



EMPLOYER DISCRETION POLICIES

**CORPORATE COMMITTEE
MEETING DATE 2018/19**

10 October 2018

CLASSIFICATION:

Open

**If exempt, the reason will be listed in the
main body of this report.**

WARD(S) AFFECTED

All Wards

GROUP DIRECTOR

Ian Williams, Finance and Corporate Resources

1. INTRODUCTION

- 1.1 It is the employer's responsibility i.e. the London Borough of Hackney, to set out its own policies in respect of the discretionary elements within the Local Government Pension Scheme Regulations (LGPS). It has been customary in the past for the Pensions Committee to review and agree the employer discretions, but under the LGPS Regulations this is not required. The policies need only be reviewed and agreed by the Council Committee responsible for maintaining regulatory functions, including human resources. Under the Council's Constitution this falls under the remit of the Corporate Committee.

2. RECOMMENDATIONS

- 2.1 **The Corporate Committee is recommended to:**
- **Approve the updated and amended Employing Authority Discretion Policies**
 - **Note the ongoing delegated authority to the Group Director, Finance and Corporate Resources and the Director of Legal, to amend the Employing Authority discretions policies where changes are necessitated by new regulations and provided that the policy changes will have no significant financial implications**

3. RELATED DECISIONS

- 3.1 14th January 2015 - Pensions Committee agreed updated Employing Authority Discretions Policies
- 3.2 17th October 2012 – Regulatory Committee (Employer Discretions Policies) – Agreed amended employer discretion policies following recommendations from Pensions Sub-Committee 20th September 2012 – Pensions Sub-Committee (Employer Discretions Policies) – Recommend amended discretion policies to Regulatory Committee
- 3.4 17th March 2010 – Regulatory Committee (Employee Contribution Policy) – Agree policy on employee contributions
- 3.5 16th January 2008 – Regulatory Committee (Employer Discretions Policies) – Agreed amended employer discretion policies following recommendations from Pensions Sub-Committee
- 3.6 7th January 2008 – Pensions Sub-Committee (Employer Discretions Policies) – Recommend amend employer discretion policies to Regulatory Committee

4. COMMENTS OF THE GROUP DIRECTOR, FINANCE & CORPORATE RESOURCES

- 4.1 The new policies being proposed are in most cases due to the introduction of The Local Government Pension Scheme (Amendment) Regulations 2018, and changes are in relation to clarifying the policy and decision maker. Any such changes are consistent with the general principles of existing policies where relevant and therefore any financial impact over and above the existing policies is expected to be minimal.
- 4.2 Having clear policies and procedures for areas of discretion is both good practice and ensures proper financial governance of the Fund.

- 4.3 There are no immediate financial impacts from agreeing to the updating of these policies.

5. COMMENTS OF THE DIRECTOR OF LEGAL

- 5.1 There are a range of circumstances under the Local Government Pension Scheme Regulations 2013 in which the Council, as an employing authority, has discretionary decision-making power.
- 5.2 It is lawful and reasonable for the Council, as an employing authority, to have policies about how it will exercise discretions given to it by legislative provisions. Such policies promote consistency in administrative decision-making.
- 5.3 The Constitution provides the Corporate Committee with the remit to agree the policies in respect of employer discretions.
- 5.2 There are no immediate legal implications arising from this report.

6. BACKGROUND/TEXT OF THE REPORT

- 6.1 The London Borough of Hackney is a scheduled body under the terms of the Local Government Regulations and as such is required to set out its policies in respect of the discretionary elements with the Local Government Pension Scheme Regulations (LGPS). These policies cover a wide range of discretions from allowing late transfer elections to compassionate release of pension, setting employee contribution policies to discretionary payments on redundancy. The Council as an employer first reviewed its policies in entirety in 2005 and then again in 2008 when the new LGPS Regulations came into force. They were further amended in 2010, 2013 to take account of the auto-enrolment regulations and again in 2015.
- 6.2 Since that time, there has been a restructure of the Council's Financial Services team requiring a change in designated decision maker for some the policies, and there have been amendments to the LGPS which came into effect in May 2018, and others retrospectively from 1 April 2018. Given these changes, and to ensure best practice, it is sensible to review all of the employer discretions to make sure any new discretionary policies are incorporated and existing policies remain fit for purpose.
- 6.3 The Pension Fund's Benefits Consultants, Aon, have worked with officers of the Council to review and update the discretions policies to ensure that they reflect the most up-to-date legislation and best practice.
- 6.4 The review identified a number of new discretions under the Local Government Pension Scheme (Amendment) Regulations 2018, and the attached appendix to this report sets out the Regulation where there is a discretion policy required, a description of the discretion to be determined, what the existing policy is and, where appropriate, the proposed changes.
- 6.5 It is for all employers in the Pension Fund to determine their own policies and officers will be asking the other employers in the Fund to confirm their policy decisions. In most circumstances, it is typical for other employers to closely align their employer discretion policies to those of the Council.
- 6.6 It is also being recommended that as a matter of best practice, both the Administering and Employing Authority Discretions be reviewed by Committee on a regular cycle to

ensure that the policies are scrutinised on a regular basis and that they remain fit for purpose. There may of course be occasions when the policies need amending either due to changes to the regulations or due to changing circumstances or requirements.

- 6.7 Whilst it is the intention therefore to review these discretions again in 2021, there may be a requirement to amend these discretions as and when changes to regulations come into force, which may see the need for additional discretion policies. The policies may therefore see ad-hoc amendments or requirement for new policy areas to be addressed in between formal review of the policy documents in their entirety. Where there have been minor regulatory changes to the policies in between reviews, delegated powers have already been provided to the Group Director, Finance and Corporate and the Director of Legal, to make amendments where these do not materially affect the outcome.

Ian Williams
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Appendices

Appendix 1 - London Borough of Hackney Employing Authority Discretion Policies