

**ITEM No ...9.....**

**REPORT TO: POLICY & RESOURCES COMMITTEE– 19 NOVEMBER 2018**

**REPORT ON: LOCAL GOVERNMENT PENSION SCHEME UPDATE ON REGULATIONS AND DISCRETIONS**

**REPORT BY: EXECUTIVE DIRECTOR OF CORPORATE SERVICES**

**REPORT NO: 360-2018**

**1. PURPOSE OF REPORT**

- 1.1 This report reviews the implications for Dundee City Council as a local government employing authority following changes in the Pension Regulations and how existing discretions need to be amended in light of these.

**2. RECOMMENDATIONS**

- 2.1 The Committee is asked to approve:-

The amended recommendations in Appendix A in respect of discretions to be applied by Dundee City Council as an employing authority;

The workforce planning considerations outlined in this report.

**3. FINANCIAL IMPLICATIONS**

There are no direct financial implications arising from this report

**4. BACKGROUND**

- 4.1 The Local Government Pension Scheme (Scotland) Regulations 2018 is effective from 1 June 2018. One of the main changes is that employees can now choose to retire without employer consent and receive full retirement benefits from age 55 rather than age 60.
- 4.2 Although these benefits would be liable for actuarial reduction, it does create an additional workforce planning risk but also an opportunity for the Council.
- 4.3 Reference is made to Report No 248-2015, Local Government Pension Scheme 2015 Employing Authority Discretions, Article VIII of the minute of the meeting of the Policy and Resources Committee held on 22 June 2015 refers, which approved specific discretions to be applied. This report updates discretions 4 and 5 to mitigate these workforce risks and opportunities.
- 4.4 The risks associated with the Pension Regulation changes relate to the inability of the employer to prevent an individual from retiring at the age of 55 where such a retiral would leave the service without the appropriate time to workforce/succession plan, which could leave a significant gap in knowledge and experience.
- 4.5 The opportunities associated with the Pension Regulation changes allow the employer to consider the 'Rule of 85' (where age plus service is equal to or more than 85) to apply for those under the age of 60 as part of its early retirement options and where there is a sound business/operational case for so doing. While an individual can request to leave their employment under the 'Rule of 85' before the age of 60, there is an actuarial reduction applied which would be met by the employee, this option would allow the employer to meet the actuarial reduction in appropriate cases as part of the service workforce planning considerations.

- 4.6 The current average age of the Councils' workforce is 46 years, with more than half of the workforce over this age, this clearly identifies the challenges ahead as we plan our service delivery for the future.
- 4.7 Over recent months, a Workforce Planning Toolkit has been developed giving Service management teams workforce data including age profile, gender, length of service etc, which is a welcome addition and offers greater insight as service reviews and redesign are undertaken.
- 4.8 Providing an additional workforce planning tool as outlined in paragraph 4.5 would add to the current framework in place for planning and implementing workforce change –
- Flexible Retirement
  - Cash Conservation
  - Managing Redeployment
  - Voluntary Early Retirement/Voluntary Redundancy (current policy - Report No 227-2010, Article VIII of the minute of the meeting of the Policy and Resources Committee held on 26 April 2010 refers.

Any change proposed will be scrutinised to ensure there is a clear business case and will require approval from the Executive Director of Corporate Services, in association with the Chief Executive and the Head of Human Resources and Business Support.

- 4.9 There is currently a gap in transitional regulations regarding the "Rule of 85" transitional protections but the Scottish Public Pensions Agency has formally confirmed a "letter of comfort" to the Council allowing it to proceed in their absence.

## **5. POLICY IMPLICATIONS**

This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

There are no major issues.

## **6. CONSULTATIONS**

The Council Management Team and Trade Unions were consulted in the preparation of this report.

## **7. BACKGROUND PAPERS**

None.

