LGPS 2014 Discretion Policies

Below are LPFA's draft discretionary policies relating the new scheme which may be uses as a guide.

Discretions Policies for Scheme Employers in England and Wales from 1 April 2014 (version 1.1)

Introduction:

As notified in previous newsletters there are additional regulations now in place where employers participating in the LGPS will be required to formulate, publish and keep under review a Statement of Policy on how they will exercise certain discretions under the new Scheme. Existing policy discretions for employers which have been required to be in place under the 2008 and 1995 schemes will remain in force for those employees who left the scheme prior to 1st April 2014.

We have set out below the specific areas where you are obliged to publish statements with a brief description and points you should consider when making such policies. Also included are details of the proposed policies which LPFA will be adopting as an employer and if you wish you can use these as a basis for your own considerations.

The discretions relating to early payment of benefits and the potential costs to you as an employer associated with such decisions are somewhat complex given the different protections that may or not apply to various members of the scheme, dependent on when they joined the LGPS, their age at retiring and the number of years' service they have accrued. If you require further information on individual cases or more general guidance on how individuals may be affected please let us know.

The Scheme employer should prepare and publish a written statement of its policy on the above matters and send a copy to the Pension Fund administering authority(LPFA), by no later than 30 June 2014 . The Scheme employer is also required to keep its statement under review and make such revisions as are appropriate following a change in its policy. Following any change in its policy the Scheme employer must publish the revised policy and send a copy to the Pension Fund administering authority within one month of the date the policy is revised

In formulating and reviewing its policy, the Scheme employer must have regard to the extent to which the exercise of its discretionary powers could lead to a serious loss of confidence in the public service.

There are a number of other discretions which Scheme employers may exercise under the LGPS Regulations 2013 (see the full list at http://www.lgpsregs.org/index.php/guides/pdfarchive), although there is no requirement to have a formal policy in place. LGA have also provided a detailed guide on all existing policy discretions that may need to be considered by an employer which can be accessed at http://www.lgpsregs.org under discretionary policies.

The LPFA require a copy of the discretionary policy's held by each employer to ensure that the potential employer costs are correctly reflected in future valuation results, in the absence of a policy being held the actuary will assume the higher cost option is taken by the employer which would increase the employer's liabilities, therefore I would encourage you to arrange for the appropriate documentation to be sent as soon as possible.

The specific areas where employers will be required to formulate, publish and keep under review statements of Policy are as follows:

i) Regulation 31 - whether to grant extra annual pension of up to £6,500 (figure at 1 April 20144) to an active Scheme member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency. Scheme employers should, prior to 1 April 2014, already have prepared and published a policy on granting extra pension of up to £5,000 under the 2008 Scheme (in accordance with the LGPS (Administration) Regulations 2008). Employers may, therefore, wish to simply carry forward their basic existing policy, but suitably amended to refer to the LGPS Regulations 2013 and the increased limit of £6,500*. The facility for employers to grant extra 'augmented' membership of the Pension Scheme ceases after 31 March 2014. It should also be noted that any extra annual pension granted by an employer would be subject to an actuarial reduction where, other than in a case of ill health retirement, that extra pension is drawn before the member's Normal Pension Age(NPA)** (including where the pension is being paid on redundancy or business efficiency grounds). *The figure of £6,500 will be increased each April under the Pension (Increase) Act 1971 (as if it were a pension with a Pensions Increase date of 1 April 2013) ** NPA means the employee's individual State pension age at the time the employment is terminated, but with a minimum of age 65 Proposed LPFA policy: i) Increase of Pension during employment or upon leaving will only be granted with the prior approval of the Board and only where there is a clear financial or operational advantage to be gained by the Authority by so doing. Decisions regarding early payment of benefits are, within the above policy, delegated to Principal Officers.
ii) **Regulations 16(2)(e) and 16(4))d) whether, where an active Scheme member wishes to purchase extra annual pension of up to £6,500* (figure at 1 April 2014) by making Additional Pension Contributions (APCs), the employer can choose to (voluntarily) contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC)** *The figure of £6,500 will be increased each April under the Pension (Increase) Act 1971 (as if it were a pension with a PI date of 1 April 2013) Proposed LPFA policy: i) The Authority will not establish a Shared Cost Additional Pension Contribution scheme for any of its employees unless there is a clear financial or operational advantage to be gained by the Authority by so doing.

iii) Regulation 30(6)whether to permit flexible retirement for staff aged 55 or over who, with the agreement of the employer, reduce their working hours or grade and, if so, as part of the agreement to permit flexible retirement: - whether, in addition to the benefits the member has accrued prior to 1 April 2008 (which the member must draw), to permit the member to choose to draw all, part or none of pension benefits accrued after 31 March 2008 and before 1 April 2014, and / or those accrued after 31 March 2014 - whether to waive, in whole or in part, any actuarial reduction which would otherwise be applied to the benefits taken on flexible retirement before Normal Pension Age Scheme employers should, prior to 1 April 2014, already have prepared and published a policy on flexible retirement for flexible retirements under the 2008 Scheme (in accordance with the LGPS (Administration) Regulations 2008). Employers may, therefore, wish to simply carry forward their basic existing policy, but suitably amended for post 31 March 2014 flexible retirement to reflect the above provisions. Employers should also note that the strain cost of any such retirements would need to be met by the employer and paid into the Pension Fund at the appropriate time. Proposed LPFA policy: i) A request for flexible retirement will be accepted only with the consent of the Board and only if there is a clear financial or operational advantage for the Authority in so doing. Decisions regarding early payment of benefits are, within the above policy, delegated to Principal Officers. i) Waiving of actuarial reductions and the application of 85 year rule protections in such cases will be considered only where there is a clear financial or operational advantage in so doing.
iv) whether, to apply the 85 year rule protections to members who choose to voluntarily draw their benefits on or after age 55 and before age 60, under [paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]. Where the employer does not do so, then benefits accrued would be subject to reduction in accordance with actuarial guidance issued by the Secretary of State. Employers can also exercise discretion to waive actuarial reductions that would be applied under regulation 30(5). If the employer does agree to switch back on the 85 year rule, the employer will have to meet the cost of any strain on fund resulting from the payment of benefits. Proposed LPFA policy: i) Waiving of actuarial reductions and the application of 85 year rule protections will be considered only where there is a clear financial or operational advantage to the Authority in so doing.

v) **Regulation 30(8) - whether to waive any actuarial reductions that would otherwise apply under Regulation 30(5) and Regulation 30(6) i.e.** :

a) for active members voluntarily retiring on or after age 55 who immediately draw benefits, and for deferred members and suspended tier 3 ill health pensioners who elect under regulation 30(5) of the LGPS Regulations 2013 to draw benefits (other than on ill health grounds) on or after age 55, whether to:

- waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April 2014

- waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2014

Employers should also note that the strain cost of any such retirements would need to be met by the employer and paid into the Pension Fund at the appropriate time.

Please note there is no definition in the regulations of 'compassionate grounds'.

Proposed LPFA policy:

i) Waiving of actuarial reductions and the application of 85 year rule protections will be considered only where there is a clear financial or operational advantage in so doing.

iii) A request for early unreduced payment of benefits on compassionate grounds (i.e. waiving of percentage reduction in respect of early retirement on compassionate grounds), will normally be considered only where the former member is prevented from full-time working due to the need to provide long-term care for a dependant.

If I can be of any assistance please feel free to contact Neil Lewins on neil.lewins@lpfa.org.uk or Jacqui Lawrence on Jacqui.lawrence@lpfa.org.uk