

HR Policy Committee

Monday 21 January 2019

2.00 pm Meeting Room, Taunton Library



To: The Members of the HR Policy Committee

Cllr M Chilcott (Chairman), Cllr A Groskop, Cllr P Ham, Cllr L Leyshon, Cllr L Redman and Cllr W Wallace

Issued By Scott Wooldridge, Strategic Manager - Governance and Risk - 11 January 2019

For further information about the meeting, please contact Carol James on 01823 357628 or cdjameson@somerset.gov.uk

Guidance about procedures at the meeting follows the printed agenda.

This meeting will be open to the public and press, subject to the passing of any resolution under Section 100A (4) of the Local Government Act 1972.

This agenda and the attached reports and background papers are available on request prior to the meeting in large print, Braille, audio tape & disc and can be translated into different languages. They can also be accessed via the council's website on www.somerset.gov.uk/agendasandpapers



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AGENDA

Item HR Policy Committee - 2.00 pm Monday 21 January 2019

*** Public Guidance notes contained in agenda annexe ***

1 **Apologies for Absence**

2 **Declarations of Interest**

Details of all Members' interests in District, Town and Parish Councils will be displayed in the meeting room. The Statutory Register of Member's Interests can be inspected via the Community Governance team.

3 **Minutes from the previous meeting** (Pages 5 - 8)

The Committee is asked to confirm the minutes are accurate.

4 **Public Question Time**

The Chairman will allow members of the public to present a petition on any matter within the Committee's remit. Questions or statements about any matter on the agenda for this meeting will be taken at the time when each matter is considered.

5 **Pay Policy Statement 2019/20** (Pages 9 - 30)

To consider this report.

6 **Pension Discretions Policy** (Pages 31 - 50)

To consider this report.

7 **Any other urgent items of business**

The Chairman may raise any items of urgent business.

THE MEETING – GUIDANCE NOTES

1. Inspection of Papers

Any person wishing to inspect Minutes, reports, or the background papers for any item on the Agenda should contact the Committee Administrator for the meeting – Carol James on 01823 357628 or cdjames@somerset.gov.uk. They can also be accessed via the council's website on www.somerset.gov.uk/agendasandpapers

2. Notes of the Meeting

Details of the issues discussed and decisions taken at the meeting will be set out in the Minutes, which the Committee will be asked to approve as a correct record at its next meeting. In the meantime, details of the decisions taken can be obtained from Carol James on 01823 359628; Fax 01823 355529 or cdjames@somerset.gov.uk

3. Members' Code Of Conduct Requirements

When considering the declaration of interests and their actions as a councillor, Members are reminded of the requirements of the Members' Code of Conduct and the underpinning Principles of Public Life: HONESTY; INTEGRITY; SELFLESSNESS; OBJECTIVITY; ACCOUNTABILITY; OPENNESS; LEADERSHIP. The Code of Conduct can be viewed at:

<http://www.somerset.gov.uk/organisation/key-documents/the-councils-constitution/>

4. Public Question Time

At the Chairman's invitation you may ask questions and/or make statements or comments, or send in a written question about **any matter on the Committee's agenda**. You may also present a petition on any matter within the Committee's remit. **The length of public question time will be no more than 30 minutes in total.**

A slot for Public Question Time is set aside near the beginning of the meeting, after the minutes of the previous meeting have been signed.

Any person wishing to raise a matter under public question time must inform the Committee Administrator, Carol James, 5.00pm three clear working days before the meeting.

You must direct your questions and comments through the Chairman. You may not take direct part in the debate.

The Chairman will decide when public participation is to finish.

If there are many people present at the meeting for one particular item, the Chairman may adjourn the meeting to allow views to be expressed more freely.

If an item on the agenda is contentious, with a large number of people attending the

meeting, a representative should be nominated to present the views of a group.

An issue will not be deferred just because you cannot be present for the meeting.

Please remember that the amount of time you speak will be restricted, normally to two minutes only.

5. IMPORTANT NOTE FOR MEMBERS OF THE PUBLIC

The Council in support of the principles of openness and transparency allows filming, recording and taking photographs at its meetings that are open to the public providing it is done in a non- disruptive manner.

Members of the public may use Facebook and Twitter or other forms of social media to report on proceedings and a designated area will be provided for anyone who wishes to film part or all of the proceedings. No filming or recording will take place when the press and public are excluded for that part of the meeting. As a matter of courtesy to the public, anyone wishing to film or record proceedings is asked to provide reasonable notice to the Committee Administrator so that the Chairman of the meeting can inform those present.

We would ask that, as far as possible, members of the public aren't filmed unless they are playing an active role such as speaking within a meeting and there may be occasions when speaking members of the public request not to be filmed.

A copy of the Council's Recording of Meetings Protocol should be on display at the meeting for inspection, alternatively contact the Committee Administrator for the meeting in advance.

6. Substitutions

Committee members are able to appoint substitutes if they are unable to attend the meeting.

7. Hearing Aid Loop System

To assist hearing aid users, the Luttrell, Hobhouse and Wyndham Rooms have infra-red audio transmission systems. These work in conjunction with a hearing aid in the T position, but we also need to provide you with a small personal receiver. Please request one from the Committee Administrator and return at the end of the meeting.

8. Emergency Evacuation Procedure

In the event of the fire alarm sounding, members of the public are requested to leave the building via the signposted emergency exit, and proceed to the collection area outside Shire Hall. Officers and Members will be on hand to assist.

HR Policy Committee

Minutes of a meeting of the HR Policy Committee held on Monday 30 April 2018 at 14:00 in the Luttrell Room, County Hall, Taunton.

Committee members present:

Cllr Groskop (Chair)

Cllr Chilcott

Cllr P Ham

Cllr Leyshon

Cllr Loveridge (Substitute) for Cllr Redman

Other Members present:

Officers present: Director of Human Resources & Organisational Development; Strategic Manager HR Business Relations; Service Manager Health and Safety; and the Scrutiny Manager.

17 Declarations of Interest – agenda item 2

17.0 Cllr Leyshon declared a personal interest in respect of agenda item 6 as she received an occupational pension administered by Peninsula Pensions.

Cllr Loveridge declared a personal interest in respect of agenda item 5 as a Board Member of Homes in Sedgemoor.

18 Minutes of the previous meeting – agenda item 3

18.0 The Committee agreed the minutes of the previous meeting were accurate and the Chair signed them.

19 Public Question Time – agenda item 4

19.0 There were no members of the public present, and hence no questions asked, statements/comments made or petitions presented.

20 Health and Safety Policy – agenda item 5

20.0 The Committee considered this report which set out that it was a statutory requirement for every employer that employees 5 or more employees to have a written H&S Policy to comply with Section 2 of the Health and Safety at Work Act 1974.

20.1 To comply with Health and Safety at work Act 1974, Section 2 it was a legal requirement to have a written H&S Policy. Failure to have this written Policy could lead to enforcement action by the Health and Safety Executive. In the past this policy had been reviewed annually but has been taken direct to the CEO and Leader to agree and sign.

20.2 It is a legal requirement for the Council to have in place a written H&S Policy which should be available:

- for all employees to read
 - as anyone within the enforcing authorities
 - sharing with contractors and partners.
- 20.3 There was a brief discussion about the dates on the signed policy and it was explained that these were related to the when Cllr Fothergill became the Leader of Council.
- 20.4 The Committee agreed that it was important for the Council's Health and Safety Policy to be reviewed and refreshed each year and approved the recommendation that it policy be signed by the Council's Chief Executive and the Leader of Council.
- 21 Discretions Policy: The local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions & Savings) Regulations 2014 – agenda item 6**
- 21.0 The Committee had the benefit of advance consideration of a proposed change to the Discretions Policy, which it was reported would now be an item for consideration at the next meeting.
- 21.1 A document was tabled to aid the Committee's understanding of this complex issue and a brief overview of the proposed changes and the implications was provided.
- 21.2 There was a brief discussion, with the officer giving further explanations and answers being provided to questions asked. The Chair noted that it had been helpful to explain this issue before the Committee considered this item at its next meeting.
- 22 The Equalities Report – agenda item 7**
- 22.0 The Committee considered this information report that provided the Committee with an overview of the Council's workforce equalities report. It was explained that the document was available on the Council's website. It was noted that as an overall percentage the number of female employees was a higher proportion that male employees and stood at 73%.
- 22.1 There was a discussion of the information contained within the report and it was noted that the majority of employees were within the 30-56 years age bracket and programmes such as on-going graduate recruitment and the apprenticeships and pathways to employment schemes would help the Council to attract a younger workforce.
- 22.2 The Committee heard about a number of projects and initiatives, that included staff surveys, that were designed to ascertain the views of staff and keep them informed of a number of developments. It was explained that the Council was focused on being a supportive and flexible employer and had introduced policies to improve adoption arrangements and maternity and paternity leave. The report was accepted.

