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Hinckley & Bosworth
Borough Council

Bill Cullen MBA (ISM), BA(Hons) MRTPI
Chief Executive

Date: 06 June 2022

To: **Members of the Ethical Governance and
Personnel Committee**

Cllr R Webber-Jones (Chairman)
Cllr SL Bray (Vice-Chairman)
Cllr RG Allen
Cllr DC Bill MBE
Cllr MB Cartwright

Cllr MA Cook
Cllr A Furlong
Cllr L Hodgkins
Cllr LJP O'Shea

Copy to all other Members of the Council

(other recipients for information)

Dear member,

Please find attached a report which was omitted from the agenda for the meeting of the **ETHICAL GOVERNANCE AND PERSONNEL COMMITTEE** on **WEDNESDAY, 8 JUNE 2022** at **6.30 pm**. This will be taken after item 5 on the agenda.

I would be grateful if you could place this with your papers for the meeting.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Owen'.

Rebecca Owen
Democratic Services Manager

LATE REPORT

(a) Revision of pension discretionary policies (Pages 1 - 10)

To consider a change to one of the employer pension discretions in relation to the Local Government Pension Scheme.

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Hinckley & Bosworth Borough Council

Forward timetable of consultation and decision making

Ethical Governance and Personnel Committee 8 June 2022

Wards affected: All Wards

Revision of Pension Discretionary Policies

Report of Director (Corporate Services)

1. Purpose of report

1.1 To propose a change to one of the employer pension discretions in relation to the Local Government Pension Scheme (LGPS).

2. Recommendation

1.2 That members:

- Note the proposal to introduce an AVC salary sacrifice scheme.
- Approve the revision of the wording within the discretion policy 'Regulation 17 - Shared Cost Additional Voluntary Contribution Facility' at Appendix 1.

3. Background to the report

Introducing a Shared Cost Additional Voluntary Contributions (SSAVCs) scheme

3.1 Local Government employees currently have the facility to make additional payments to their retirement over and above their standard pension deductions, called Additional Voluntary Contributions. Employees can opt to have an amount deducted from their salary and achieve savings via tax relief. The Council is planning to introduce a new Shared Cost Additional Voluntary Contributions (SCAVCs), a salary sacrifice scheme which will allow employees to have the opportunity to make further savings via National Insurance Contributions as well as Income Tax. The scheme is recognised by the Local Government Pension Scheme (LGPS); it is important to note that

there are no additional costs to the employer which is simply facilitating the scheme and NI savings will be achieved for both employee and employer.

- 3.2 If it is determined that the council will offer salary sacrifice SCAVCs, the employer must specify in the employee's contract of employment that the employer contribution to the SCAVC is a pensionable emolument, and pensionable pay is calculated using the pre salary sacrifice level of pay. This means member contributions; employer contributions and CARE pension build-up continue to be based on the pre salary sacrifice level of pay.
- 3.3 The employer will also need to amend its discretions policy and ensure that it meets HMRC requirements for running a salary sacrifice scheme. Any salary sacrifice scheme must be properly implemented, and employers should seek professional advice. The council has chosen to work with a third party to assist with the introduction, communication and ongoing management of this salary sacrifice arrangement.
- 3.4 At present there are ten discretions in force for council employees and these are set out in detail at Appendix 1. It is proposed to change the policy wording for one discretion, Regulation 17 - Shared Cost Additional Voluntary Contribution Facility. Given the financial constraints facing local councils and the requirement to control the impact of any capital costs moving forwards, it is proposed to not change the remaining nine discretionary policies.
- 3.5 The current wording on the existing policy is

LGPS Regulations 2013 – Regulation 17 - Shared Cost Additional Voluntary Contribution Facility

This discretion allows the Employer to maintain and contribute to an employee's Additional Voluntary Contribution Scheme.

Employer's Policy

The Council has not adopted this discretion. This will not have any effect on the existing AVC facility available where the employee only is able to make such contributions.

It is recommended to adopt the discretion with the revised policy wording to state:

Employer's Policy

The council will pay SCAVC contributions where an employee has elected to pay AVCs by salary sacrifice. The amount of these employer SCAVC contributions will not exceed the amount of salary sacrificed by the employee. This is a council discretion which is subject to the employee meeting the council's conditions for acceptance into the salary sacrifice shared cost AVC scheme and may be withdrawn or change at any time. This does not have any effect of the AVC facility available where the employee only is able to make such contributions.

3.6 It is proposed to launch the scheme to staff in May and June this year.

4. Exemptions in accordance with the Access to Information procedure rules

4.1 Open session.

5. Financial implications [DW]

5.1 The scheme would result in savings to the Council's Employers' National Insurance Contributions as the level at which it would be levied would be reduced by any salary sacrifice reduction.

