

# CHESHIRE FIRE AUTHORITY

**MEETING OF:** STAFFING COMMITTEE  
**DATE:** 16 NOVEMBER 2020  
**REPORT OF:** DIRECTOR OF TRANSFORMATION  
**AUTHOR:** ANDREA HARVEY

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**SUBJECT:** LOCAL GOVERNMENT PENSION SCHEME  
DISCRETIONS POLICY

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## Purpose of Report

1. This report seeks approval of a revised Local Government Pension Scheme Discretions Policy.

## Recommended: That;

- [1] The proposed Local Government Pension Scheme Discretions Policy be considered and approved.

## Background

2. The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014 so that benefits for service after 31 March 2014, build-up on a defined benefit career average revalued earnings (CARE) basis, rather than on a defined benefit final salary basis.
3. The provisions of the CARE scheme, together with the protections for members' pre 1 April 2014 final salary rights, are contained in the Local Government Pension Scheme Regulations 2013 [SI 2013/2356] and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525].
4. Scheme employers participating in the LGPS in England or Wales must formulate, publish and keep under review a statement of policy on all discretions which they have the power to exercise in relation to members of the LGPS.
5. In drawing up a discretions policy, the Government advises that organisations should not 'fetter their discretion' and it recommends that a "policy should not be so rigid or restrictive as to prevent flexibility where a (possibly unanticipated) situation requires it." In other words it is not advisable for an organisation just to simply state they will not apply a discretion as this will restrict flexibility and bind them to make the same decision in every single case. This is, in fact, removing any discretion. Organisations are able to state

that their normal policy is not to exercise a discretion but then intrude language that would allow them to do so in certain limited circumstances.

## **Information**

6. The Service's LGPS Discretions Policy was drawn up in 2014 and has not been reviewed since then, largely because it has rarely been referred to. However, in recent months a member of staff asked whether it would be possible to exercise a discretion and this led to the review.
7. The revised policy is attached to this report as Appendix A with the proposed changes highlighted in yellow. The main changes involve the introduction of wording allowing extenuating circumstances to be considered, as well as acknowledging that there might be situations where discretion might be appropriately exercised if there is a financial or organisational benefit to the Service.
8. The policy has also been updated to reflect that fact that all discretions would require the approval of the Chief Fire Officer and Chief Executive, the Treasurer and the Pension Scheme Manager. Previously this had been the Deputy Chief Fire Officer and the Pension Scheme Manager.

## **Financial Implications**

9. There may be financial implications associated with the exercise of some discretions. These would vary depending on the circumstances and be considered on a case by case basis by the Chief Fire Officer and Chief Executive, the Treasurer and the Pension Scheme Manager.

## **Legal Implications**

10. As stated above the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 require us to formulate, publish and keep under review a statement of policy on LGPS pension discretions.
11. To date we have been fully compliant with the Regulations but our policy has been found to be rigid and restrictive and has prevented flexibility to apply discretion.

## **Equality and Diversity Implications**

12. There are no equality and diversity implications associated with the proposed policy changes but if discretions are applied they will be monitored to ensure that there is no indirect discrimination or bias towards any particular group of staff.

## **Environmental Implications**

13. None

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**BACKGROUND PAPERS: NONE**