23 Any other urgent items of business – agenda item 8

- 23.0 The Chair of the Committee invited the Human Resources and Organisational Development Director to provide an overview of HR issues which covered a range of topics not limited to but including: Gender pay gap; Pay update 2018; General Data Protection Rules (GDPR) update; Workforce Equalities; Young People strategy; Apprenticeships; Work Experience; Pathway to Employment; Trade taster week; and Graduates.
- 23.1 There was a brief discussion following the Directors presentation with further explanations and answers being provided. The Committee agreed they had found the presentation to be very interesting and informative.
- 23.2 The Chair of the Committee thanked all those present for attending the meeting.

The meeting closed at 15:13.

Cllr Anna Groskop
Chair, HR Policy Committee

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Somerset County Council

HR Policy Committee

– 21st January 2019

Pay Policy Statement – 2019/20

Cabinet Member: Cllr Mandy Chilcott, Deputy Leader and Cabinet Member for Resources

Lead Officer: Chris Squire, HR&OD Director

Author: Vicky Hayter, Strategic Manager HR Business Relations

Contact Details: 01823 359858

	Seen by:	Name	Date
Report Sign off	Legal	Honor Clarke	9/1/19
	Corporate Finance	Elizabeth Watkin	9/1/19
	Human Resources	Chris Squire	9/1/19
	Cabinet Member	Mandy Chilcott	
	Monitoring Officer	Scott Wooldridge	9/1/19
	Summary:	<p>The Report sets out proposed amendments to the Pay Policy Statement (PPS) for 2019/20. The amendments relate to the changes to the national pay spine which impact on the original grade boundaries</p> <p>The report also sets out for information an update on the National Living Wage rate from 1 April 2019, a reminder of the pay award for Grades 1-3 and an update on consultation with trade unions on changes to the Pay Spine that are necessitated by the national pay award.</p>	
Recommendations:	<p>The HR Policy Committee is asked to :</p> <ol style="list-style-type: none"> 1. Agree to recommend the Council to approve the Pay Policy Statement for the Council for 2018-19 attached as Appendix A to this report to have effect from 1st April 2019. 2. Note the changed to the National Living Wage rate from 1st April 2019. 3. Note the impact of the New Pay Spine from April 2019 4. Note the pay award that was agreed in January 2018 for posts graded 1-3 for 2019/20. 		
Reasons for Recommendations:	<p>To ensure that the Council complies with the statutory requirement to publish a pay policy statement annually.</p> <p>Section 38 (1) of the Localism Act 2011 requires English and Welsh local authorities to produce a PPS for each financial year which must be approved formally by Full Council. Pay policy statements can be amended 'in-year' should the need arise but only by Full Council.</p>		

	As from 1st April 2012, determination of any salary/cost of living progression for Chief Executive and SLT is undertaken by the HR Policy Committee, subject to an annual review.
Links to Priorities and Impact on Service Plans:	Appropriate pay provisions for staff are fundamental to the delivery of the Council's objectives and services as set out in the County Plan.
Financial, Legal and HR Implications:	<p>The revised PPS meets the requirements of the Localism Act and related statutory guidance.</p> <p>Any financial consequences come from decisions taken by the Council in accordance with the PPS in place at the time. The annual cost of the 2% (more for those on scale point 19 and below) pay rise for NJC officers will be approximately £2.2m including on costs. The annual cost of a 2% pay rise for the Chief Executive and SLT will be approximately £65k including on costs.</p> <p>In terms of applying the requirements of the PPS to pay / grading / appointment and dismissal of staff, the Council will follow all statutory and collectively agreed requirements that apply to local authority employers.</p>
Equalities Implications:	The Council's duty under Section 149 of the Equality Act 2010 is to have "due regard" to the matters set out in relation to equalities when considering and making decisions. There are no direct equality impacts associated with agreeing the PPS itself. There are also no direct impacts on sustainability, health and safety, community safety or privacy aspects as a result of the recommendations. There are still discussions underway about whether there are any equalities impacts as a result of the grade boundaries of the new pay spine.
Risk Assessment:	<p>Failure to comply with Section 38 (1) of the Localism Act could lead to a legal challenge to the Council and therefore it is important that the PPS reflects the Act, other relevant legislation and statutory guidance. The Council is required to have regard to statutory guidance and either comply with it fully or put in place appropriate alternative provisions.</p> <p>If the Council fails to comply with the requirements of the PPS in respect of the appointment / dismissal of officers then it could be subject to legal challenge.</p>
Scrutiny comments / recommendation (if any):	None

1. Background

- 1.1. It is a statutory requirement to review the Pay Policy Statement (PPS) annually and present it to Full Council for consideration and approval. The PPS takes effect from the beginning of the financial year. It will now go before Full Council on 20th February 2019 for approval and to have effect from 1st April 2019.
- 1.2. There are no substantive changes to the PPS Appendix 1). The amendments are relatively minor and are explained in the Summary at the beginning of this paper.
- 1.3. By way of an update on pay, it should be noted that the National Living Wage (NLW) rate with effect from 1 April 2019 will be £8.21 per hour and will apply to those aged 25 and over.

The National Employers group made a 2 year pay offer which was put to trade unions on 5th December 2017. This offer was agreed on 10th April 2018 and the 2018 element was implemented that month.

The second year (2019) has required further work to the current pay spine to make it a viable system for managing the increases in the National Living Wage. The National Employer's Offer (Appendix 2) sets out the proposal following:

- A bottom rate of £9.00 per hour (£17,364) on new SCP1 (equivalent to old SCP6)
- 'Pairing off' old SCPs 6-17 to create new SCPs 1-6 □ Equal steps of 2.0% between each new SCPs 1 to 21 (equivalent to old SCPs 6-28)

The pay spine has been modelled in various forms in order to identify an acceptable version that meets requirements from an employee relations and financial perspective. Discussions are ongoing about where each grade boundary falls.

- 1.4. It was agreed at the meeting in January 2018 that Officers in grades 1-3 would receive 2% in April 2018 and 2% in April 2019. The 2% uplift will be applied as agreed.

2. Options Considered

- 2.1. No alternative options were considered in relation to the PPS for 2019/20.
- 2.2. The decisions regarding the Somerset grade boundaries within the new national pay spine are being considered. Several possibilities are being discussed with the trade unions. The grade boundaries of the new pay spine have been modelled in order to identify an acceptable version that meets employee relations and financial requirements.

Discussions are ongoing about where each grade boundary falls. The key area of focus is the section that includes Grades 16-14 where there are some

options. The rest of the grades remain the same in all models. The likely outcome of the consultations will be a pragmatic agreement that enables SCC to process the pay award for April 2019 with a further consultation to look at a more sustainable option that addresses some of the anomalies such as overlaps in grades.

3. Consultations undertaken

- 3.1.** The NJC Pay Offer was agreed in April 2018 and work has been undertaken to model the Somerset version of the pay spine. Consultations with recognised trade unions were delayed until November 2018 due to the financial imperative focus of the Council.
- 3.2.** The National Living Wage is a legal requirement and has to be adhered to.

4. Implications

- 4.1.** The recommendations are intended to ensure that the Pay Policy Statement maintains an appropriate balance between rigorous governance of pay and reasonable flexibility for managers to manage.
- 4.2.** The financial implications are as set out in this report.

