60
- whether to apply the reduction that would have applied at age 60
- whether to waive any reduction in whole or in part.

Regulation

Paragraph (4) applies where the member's Scheme employer does not agree that paragraph (3) should apply.

(3) (a) if the member satisfies the 85 year rule, that part of the member's benefits which is calculated by reference to any period of membership before the relevant date shall not be reduced; and

(b) if the member does not satisfy the 85 year rule, that part of the member's benefits which is calculated by reference to any period of membership before the relevant date is reduced by reference to the period between the date of the request and the date the member would satisfy the 85 year rule, or age 65 if later.

(4) (a) if the member satisfies the 85 year rule, that part of the member's benefits which is calculated by reference to any period of membership before the relevant date is reduced by reference to the period between the date of the request and age 60; and

(b) if the member does not satisfy the 85 year rule, that part of the member's benefits which is calculated by reference to any period of membership before the relevant date is reduced by reference to the period between the date of the request and the date the member would satisfy the 85 year rule, or age 65 if the member would not satisfy the 85 year rule before that time, or age 60 if later

A member's scheme employer may determine to waive the reduction referred to in paragraph (3) (b) or (4) in whole or in part.

Background

Under the current scheme, a member aged 55 or over but under age 60 has to have the consent of the employer to be able to have their pension paid early. Where the member qualifies under the 85 year rule, this has to be applied and the full reductions for early payment will therefore not apply; there will be a consequent cost to the employer for giving consent for early payment.

The 85 year rule applied to members who joined the scheme before 1 October 2006, whose age and membership would add up to 85 at a date before age 65. Where it applies, the reduction for early payment of benefits is not applied, or applied at a lesser rate. It was removed for benefits earned on membership from 1 April 2008, although some members born before 1 April 1960 have full or partial protection against the effect of the removal.

Regulation 30(5) of the 2013 Regulations allows a member to retire at aged 55 or over **without needing the consent of the employer**. However, there is no 85 year rule in the 2013 regulations so a full reduction of benefits would apply for benefits paid before normal retirement age. The employer can waive the reduction in whole or in part but the cost would be higher than it would otherwise be if the 85 year rule could be applied.

The Transitional Regulations 2014 therefore allow the employer to 'switch on' the 85 year rule, either in full or in part (reduction uses the period from date of leaving/request for early payment to age 60,or to when the member would satisfy the 85 year rule if this is later).

This gives the employer flexibility in applying the 85 year rule where a member requests early payment before age 60 including the option to apply it in a way that there is no additional cost to the employer.

There is a further provision to waive any reduction for early payment in whole, or in part.

Resolution

It is recommended that discretion is used only where there is no cost to the Council or there is a clear financial or operational advantage to the Council or where there are compassionate grounds. Such cases will need to be approved by:

a) In the case of employees, the relevant Chief Officer, Director of Finance and the Head of Corporate Services.

b) In the case of former employees, the Director of Finance and the Head of Corporate Services.