4. Applying the 'Rule of 85'	Criteria	Explanation
<p>Whether, as the 'Rule of 85' does not (other than on flexible retirement) apply automatically and, in full, to scheme members who would otherwise be subject to it and who (with their employer's consent) choose to voluntarily draw their pension benefits on or after their 55th birthday (and before age 60), to apply the 'Rule of 85' to such members.</p> <p>[paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 refers]. Where the employer does not do so, then;</p> <p>(a) if the scheme member has already met the 'Rule of 85', the scheme member's pension benefits are to be reduced in accordance with actuarial guidance issued by the Scottish Ministers; or</p> <p>(b) if the member has not already met the 'Rule of 85', the scheme member's pension benefits are to be reduced in accordance with actuarial guidance issued by the Scottish Ministers; and</p> <p>(c) the employer can exercise discretion to waive the actuarial reduction (at full cost to the employer) – Discretion 5 below refers.</p>	<p>To be implemented in following cases:-</p> <ol style="list-style-type: none"> <li>1. Employee agrees by arrangement to meet any residual strain on fund cost to employer (in which case there is no additional cost to the Council); or</li> <li>2. In exceptional cases, where a full business case is presented showing a net overall saving to the Council and which is in accordance with the Council's overall workforce and business strategies and is agreed by the Executive Director of Corporate Services in consultation with Chief Executive and the Head of Human Resources and Business Support</li> </ol>	<p>An active member who is age 55 or over, and whose service and age adds to 85 years or over would request that the Council recognise this rule and apply a discretion which would effectively reduce the actuarial reduction to their pension benefits. Applying this discretion may result in the Council incurring a chargeable strain.</p> <p>In both cases any charges will be imposed to the Council, however :</p> <p>In case 1, the charge would remain payable by the Council, with the Council requiring the member to agree to meet the costs charged to them by the pension fund through reimbursement.</p> <p>In case 2, the charge would be payable by the Council, but offset by a wider agreed business case.</p>
5. To Permit Scheme Members Aged 55 or Over who Voluntarily Retire to Draw Their Pension Benefits Immediately	Criteria	Explanation
<p>For active scheme members voluntarily retiring on or after their 55th birthday (and before Normal Pension Age) who make an election under Regulations 29(5) of the LGPS (Scotland) Regulations 2014 (with the employer's consent, if under age 60) to immediately draw their pension benefits; and;</p> <p>For deferred scheme members who make an election under Regulation 29(5) of the LGPS (Scotland) Regulations 2014 (with their</p>	<p>Implement for active members only subject to the Executive Director of Corporate Services being satisfied with the financial implications in line with Discretion 4 above.</p>	<p>Scheme members can retire at age 55 or over. This discretion is where members are requesting that they take their benefits immediately, before state retirement age and unreduced by actuarial reduction, regardless of combined age and length of service.</p> <p>In these cases the Council would incur the</p>

<p>employer's consent, if under age 60) to immediately draw their pension benefits (other than on ill-health grounds) on or after age 55 and before Normal Pension Age; and</p> <p>Who <b>were not</b> members of the LGPS prior to 01 December 2006, whether to:-</p> <p>(a) waive on compassionate grounds, any actuarial reduction that would otherwise be applied to the member's pension benefits, if any, that they had accrued before 01 April 2015; and/or</p> <p>(b) to waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to the pension benefits that they had accrued after 31 March 2015.</p> <p>Who <b>were</b> members of the LGPS prior to 01 December 2006, whether to:-</p> <p>(a) to waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to their pension benefits (accrued during the period pre and post 01 April 2015)</p>	<p>In respect of deferred members (who have a scheme exit date of up to and including 31st May 2018) the employer retains the right, following their assessment of the case, to allow deferred members (who meet the criteria described) to have their benefits paid early.</p> <p>On application from such deferred members Tayside Pension Fund will issue the members application to the appointed person and also provide the details of any Strain on the Fund to the employer and upon their response will advise the member accordingly of the decision made</p>	<p>strain charges caused by the waiving of actuarial reductions.</p> <p>These actuarial reductions can be waived wholly or partially.</p> <p>The circumstances of application would be on extreme compassionate grounds (but where ill-health grounds are not applicable).</p> <p>Whilst the discretion is open to both active and deferred membership, the Council will only recognise applications from active members of the fund, with agreement only from the Executive Director of Corporate Services.</p>
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