5. Background papers

- 5.1** Appendix 1 - a draft copy of the Pay Policy Statement 2019/2020 with minor changes proposed.

Note: For sight of individual background papers please contact the report author.

SOMERSET COUNTY COUNCIL PAY POLICY STATEMENT - 201~~89~~/2019

This document sets out Somerset County Council's Pay Policy Statement (PPS) for 201~~88~~/2019 which is revised and published at least annually following approval at Full Council.

1. Background

Section 38 (1) of the Localism Act 2011 requires English and Welsh local authorities to produce a PPS for each financial year.

The Act:

1. Requires the PPS to include the Council's policy on the following:
 - The remuneration of its chief officers
 - The remuneration of its lowest paid employees.
 - The relationship between the remuneration of its Chief Officers and other officers.
 - Other specific aspects of chief officer remuneration such as levels and elements of such remuneration, remuneration on recruitment, increases and additions to remuneration, termination payments and transparency.
2. Requires that the PPS:
 - Must be approved formally by Full Council.
 - Must be approved by the end of March every year for the following financial year.
 - Must be published on the local Council's website as soon as it is approved by the Council.
 - Must be complied with for all decisions on pay and reward for Chief Officers.
3. Makes provision for Full Council to make in year amendments to the PPS at any time and this function cannot be delegated.

2. Definitions

The Act (Section 43) defines remuneration widely as:

- Pay.
- Charges.
- Fees.
- Allowances.
- Benefits in kind.
- Increases/enhancement of pension entitlement.
- Termination payments.

The Act (Section 43) defines Chief Officers as:

- The head of the paid service designated under section 4(1) of the Local

Government and Housing Act 1989;

- The monitoring officer designated under section 5(1) of that Act;
- A statutory chief officer mentioned in section 2(6) of that Act;
- A non-statutory chief officer mentioned in section 2(7) of that Act;
- A deputy chief officer mentioned in section 2(8) of that Act.

For the purposes of this statement all of the Council's senior officers on Grades 1 to 3 fit the above definition. These are collectively referred to as the Senior Leadership Team (SLT) throughout this Statement. In addition, the post of Monitoring Officer (Grade 5) and a number of posts at Grades 4 and 5 fall within the legal definition of 'deputy chief officer'.

3. Pay Data

The Council complies with Data Protection Act obligations and will only publish information about an individual officer's pay where it is required to do so by law.

In accordance with the Accounts and Audit (England) Regulations 2011 and the Local Government Transparency Code 2015, the Council publishes pay information about individual posts for the Chief Executive and SLT on its website and in the Annual Statement of Accounts. The current list of posts and salaries is accessible via the following link.

<http://www.somerset.gov.uk/organisation/senior-salaries-and-pay-policy>

In relation to other senior officers of the Council, including the Monitoring Officer, pay information is published on the Council's website relating to:

- Salaries of £50,000 or more by reference to total numbers within bands (grouped in bands of £5,000);
- Details of remuneration and job titles of certain senior employees whose salary is at least £50,000 and a list of responsibilities (for example, the services and functions they are responsible for, budget held and number of staff) and details of bonuses and 'benefits in kind', for all employees whose salary exceeds £50,000.

4. Principles

The key principles underpinning this pay policy statement are:

Affordability – ensuring remuneration policies represent value-for-money for the taxpayer

Fairness – ensuring remuneration policies are fair to all staff, ranging from the most senior post to the most junior post

Meet legislative requirements – ensuring remuneration policies comply with all legal obligations, such as the Equal Pay Act

Market facing – ensuring due regard is taken of the market, both nationally and locally in the South West, and that this policy is in-line with councils of a similar size and / or in a similar labour market.

Tax Avoidance – ensuring that all remuneration arrangements comply fully with HMRC regulations.

5. Determination of Grade

The Council's Grading structure accords with the National Single Status and Green Book agreements. The Grading structure reflects the need to continue to modernise, facilitate new ways of working and ensure equal pay for work of equal value in a large and diverse organisation.

The grading structure treats all groups of staff the same. It uses two schemes to evaluate jobs, covering virtually all employees, except teachers and Soulbury staff, which are subject to national grading schemes.

The Hay Scheme is used for the more senior posts, including the Chief Executive, SLT officers, and Strategic and Service Managers.

The New Somerset Scheme, based on the Greater London Provincial Council scheme (formerly GLEA), is used for all other posts. Some posts cross between the borders of both schemes.

The lowest paid posts in the Council which include posts of Cleaner, Domestic Assistant, Distribution Assistant and General Kitchen Assistant, are paid on Grade 17 (national spinal point 6: £1639415014 as at 1st April 20187).

The relationship between pay at the lowest and highest levels is therefore controlled by job evaluation.

6. Pay and Grading Structure

The Somerset Pay and Grading structure incorporates National Pay Points up to spinal column point 44 and locally determined pay points above. The current pay and grading structure can be accessed via the following link.

<http://extranet.somerset.gov.uk/EasysiteWeb/getresource.axd?AssetID=95547&type=full&servicetype=Attachment>

The Council operates a 17 grade pay structure. Each grade from 17 up to 9 contains a number of pay increments. On Grades 8 and upwards, there is a single pay point per grade.

The Council does not operate a performance-related pay scheme for any staff, but does have a performance related appraisal scheme, including behaviours and competency assessment. The Council does not pay a bonus to any Council employee and no additional payments are made for election duties.

NJC for Local Government Services (Green Book) pay, terms and conditions apply to posts on Grades 17 to 4 inclusive. Annual pay awards are determined by national agreement.

With the exception of the Monitoring Officer, posts on grades 17 to 4 are officer appointments.

Post holders on Grades 17 – 9 are, subject to satisfactory performance, eligible for annual incremental increases up the pay scale until they reach the top of their grade.

Post holders on Grades 4 – 8 (Strategic and Service Managers) have some localised terms and conditions. Each Grade (4 – 8) has a fixed, spot salary and there is no incremental progression.

7. Chief Executive and SLT Officers Pay

The Chief Executive and other SLT Officers are paid on Grades 1 – 3. All SLT posts on Grades 1 to 3 and the Monitoring Officer are appointed by the Appointments Committee of the Council with the exception of the Chief Executive whose appointment has to be agreed by the Council.

Each of the Grades 1 – 3 has a spot salary and no incremental progression.

Annual Salaries for Chief Executive and SLT posts range between **£88,443 and £166,485, as follows:**

Grade 1 Post:
Chief Executive

The salary for Grade 1 Post is within the range **£162,382 to £173,212**
~~£156,075 to £166,485.~~

Grade 2 Posts:
Lead Commissioner Children & Learning (DCS)
Director of ~~Finance, Legal and Governance~~ Resources
~~Commercial and Business Services~~ Director
Lead Commissioner Adults and Health (DASS)
Public Health Director
Lead Commissioner Economic and Community Infrastructure

The salaries for Grade 2 Posts are within the range £108,254 to £137,970
~~£104,049 to £135,264.~~

Grade 3 Posts:

Director of Corporate Affairs

Economic and Community Infrastructure Operations Director

Economic and Community Infrastructure Commissioning Director

Adults and Health Operations Director

Deputy Director Children and Families

~~Deputy Director Education~~

Director of Human Resources & Organisational Development

The salaries for Grade 3 posts are within the range £92,018 to £108,253
~~£88,443 to £103,998.~~

The default position in the event of a vacancy in any of the above posts is that the salary paid to the person appointed to fill the vacancy will be at the lowest point in the range (which represents the 'spot' to be applied within the grade) unless otherwise agreed by the Chief Executive (or Full Council in the case of the post of Chief Executive) in accordance with the requirements of the PPS.

8. Governance Arrangements (as detailed in the Constitution)

All actions, responsibilities and delegations outlined below must be exercised in accordance with the requirements of this Statement.

Appointments Panel

An Appointments Panel of the Council reviews the terms and conditions of any SLT post that becomes vacant (and, in addition, the post of Monitoring Officer) and where appropriate makes recommendations to the Chief Executive for any changes; decides the appointments process or other course of action; and appoints the Appointments Committee to undertake the appointments process.