5.2 Any Employers' NI savings made as a result of implementing the AVC scheme would be partially reduced as a % management fee based on salary sacrifice deductions made would be payable for the on-going management of the scheme to our scheme provider. As it is expected that take up will be low any net savings generated are expected to be minimal.

5.3 The level of Employers' pension contributions payable will remain unchanged as these will still be based on the gross pay before any salary sacrifice deduction.

5.4 As the level of gross pay would be reduced by any AVC salary sacrifice deductions for the purposes of calculating the amount payable for the Apprenticeship Levy the levy payable would reduce accordingly. However as the take up is expected to be low the amount involved would be minimal.

6. Legal implications [MR]

6.1 Set out in the report.

7. Corporate Plan implications

7.1 Contributes to all aims.

8. Consultation

8.1 The recognised Trades Unions will be consulted prior to rollout of the scheme.

9. Risk implications

9.1 It is the council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with

this decision / project have been identified, assessed and that controls are in place to manage them effectively.

10. Knowing your community – equality and rural implications

10.1 This scheme is open to all staff.

11. Climate implications

11.1 N/A

12. Corporate implications

12.1 By submitting this report, the report author has taken the following into account:

- Community safety implications
- Environmental implications
- ICT implications
- Asset management implications
- Procurement implications
- Human resources implications
- Planning implications
- Data protection implications
- Voluntary sector

Background papers: None.

Contact officer: Julie Stay, HR and Transformation Manager 01455 255688

Executive member: Councillor S Bray.

Employer: Hinckley & Bosworth Borough Council

Local Government Pension Scheme, (LGPS), Regulations Policy statement on all eligible employees

Under Regulation 60 of the LGPS Regulations 2013, (as amended), each scheme employer must publish and keep under review a Statement of Policy to explain how it will apply certain discretions allowed under the Pensions Regulations.

This statement is applicable to all employees of Hinckley & Bosworth Borough Council who are eligible to be members of the LGPS.

There is a requirement to publish the following five policies, set out below:

1. LGPS Regulations - Regulation 31: Power of employer to award additional pension

Explanation	Employer's Policy
An employer may resolve to award a member additional pension of not more than £6,822 (figure as at 1 April 2018) a year within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency.	The Council will not normally agree to award an additional pension under this regulation.

2. LGPS Regulations 2013 - Regulation 16(2)(e) and 16(4)(d): Funding of additional pension contributions (shared cost):

Explanation	Employer's Policy
<p>An active member in the main section of the scheme who is paying contributions may enter into arrangements to pay additional pension contributions (APCs) by regular contributions or a lump sum.</p> <p>Such costs may be funded in whole or in part by the member's Scheme employer.</p> <p>The employer will need to determine a policy on whether it will make a contribution towards the purchase of extra pension.</p> <p>This does not relate to cases where a member has a period of authorised unpaid leave of absence and elects within 30 days of return to work to pay a shared cost APC to cover the amount of pension "lost" during that period of absence. In these cases the employer <u>MUST</u> contribute 2/3rds of the cost (Regulation 15(5) of the LGPS Regulations 2013.</p>	<p>The Council has not adopted this discretion.</p>

3. LGPS Regulations 2013 - Regulation 30 (6): Flexible Retirement

Explanation	Employer's Policy
<p>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 pension 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 Secretary of State.</p> <p>As an employer you need to determine the conditions under which you would approve a flexible retirement taking place.</p>	<p>The Council has agreed to release pension where there is no cost and not to waive any reduction.</p> <p>Members must reduce their hours by a minimum of 40% and/or reduce their grade.</p> <p>The Council may however allow the release of pension where there is a cost or waive reduction in a potential redundancy situation, where a reduction may occur through redeployment, or in other exceptional circumstances supported by a business case.</p>

4. LGPS Regulations 2013 - Regulation (paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014): Switching on rule of 85

Explanation	Employer's Policy
<p>A member who has not attained normal pension age but who has attained the age of 55 or over, may elect to receive immediate payment of a retirement pension in relation to an employment if that member is not an employee in local government service in that employment, reduced by the amount shown as appropriate in actuarial guidance issued by the Secretary of State.</p> <p>In these circumstances (other than flexible retirement) the 85 year rule does not automatically apply to members who would otherwise be subject to it who choose to voluntarily draw their benefits on or after age 55 and before 60.</p> <p>The employer has the discretion to “switch on” the 85 year rule for such member (paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014.</p> <p>If the employer does agree to switch back on the rule of 85, the cost of any strain on the fund resulting from the payment of benefits before age 60 would have to be met by the employer.</p>	<p>The Council will not apply either discretion unless there is a business case to support this as an alternative to a redundancy situation.</p>