The Panel comprises of 3 elected members appointed in accordance with the Constitution and can convene virtually or meet as required. If a Panel decides that no changes to terms and conditions are necessary when it reviews a vacant post (and that the salary will be advertised at the bottom of the range [the 'spot' for the grade] for posts on grades 1 to 3) then the Panel has authority to progress the recruitment without the need to seek further approvals. If a Panel wishes to make changes to the terms and conditions of a vacant post (other than the post of Chief Executive) then these are subject to the approval of the Chief Executive having obtained the agreement of the Leader of the Council. This includes where a Panel wishes to advertise a salary for a post (other than the post of Chief Executive) above the 'spot' at the bottom of the range. This must be the subject of a Panel recommendation to the Chief Executive for decision. If the Panel's recommendations for changes to terms and conditions relate to the post of Chief Executive then Full

Council must agree these changes.

Note: Note: The Full Council approval of this Statement meets the provisions of the statutory guidance in relation to senior officer appointments which requires all posts where the total remuneration package is in excess of £100,000 pa to be approved by Full Council.

Appointments Committee

The Appointments Committee of the Council is responsible for all SLT appointments (and the appointment of the Monitoring Officer) with the exception of the appointment of a Chief Executive which is subject to the approval of Full Council on the recommendation of the Committee. The Committee comprises up to 5 elected members for each individual appointment process and the membership is politically proportioned according to the political membership of the Council. The detailed provisions for the Committee's membership are detailed in the Constitution. If the Committee during the course of an appointment process wishes to vary the terms and conditions or the salary already agreed for a specific post, then such a proposal is subject to the approval of the Chief Executive having obtained the agreement of the Leader of the Council. The exception to this is where the Committee's recommendations relate to the appointment of the Chief Executive where any changes must be agreed by Full Council.

HR Policy Committee

The Committee comprises 6 elected members and the membership is politically proportioned according to the political membership of the Council. This Committee has responsibility for:

- deciding and implementing annual pay awards for the Chief Executive and SLT and, where it is agreed that an award is made, the revised scales will be included for information in the next annual review of the PPS on at least an annual basis the pay and grading structure of the Council (including Chief Officer grades and salaries) and making recommendations for any changes considered necessary to Full Council by way of a revised PPS.

In bringing forward recommendations on these issues, the Committee will take into account:

- the outcome of job evaluation,
- any data/advice/evidence or views collected from appropriate sources, including: the Council's HR function; National and/or Regional Employers' Organisations; independent external pay data
- the needs of the business to recruit and retain senior officers
- the requirements of the PPS and
- fluctuations in the local and national job market.

Special Members' Panel / Committee

The Constitution includes provision for the appointment of a Special Members' Panel to consider (and determine where appropriate) the following issues in relation to SLT Officers and the Monitoring Officer:

- (a) Where the dismissal of an SLT Officer (other than the Chief Executive or the Section 151 Officer) is proposed on disciplinary grounds, Council will determine the dismissal on the recommendation of the Panel;
- (b) Where a proposal is made to dismiss an officer holding a statutory post of Chief Executive, Chief Finance Officer or Monitoring Officer, the Panel shall decide whether there is any justification to the proposed dismissal and therefore whether it needs to be investigated. If the decision is that an investigation is necessary, the Panel will appoint an investigator. If the investigation confirms a potential dismissal, the Panel will refer the matter to the Independent Persons' Panel for consideration and report to Council. If the investigation recommends disciplinary action, then the Special Members' Panel shall consider and decide whether disciplinary action is justified and if so agree any action to be taken.
- (c) The Panel has authority to meet as a Committee of the Council to determine any question of disciplinary action in relation to an SLT Officer or the Monitoring Officer.
- (d) Except as otherwise provided for in (a) to (b) above, the Panel has authority from the Council to meet as a Committee of the Council to deal with any question of dismissal of an SLT Officer on the grounds of redundancy (including voluntary), permanent ill-health or infirmity of mind or body. The exception to this is where a proposed financial settlement for an officer leaving the Council exceeds £100,000. In these circumstances Full Council must agree the settlement.

The Special Members' Panel shall comprise of 6 Members appointed by the Leader of the Council (or his/her nominated representative) and comprising:-

- (a) The Leader of the Council (or his/her nominated representative)
- (b) The Leader of the largest opposition group (or his/her nominated representative)
- (c) 4 other Members of the Council selected by the Leader of the Council in consultation with the other Group Leaders and in accordance with the rules of political proportionality.

Note: The membership of the Panel will not include any Member previously involved in an individual Officer's case.

Independent Persons' Panel

Any proposal to dismiss a statutory post-holder holding the position of Chief Executive, the Chief Finance Officer or the Monitoring Officer must be determined by the Council on the recommendation of the Independent Persons' (IPs) Panel comprising a minimum of 3 IPs in accordance with the Local Authority (Standing Orders) (England) (Amendment) Regulations 2015.

The IPs are selected from a joint Somerset Councils' Panel of IPs. The Panel is appointed by the Chief Executive (or the Head of HR where the Chief Executive is the subject of the proposed dismissal). The Panel shall be appointed a minimum of 20 days before the Council is due to meet to consider the dismissal.

Note

This section summarises the detailed arrangements set out in Section 7 of Part 1 of the Constitution.

Chief Executive: Delegated Powers

The Chief Executive has been designated by the Council as the Head of the Paid Service and is therefore responsible for the Council's Senior Leadership Team and supporting officer structures of the Council. Any changes proposed by the Chief Executive to the staffing structure shall be subject to consultation with the Cabinet before the changes are agreed by way of an Officer Decision taken by the Chief Executive. Full Council will be informed of changes agreed at the next available opportunity.

The Chief Executive has authority:

- To appoint and dismiss all employees except where this function is specifically delegated to Members.
- To approve changes to the terms and conditions of all SLT posts and the post of Monitoring Officer on the recommendation of the Appointments Panel or the Appointments Committee or on his / her own initiative and having obtained the agreement of the Leader of the Council. The exception to this authority is the post of Chief Executive. All decisions taken by the Chief Executive on such matters will be the subject of a formal Officer Decision which will be published on the Council's website as soon as it is confirmed.
- After having sought the agreement of the Leader, and after appropriate consultations, to agree:
 - (a) acting up arrangements into SLT positions (other than that of Chief Executive) to cover periods of temporary absence either planned or unplanned
 - (b) emergency cover arrangements for the statutory chief officer roles (other than that of Chief Executive) where these positions become vacant between Full Council meetings. Any such agreement will be subject to review and confirmation at the next available Full Council meeting
 - (c) the recruitment of interims at SLT level in accordance with the requirements of section 11 of this Statement.

NB Only Full Council may approve acting up or temporary cover arrangements for the role of Chief Executive.

Before making decisions in relation to the staffing structure or individual posts, the Chief Executive is required to consider:-

- the views of the relevant Cabinet Member, the Chairman of the HR Policy Committee and the Opposition Spokesperson, and, as appropriate:-
- the outcome of job evaluation,
- any data/advice/evidence or views collected from appropriate sources, including: the Council's HR function; National and/or Regional Employers' Organisations; independent external pay data
- the needs of the business to recruit and retain senior officers;
- the performance of individual SLT Officers
- the requirements of the PPS and
- fluctuations in the local and national job market.

The Chief Executive has authorised other officers to appoint and dismiss staff Grades 4 and below (with the exception of the Monitoring Officer), in line with normal Council appointments processes.

SLT Officers are subject to the same terms and conditions as other employees in respect of termination of employment. The only exception is that SLT Officers and the Monitoring Officer are subject to modified disciplinary procedures as outlined in this Statement and in the Council's Constitution.

9. Chief Executive Remuneration relative to other Council employees

The recommendation of the Hutton Report into "Fair Pay in the Public Sector", as recognised by the Government in the Local Government Transparency Code 2015, was that the Council should publish the pay ratio of the salary of the Chief Executive compared to the median average salary in the organisation.

As at 1st ~~December~~ January 2016~~9~~, the ratio of the pay of the Council's median earner (£23,~~866,398~~) to that of its Chief Executive (£~~159,198,156,075~~) was 1: 6.7.

10. Pay Policy upon Appointment to posts below SLT level

Internally Appointed Candidates

On promotion an officer must be appointed to the spot pay point or the minimum point on the scale, whichever is applicable. If there are special circumstances where it is considered that an increase in excess of the minimum is merited, then it will be necessary to consult the Director of HR and OD (or their nominated representative) and this must be done before any formal offer is made to the candidate.

Externally Appointed Candidates

The starting salary of an externally appointed candidate would normally be the spot pay point or the minimum point on the scale, whichever is applicable. However, the Council could pay a point within the incremental scale if the candidate is already paid on a higher salary or where their experience is beneficial to the Council. Should there be any doubt about repercussions elsewhere, the Director of HR and OD (or their nominated representative) should be consulted.

Transferred Officers

Where employees move between operational areas on the same grade with an incremental scale, no increment is payable at the time of transfer. The service is regarded as continuous for the purpose of annual incremental advancement. Therefore, where an officer's salary on 1 April following appointment, promotion or re-grading would be less than one spinal column point of their old salary the officer shall be entitled to their first increment on 1 April.

Promotion or Re-grading

On promotion within the Council to a post on a grade with an incremental scale, and which carries a higher maximum salary than their previous grade, or on the re-grading of their existing post based on increased duties and responsibilities, the officer shall be paid a salary in accordance with the new grade which is at least one spinal column point in excess of the salary they would have received on the old grade on the day of appointment, promotion or re-grading.

11. Appointment of Agency Interims at SLT level

Where the Council is unable to permanently recruit officers at the most senior level, there could be a requirement for that substantive post to be covered by an interim appointment. Interims will be supplied to the Council through a supplier to deliver the required cover.

The Council has various supplier options to supply interims in adherence with Procurement and Financial Regulations.

An interim's term of employment and contract is direct with the supplier and not the Council. The interim shall be solely responsible for complying with

legal requirements including the payment and accounting of taxes. In addition, the supplier should make the relevant declaration and checks in order to satisfy themselves that the interim abides by the relevant UK tax law.

Having obtained the agreement of the Leader of Council, the Chief Executive will approve the recruitment of interims at SLT level on a case by case basis and based on a business case presented by the Appointments Panel which takes into account:

- value-for-money for the taxpayer
- the evaluated grade of the post to be covered
- the public profile of the post
- risks to the Council
- the labour market, both nationally and locally in the South West, for interims providing cover for similar posts in councils of a similar size

Interims will be supplied to the Council in accordance with its Contract Standing Orders, relevant Procurement, Legal and Financial Regulations.

The Appointments Committee will interview candidates for interim appointments at SLT level to assess their suitability for the role and will confirm appointments.

SLT level interim appointments will be subject to formal review by the Chief Executive at the end of six months and at six monthly intervals thereafter to assess whether there is a requirement to retain their services. The original Appointments Committee will be consulted where the Chief Executive proposes to extend the engagement of an interim. The final decision on the extension of an interim rests with the Chief Executive.

Appointment of Agency Interims below SLT level

All interim appointments below SLT level will be sourced by the relevant SLT Officer or the Chief Executive where an SLT Officer is unable to act.

If this interim is to be employed at a rate of over £500 per day:

- The appointment will be subject to a formal review process at the end of the first six months and six monthly thereafter; and
- Any decision to extend the engagement of such an interim will require the approval of the Chief Executive.

All other interim appointments will be subject to a formal review process at the end of the first six months and six monthly thereafter and the decision to extend the engagement of such appointments rests with the relevant SLT Officer.

12. Recruitment and Retention Allowances

External recruitment and internal retention problems are tackled by temporarily increasing the total pay awarded to a post, when it can be shown that the pay on the evaluated grade is significantly lower than competitors'

rates of pay.

The payment of an allowance is temporary and will not be renewed if a review finds evidence that demonstrates the payment of the allowance is no longer justified.

An allowance forms part of an employee's pay (all the salary, wages, fees and other payments paid to them for their own use in respect of their employment) and as such is pensionable. An allowance is expressed as a cash lump sum, pro-rata to the contracted hours, and is not subject to annual cost of living/inflation pay awards.

Approval of recruitment and retention allowances in respect of:

- SLT posts and the Monitoring Officer post (with the exception of the post of Chief Executive) shall be determined by the Chief Executive following consultation with the Leader of Council and on the recommendation of the appropriate Appointments Panel in relation to new appointments
- The post of Chief Executive will be agreed by Full Council
- All other posts shall be determined by the Director of HR and OD, following a business case presented by the manager and having consulted with a group of senior managers.

13. Travel and Subsistence

The Council's intention is that employees should not be financially disadvantaged in going about its business and that they are fairly compensated for expenditure incurred. However, managers and employees are expected to organise journeys in the most efficient and effective manner possible and, in submitting claims, to adopt a reasonable approach.

SLT Officers are subject to the same policies as all other staff. Expenses paid to SLT Officers are published in the Annual Statement of Accounts.

14. Reimbursement of Fees

The Council will meet the cost of:-

- Practising Certificate required by Solicitors employed by the Council.
- Annual cost of membership of ARCUK required by practising Architects employed by the Council.

The Council will not pay fees and subscriptions payable by the Chief Executive and other Officers, to professional qualification bodies and local government-based societies and associations.

Fees and subscriptions payable by the Chief Executive and SLT Officers to associations that are inter-Council networking organisations (as distinct from

subscriptions to professional bodies) should be reimbursed subject to individual cases being approved by the Chief Executive and Director of HR and OD in consultation with the relevant Cabinet Member.

Where Committees consider that the Council may derive benefit by such officers attending meetings/working parties of local government-based societies/associations travelling and subsistence expenses incurred may be reimbursed subject to prior approval.

15. Additional Payments

Allowances are paid in line with NJC terms and conditions (Green Book), or by local agreements where relevant.

Any allowances paid to SLT Officers are disclosed in the Annual Statement of Accounts.

The Council has no policy for making benefits in kind.

16. Salary Protection for Redeployed Employees at Risk of Redundancy

This applies to all staff (excluding Officers on Grade 8 and above - please see below).

Protection will not apply to redeployed employees with less than two years local government service.

Salary protection arrangements will be for a period of three years during which annual cost of living pay increases and incremental progression will be awarded.

At the end of this period the substantive grade of the new post will be applicable.

It should be noted that salary protection is in place to ease the financial implications on those being redeployed and does not extend beyond salary.

As from 1st April 2014, Officers on Grades 8 and above receive one year's frozen pay protection.

17. Pension

All employees are eligible to join the Local Government Pension Scheme ("LGPS"). The Redundancy & Efficiency Compensation Policies and Flexible Retirement Policy apply to all staff. The Council has determined and published policies around the discretions available under the LGPS. The Council makes no enhancements or increases to individual pension benefits.

The Council applies its discretion under the regulations of the LGPS to allow employees aged 55 and over who are members of the LGPS to request payment of early retirement benefits whilst remaining in the Council's employment on reduced hours/lower grade. This does not apply to employees who are receiving a redundancy payment and early pension benefits or who are taking early retirement in the interests of the efficiency of the service.

Re-engagement of employees who are in receipt of a Local Government Pension should be through ~~Somerset Staffing or~~ Reed Recruitment.

The Council may re-employ employees who have been made redundant whether through voluntary, compulsory or early retirement.

Managers who are employing an employee in this category should ensure that the usual selection processes are applied.

Employees should be advised that they ~~should not earn in excess of the combined pension and salary of their new post.~~ should not exceed the salary of their previous post. Otherwise their pension will be abated.

A number of employees have transferred to the Council under a specific staff transfer arrangement which allowed them to continue membership of the NHS pension scheme. The Council makes contributions on their behalf and complies with Pension Legislation in respect of the NHS scheme.

18. Settlement Agreements

In exceptional circumstances to avoid or settle a claim or potential dispute, the Council may agree payment of a settlement sum on termination.

All cases must be supported by a business case and take account of all legal, financial, contractual and other responsibilities.