5. LGPS Regulations 2013 - Regulation (paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014): Waiving of actuarial reduction

Explanation	Employer's Policy
<p>An employer has the discretion, under a number of retirement scenarios, to waive actuarial reductions on compassionate grounds.</p> <p>The cost of which would fall upon the employer.</p> <p>n.b. "Compassionate grounds" is not defined in the regulations</p>	<p>The Council will not apply this discretion unless there are exceptional circumstances.</p> <p>The Strategic Leadership Team (SLT) will consider any cases and will decide whether the actuarial reductions should be waived. In all cases the financial position of the Council must be considered.</p>

There are a number of other discretions which Scheme employers may exercise under the LGPS Regulations 2013, whilst there is no requirement to have a written policy. However, in the interests of transparency and equal treatment, members approved a consistent approach to the discretions as detailed below:

1. LGPS Regulations 2013 – Regulation 17 - Shared Cost Additional Voluntary Contribution Facility

Explanation	Employer's Policy
<p>This discretion allows the Employer to maintain and contribute to an employee's Additional Voluntary Contribution Scheme.</p>	<p>The council will pay SCAVC contributions where an employee has elected to pay AVCs by salary sacrifice. The amount of these employer SCAVC contributions will not exceed the amount of salary sacrificed by the employee. This is a council discretion which is subject to the employee meeting the council's conditions for acceptance into the salary sacrifice shared cost AVC scheme and may be withdrawn or change at any time.</p> <p>This does not have any effect of the AVC facility available where the employee only is able to make such contributions.</p>

2. LGPS Regulations 2013 - Regulation 100 (6) – election to transfer within 12 months

Explanation	Employer's Policy
<p>This discretion allows the Employer extend the 12 month limit a member has in which to elect to transfer other pension rights into the LGPS. This has to be with the agreement of the Administering Authority</p>	<p>The Council as the Administering Authority will not normally allow an extension of the 12-month limit. Extenuating circumstances may apply and this would include</p> <p>(1) Where evidence exists that an election was made within 12 months but his was not received by the administering authority</p> <p>(2) Where evidence exists that the member was not aware of the 12 months limit due to maladministration</p>

3. LGPS Regulations 2013 - Regulation 22 (7) and (8) – election to aggregate within 12 months of commencement

Explanation	Employer's Policy
<p>This discretion allows the Employer to extend the 12-month time limit a member has within which they must elect not to have deferred benefits aggregated with their new LGPS employment</p>	<p>The Council will not normally extend this 12-month time limit. Extenuating circumstances may apply and this would include</p> <p>(1) Where evidence exists that an election was made within 12 months but his was not received by the administering authority</p> <p>(2) Where evidence exists that the member was not aware of the 12 month limit due to maladministration</p>

4. LGPS Regulations 2013 - Regulation 9 – allocation of contribution band

Explanation	Employer's Policy
<p>This discretion allows the Employer to determine which contribution band is allocated on joining the scheme and at each April. It also determines the circumstances when an employee's band may be reviewed.</p>	<p>(1) Base pay on actual pay in April plus previous years overtime</p> <p>(3) Re-band on all <u>contractual</u> changes including hours and re-band upon a pay award as and when they occur</p>

5. LGPS Regulations 2013 - Regulation 21 – assumed pensionable pay

Explanation	Employer's Policy
<p>This discretion allows the Employer to determine whether to include in the calculation of assumed pensionable pay the amount of any "regular lump sum payment".</p> <p>This is in cases where an employee's pay needs to be calculated where their pay has been reduced due to certain absences in order that they are not unduly advantaged or disadvantaged.</p>	<p>To determine in individual cases where necessary to establish in a fair, equitable and justifiable way what the members likely pay would have been but for the absence, and in cases where this pay is to be used for future enhancements whether that level of pay would have been received every year to normal retirement age.</p>

I confirm that the above policies have been approved by the Ethical Governance and Personnel Committee.

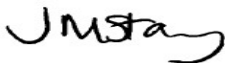
I confirm that should any of the decisions change in the future the Pensions Section will be notified immediately.

The attached statements therefore provide a summary of the policies which have been adopted and certify that they are correct on behalf of:

Employer's Name: Hinckley and Bosworth Borough Council

Print Name: Julie Stay

Position: HR and Transformation Manager



Signed:

Date: XXXXXXX

Please sign and copy. Keep one for reference and return the other to carol.haywood@leics.gov.uk