Aside from the provisions in section 8, all settlement payments on termination of the contract of a post require the approval of the relevant SLT Officer.

National Joint Council for Local Government Services

Employers' Secretary:
Simon Pannell

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Local Government Association
18 Smith Square
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Tel: 020 7187 7373
info@local.gov.uk

Trade Union Secretaries
Rehana Azam, GMB
Jim Kennedy, Unite
Heather Wakefield, UNISON

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UNISON Centre
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localgovernment@unison.co.uk

**To: Chief Executives in England, Wales and N Ireland
(copies for the Finance Director and HR Director)
Members of the National Joint Council**

10 April 2018

Dear Chief Executive,

2018 and 2019 PAYSCALES & ALLOWANCES

Agreement has been reached between the National Employers and the NJC Trade Union Side on rates of pay applicable from **1 April 2018** and **1 April 2019**.

UNISON and GMB both voted to accept whilst Unite voted to reject. However, in line with the Constitution of the NJC, Unite accepts the collective majority decision of the other unions that the pay award should now be implemented.

The new pay rates are attached at **Annex 1**.

The new rates for allowances up-rated by two per cent in each year are set out at **Annex 2**.

Yours sincerely

*Simon
Pannell*

Simon Pannell

*Rehana
Azam*

Rehana Azam

*Jim
Kennedy*

Jim Kennedy

*Heather
Wakefield*

Heather Wakefield

Joint Secretaries

ANNEX 1

SCP	1 April 2017		1 April 2018		1 April 2019			Old SCP[s]
	£ per annum	£ per hour*	£ per annum	£ per hour*	New SCP	£ per annum	£ per hour*	
6	£15,014	£7.78	£16,394	£8.50	1	£17,364	£9.00	6/7
7	£15,115	£7.83	£16,495	£8.55				
8	£15,246	£7.90	£16,626	£8.62	2	£17,711	£9.18	8/9
9	£15,375	£7.97	£16,755	£8.68				
10	£15,613	£8.09	£16,863	£8.74	3	£18,065	£9.36	10/11
11	£15,807	£8.19	£17,007	£8.82				
12	£16,123	£8.36	£17,173	£8.90	4	£18,426	£9.55	12/13
13	£16,491	£8.55	£17,391	£9.01				
14	£16,781	£8.70	£17,681	£9.16	5	£18,795	£9.74	14/15
15	£17,072	£8.85	£17,972	£9.32				
16	£17,419	£9.03	£18,319	£9.50	6	£19,171	£9.94	16/17
17	£17,772	£9.21	£18,672	£9.68				
18	£18,070	£9.37	£18,870	£9.78	7	£19,554	£10.14	18
19	£18,746	£9.72	£19,446	£10.08	8	£19,945	£10.34	19
20	£19,430	£10.07	£19,819	£10.27	9	£20,344	£10.54	20
					10	£20,751	£10.76	
21	£20,138	£10.44	£20,541	£10.65	11	£21,166	£10.97	21
22	£20,661	£10.71	£21,074	£10.92	12	£21,589	£11.19	22
					13	£22,021	£11.41	
23	£21,268	£11.02	£21,693	£11.24	14	£22,462	£11.64	23
24	£21,962	£11.38	£22,401	£11.61	15	£22,911	£11.88	24
					16	£23,369	£12.11	
25	£22,658	£11.74	£23,111	£11.98	17	£23,836	£12.35	25
					18	£24,313	£12.60	
26	£23,398	£12.13	£23,866	£12.37	19	£24,799	£12.85	26
27	£24,174	£12.53	£24,657	£12.78	20	£25,295	£13.11	27
					21	£25,801	£13.37	
28	£24,964	£12.94	£25,463	£13.20	22	£26,317	£13.64	28
29	£25,951	£13.45	£26,470	£13.72	23	£26,999	£13.99	29
30	£26,822	£13.90	£27,358	£14.18	24	£27,905	£14.46	30
31	£27,668	£14.34	£28,221	£14.63	25	£28,785	£14.92	31
32	£28,485	£14.76	£29,055	£15.06	26	£29,636	£15.36	32
33	£29,323	£15.20	£29,909	£15.50	27	£30,507	£15.81	33
34	£30,153	£15.63	£30,756	£15.94	28	£31,371	£16.26	34
35	£30,785	£15.96	£31,401	£16.28	29	£32,029	£16.60	35
36	£31,601	£16.38	£32,233	£16.71	30	£32,878	£17.04	36

SCP	1 April 2017		1 April 2018		1 April 2019			Old SCP[s]
	£ per annum	£ per hour	£ per annum	£ per hour	New SCP	£ per annum	£ per hour	
37	£32,486	£16.84	£33,136	£17.18	31	£33,799	£17.52	37
38	£33,437	£17.33	£34,106	£17.68	32	£34,788	£18.03	38
39	£34,538	£17.90	£35,229	£18.26	33	£35,934	£18.63	39
40	£35,444	£18.37	£36,153	£18.74	34	£36,876	£19.11	40
41	£36,379	£18.86	£37,107	£19.23	35	£37,849	£19.62	41
42	£37,306	£19.34	£38,052	£19.72	36	£38,813	£20.12	42
43	£38,237	£19.82	£39,002	£20.22	37	£39,782	£20.62	43
44	£39,177	£20.31	£39,961	£20.71	38	£40,760	£21.13	44
45	£40,057	£20.76	£40,858	£21.18	39	£41,675	£21.60	45
46	£41,025	£21.26	£41,846	£21.69	40	£42,683	£22.12	46
47	£41,967	£21.75	£42,806	£22.19	41	£43,662	£22.63	47
48	£42,899	£22.24	£43,757	£22.68	42	£44,632	£23.13	48
49	£43,821	£22.71	£44,697	£23.17	43	£45,591	£23.63	49

*hourly rate calculated by dividing annual salary by 52.143 weeks (which is 365 days divided by 7) and then divided by 37 hours (the standard working week in the National Agreement 'Green Book')

Discretions Policy: The Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions & Savings) Regulations 2014

Cabinet Member: Cllr Mandy Chilcott

Lead Officer: Chris Squire, Director of HR & OD

Author: Cherry Russell – Service Manager HR Policy & Practice

Contact Details: Vicky Hayter vahayter@somerset.gov.uk Tel: 01823 359858

Report Sign off	Seen by:	Name	Date
	Legal	Honor Clarke	24.7.18
	Corporate Finance	Martin Gerrish	24.7.18
	Human Resources	Chris Squire	24.7.18
	Cabinet Member	Mandy Chilcott	24.7.18
	Monitoring Officer	Scott Wooldridge	24.7.18
Summary:	The HR Policy Committee is requested to approve how the Council will use the discretions employers have been given under the Local Government Pension Scheme (LGPS).		
Recommendations:	<p>It is recommended that:</p> <ol style="list-style-type: none"> 1) Minor amendments to the wording of SCC Pensions Discretion Policy are made to accurately reflect the wording of the LGPS Regulations as advised by Peninsula Pensions, relating to – Waiving of Actuarial Reduction where an active member chooses to voluntarily draw benefits on or after age 55 and before age 60 or normal retirement age. (Regulation B30 (5)) 2) The policy decision for our pensions discretion under Regulation R31 – Power of employing authority to grant additional pension, is changed to allow only in exceptional circumstances, to accommodate any future unforeseen requests that may be affordable. <p>Accordingly the Committee is asked to approve the revised Discretions Policy attached at Appendix A to the report which includes the recommended changes to wording and pension decision for Regulation B30(5) and Regulation R31 as listed above and outlined in Section 2 below.</p>		
Reasons for Recommendations:	All employers who participate in the Local Government Pension Scheme are required to draw up a discretions policy in accordance with Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008, and Regulation 60 of the Local Government Pension Scheme Regulations 2013.		

	<p>The policy must be published and kept under review. A copy of the employer’s published policy statement must be sent to the Pension Fund administering authority (Peninsula Pensions). Any amendments to the policy must be sent to Peninsula Pensions within one month of the amendment.</p> <p>The Council’s Discretions Policy aims to limit the cost of the Local Government Pensions Scheme (LGPS) to the employer, where it has the discretion to do so whilst giving scheme members some flexibility.</p> <p>In February 2018, amended guidance on employer discretions policy wording was provided by Peninsula Pensions the Administering Authority for the Somerset Scheme.</p> <p>We need to amend our discretions policy to ensure the wording under Regulation B30(5) relating to waiving of actuarial reduction where an active member chooses to voluntarily draw benefits early, accurately reflects the options under this section for all LGPS members.</p> <p>Peninsula Pension also provide employer guidance on Fettering discretions (restricting or limiting) and state the government has advised employers should not ‘fetter their discretions’ i.e. policies should not be so rigid or restrictive as to prevent flexibility where a (possibly unanticipated) situation requires it. The Pension Regulator and Local Government Association guidance encourages authorities to make sure their policy statements do not bind the employer to make the same decision in every single case, this does not mean we cannot refuse a request once considered.</p> <p>With consideration to fettering guidance the Council should re-consider the policy decision for Regulation R31 – Power of employing authority to grant additional pension, as this is the only discretion that we currently will not apply.</p>
<p>Links to Priorities and Impact on Service Plans:</p>	<p>Given the Council’s ongoing financial challenges and the need to deliver services within our available resources we are likely to receive increased requests under our Pension Discretions in particular relating to early retirement and voluntary redundancy.</p>
<p>Financial, Legal and HR Implications:</p>	<p>There are many discretions in the current Regulations however, there are only a handful where the employer is required to have a written policy as there would be a cost to the employer for either allowing early access to benefits or effectively enhancing the benefits the member receives.</p> <p>The Council’s Discretions Policy aims to limit the cost of the Local Government Pension Scheme to the employer, where it has the discretion to do.</p> <p>Government guidance has advised that employers should not ‘fetter their discretion’.</p>

	Financial and HR implications would be assessed on a case by case basis and decision made at the time of request based on the current budget situation with consideration to the affordability for the future budget impact (2-3 years) alongside workforce planning, employee relations and compassionate considerations as appropriate.
Equalities Implications:	Note under suggested wording for Regulation R31, to avoid fettering our policy it is recommended that the Committee allow this discretion but only in the most exceptional circumstance. We have no specific policy or guidance on the exceptional circumstances that may be considered in these cases; so they would need to be considered on the merits of the business case specifically around cost and any equalities impact would need to be considered at that time. Additional pension by conversion in redundancy cases are justifiable under the equalities act.
Risk Assessment:	The changes proposed to the Discretions Policy aim to control the costs to the Council of the Local Government Pension Scheme whilst giving scheme members reasonable flexibility. There are risks associated with limiting or fettering our policy if a complaint is not resolved internally and reached the Pensions Ombudsman, which can include compensation and financial fines.
Scrutiny comments / recommendation (if any):	Not applicable

1. Background

- 1.1. Under the Local Government Pension Scheme 2014, all employers who participate in the LGPS are required to formulate, publish and keep under review a discretions policy.
- 1.2. The Council's current Discretions Policy was agreed on 8th September 2014 and updated in March 2016 and November 2017.
- 1.3. The proposed amended Discretions Policy and recommended wording is attached at Appendix A to this report. The proposed revisions are highlighted with tracked changes and comment boxes.
- 1.4. Following a query early in 2018, Peninsula Pensions identified the need to update their template employers discretions policy to ensure the wording under Regulation R30(5) accurately reflects the options available for all LGPS members. The template was updated in February 2018 and the wording now reflects the fact that this discretion (to waive actuarial reduction where an active member chooses to voluntarily retire early) applies on or after age 55 and before age 60 and on or after age 60 and before Normal Pension Age. The Council had used the Peninsula Pensions template to write our discretions policy so we also now need to make these minor amendments to the wording in our policy to accurately reflect the regulations.
- 1.5. The facility for employers to grant extra 'augmented' membership of the

Pensions scheme ceased after 31 March 2014. Our pre-2014 discretions policy allowed 'augmentation by conversion' to members being made redundant or being retired on business efficiency grounds. Under the 2014 legislation we followed LGPS guidance to simply carry forward our existing policy (to apply in exceptional cases), but suitably amended to refer to the new regulation to grant additional pension equivalent to the value of any lump sum termination payment (in excess of the redundancy payment) known as 'additional pension by conversion' i.e. under Regulation R31.

- 1.6** Our Pensions provider, Peninsula Pensions, informed us at the end of 2015 that the LGPS guidance had subsequently been amended to clarify a number of points of interpretation raised by local authorities after the legislation came into force. This guidance now clarifies the facility to grant additional pensions under Regulation R31, is not actuarially reduced in cases of retirement on redundancy or business efficiency grounds, where extra pension is drawn before the member's normal pension age. Therefore, enabling this discretion under Regulation R31 would incur additional strain cost on the Council. Whereas, a similar facility to grant additional pension under Regulation R16, is actuarially reduced, so would have no extra strain cost on the Authority. The HR Policy Committee on 14th March 2016 therefore decided to use Regulation R16 and decided the Council will not apply Regulation R31.
- 1.7** Given recent guidance from Peninsula Pensions on Fettering Discretions Policies, it is recommended that the Committee considers any discretions that we do not apply currently. The only discretion that we currently will not apply is Regulation R31.
- 1.8** One consideration is that although we do not apply Regulation R31 we do apply a similar discretion under Regulation R16, so this may be suitably flexible to mitigate against fettering.
- 1.9** However there is a difference between the two discretions. Regulation R31 allows the employer to buy a member additional pension either while they are an active member of the LGPS or, if they are made redundant or retired on efficiency grounds, the employer can buy the member additional pension at any time up to six months after their leaving date. For example, if a member is made redundant on 31st March the employer could buy additional pension under Reg31 before they leave or during the 6 months from 1st April to 30th September after they've left. Peninsula Pensions have commented this very rarely happens.
- 1.10** Regulation R16 only allows the employer to buy an active member of the LGPS additional pensions. Although pension bought under Regulation R16 is reduced if brought into payment before normal pension age in all cases apart from tier 1 or 2 ill health, pension bought under Regulation R31 is not reduced on redundancy/efficiency retirement, so it increases the employers strain cost.
- 1.11** Another consideration would be to apply discretion Regulation R31 as there are potential unforeseen circumstances that are only covered by Regulation R31 which Regulation R16 do not satisfy. It could be stated that Regulation R31 would not normally be exercised, on the grounds of cost, except in the most exceptional circumstance where there is clear merit and where the cost to the Council is not considered to be significant or material. This option would safeguard the Authority against fettering whilst controlling costs.

2. Options Considered

- 2.1.** The approach taken when determining which discretion to apply is to ensure that the costs to the Council are controlled while providing flexibility for scheme members as allowed by the regulations.
- 2.2** Regulation R31 Option One: No change to the decision made by the Committee on 14 March 2016. Continue our current position not to apply Regulation R31; flexibility exists as a similar facility to grant additional pension can be achieved by applying Regulation R16. Where extra pension is drawn before normal pension age in cases of retirement on redundancy or business efficiency grounds under Regulation R16 it will be actuarially reduced, so would have no extra stain cost on the Council.
- 2.3** Regulation R31 Option Two: Amend the policy decision to apply Regulation R31, but only in very exceptional circumstances. This option will allow flexibility to accommodate unanticipated situations and safeguard the Council from significant/material cost and avoid fettering our policy.
- 2.4** As this is a complex subject – to aid understanding a verbal update and question and answer session was presented on these choices at the HR Policy Committee Meeting on 30th April 2018. Following this discussion the proposed amended pension discretion policy at appendix A, has been drawn up on the basis of option two.

3. Consultations undertaken

- 3.1.** The suggested changes to the Discretion Policy were discussed with union representatives (including Unite) who attended the Joint Negotiating Forum on 15th March 2018 and no objections were raised at the time. UNISON & GMB received the agenda for JNF but did not attend the meeting. The key proposed changes to the pension discretion policy were noted and minutes of the meeting sent to the full JNF circulation list. The suggested tracked changes to the discretions policy and additional guidance notes were also sent and responses requested by Friday 20th April. No comments were received.
- 3.2** Consulted with Peninsula Pensions via telephone discussion early March 2018 and follow up e-mail on 20th March 2018.

4. Implications

Financial

- 4.1** Para. 1.4 above, Regulation R30(5) - the impact of approving requests under Regulation R30(5) will vary depending on the individual circumstances of the scheme member. We have only had one request in the last financial year under Regulation R30(5), which was approved for compassionate reasons as the strain cost was recovered through service restructure savings.
- 4.2** Para. 1.6 – 2.4 above, Regulation R16 and R31 have an impact on the cost to the Authority of approving requests where an employee wishes to consider giving

up part of their redundancy compensation payment to buy additional pension via a Shared Cost Additional Pension Contribution (SCAPC). Applying this discretion under Regulation R31 incurs extra strain cost for the Council as the guidance note excludes cases of retirement on redundancy or business efficiency grounds from actuarial reduction, where that extra pension is drawn before the member's normal pension age. Applying a similar discretion under Regulation R16 (for active members only) does not incur extra cost to the employer as the additional pension granted is subject to actuarial reduction, where the extra pension is drawn before the member's normal pension age.

- 4.3** There are potential risks and costs associated with restricting (fettering) our discretions policy, if a complaint is made to the Pension Ombudsman. By allowing the discretion under Regulation R31 but only in the most exceptional circumstances will avoid excessive financial cost burdens on the authority, while allowing the flexibility to address unforeseen circumstances in the future and mitigate against fettering our policy.

5. Background papers

- 5.1** Appendix A – Discretion Policy (with tracked changes)
- 5.2** Past HR policy committee paper 14/3/16 re: Regulation R16 & Regulation R31
- 5.3** Peninsula pensions guidance on discretions policy

Note: For sight of individual background papers please contact the report author.

SOMERSET COUNTY COUNCIL

Discretions Policy:

The Local Government Pension Scheme Regulations 2013 (Prefix R) and

The Local Government Pension Scheme (Transitional Provisions & Savings) Regulations 2014 (Prefix TP)
and

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2008 (Prefix B)

Policy effective from ~~14th November 2017~~ 1st November 2018 (Publish on 1st October 2018)

HR Policy Committee ~~approved on 13th November 2017~~ 24th September 2018

Unions consulted at JNF ~~13th September 2017~~. 15th March 2018.

The Council may revise the Policies at any time.

Regulation R16(2)(e) & R16 (4)(d)	Policy decision
Shared Cost Additional Pension Contributions Scheme	
<p>An employer can choose to pay for or contribute towards a member's Additional Pension Contributions via a Shared Cost Additional Pension Contributions (SCAPC).</p> <p>When the employee has elected to pay contributions for a period of unpaid or child-related leave within 30 days of receipt of written communication of this option or within 30 days of returning to work, whichever is the later, the payment has to be made via an SCAPC. In these circumstances the Council is required to make employer contributions as required by the regulations. Applying this discretion in these circumstances also allows the Council to extend the time limit in cases where there is a delay in the process of advising payroll.</p> <p>In exceptional circumstances, where there is a clear business case, the Council may award additional pension for an active member. This includes, but is not limited to, employees under notice of redundancy in accordance with the Redundancy & Early Retirement Discretionary Compensation Policy where the employee has agreed to</p>	<p>The Council will apply this discretion only in certain circumstances</p>

<p>give up part of their compensation to buy the additional pension (up to £6,755* per annum @ 1st April 2016)</p> <p>* this figure will be reviewed each April under Pensions Increase orders</p>	
<p>Regulation R17(1) & TP15(1)(d) & A25(3)</p>	<p>Policy decision</p>
<p>Shared Cost Additional Voluntary Contribution Arrangement</p>	
<p>An employer can choose to pay for or contribute towards a member's Additional Voluntary Contribution arrangement entered into on or after 1st April 2014 via a shared cost AVC.</p> <p>An employer can choose to pay for or contribute towards a member's Additional Voluntary Contribution arrangement entered into before 1st April 2014 via a shared cost AVC.</p> <p>The Council will only apply this discretion in accordance with its published guidance on salary sacrifice Shared Cost Additional Voluntary Contributions with effect from 1st February 2018.</p>	<p>The Council will apply this discretion only in certain circumstances.</p>
<p>Regulation R30(6) & TP11(2) & R30 (8)</p>	<p>Policy decision</p>
<p>Flexible Retirement & Waiving of Actuarial Reduction</p>	
<p>Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up while still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade based on a sound business case which is subject to the approval of Director of HR & OD.</p> <p>Where pension benefits are reduced in accordance with actuarial tables, the Council will use its discretion to waive the actuarial reduction in accordance with the Council's Flexible Retirement Process on the following grounds only:</p> <ul style="list-style-type: none"> • compassionate reasons • the member has protected rights • in exceptional cases, where the Council is satisfied there is a clear business case. 	<p>The Council will apply this discretion only in exceptional circumstances.</p>
<p>Regulation R30(8)</p>	<p>Policy decision</p>

Waiving of Actuarial Reduction for Deferred Benefits & Suspended Tier 3 IHR	
<p>Employers may also waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to member's benefits for deferred members and suspended tier 3 ill health pensioners who elect to draw benefits on or after age 60 and before normal pension age.</p> <p>The Council will apply this discretion in exceptional cases in accordance with the Deferred Pensions Policy & Ill Health Retirement Policy.</p>	<p>The Council will apply this discretion only in exceptional cases</p>
<u>Regulation B30 (5)</u>	<u>Policy Decision</u>
<p>Waiving of Actuarial Reduction where an active member chooses to voluntarily draw benefits on or after age 55 and before age 60 <u>or normal retirement age.</u></p>	Policy Decision
<p>Employers also have the power to waive, in whole or in part, the actuarial reduction applied to active members benefits when a member chooses to voluntarily draw benefits on or after age 55 and before age 60- <u>and on or after age 60 and before Normal Pension Age.</u></p> <p>The Council may, in exceptional circumstances, waive all or part of the reduction, where it is satisfied there is a clear business <u>case and on compassionate grounds.</u> benefit in accordance with the Early Retirement/Redundancy Compensation Policy.</p>	<p>The Council will apply this discretion only in exceptional cases</p>
Regulation TPSch 2, para 2(2) & 2(3)	Policy decision
<p>Power of employing authority to 'switch on' the 85 Year Rule</p>	
<p>An employer can choose whether to "switch on" 85 year rule for members who voluntarily retire on or after age 55 and before age 60.</p> <p>The Council will apply this discretion in accordance with its policy on Premature Retirement under 85 year rule.</p>	<p>The Council will apply this discretion only in exceptional circumstances</p>
<p>Waiving of Actuarial Reduction where employer has switched on 85 year rule</p>	Policy Decision
<p>An employer can also choose to waive, on compassionate grounds, the actuarial reduction applied to benefits for a member voluntarily drawing benefits on or after age 55 and before age 60.</p>	<p>The Council will apply this discretion</p>

<p>The Council will apply this discretion in accordance with its policy on Premature Retirement under 85 year rule.</p>	
<p align="center">Regulation R31</p>	<p align="center">Policy decision</p>
<p>Power of employing authority to grant additional pension</p>	
<p>An employer can choose to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,755* per annum @ 1st April 2016)</p> <p><u>The Council will only apply this discretion in the most exceptional circumstances having particular regard to the following particular circumstances of the case:</u></p> <ul style="list-style-type: none"> • <u>Where the cost to the Council is negligible and</u> • <u>Where the Council is satisfied there is a clear business case</u> <p>* this figure will be reviewed each April under Pensions Increase orders</p>	<p>The Council will not apply this discretion</p> <p><u>The Council will not normally exercise this discretion, on the grounds of cost, except in the most exceptional circumstances where there is clear merit and where the cost to the Council is not considered to be significant or material.</u></p> <p>[CR1]</p>
<p align="center">Regulation R100 (6)</p>	<p align="center">Policy Decision</p>
<p align="center">Late Inward Transfers of pension rights (requests after 12 months scheme membership)</p>	
<p>An active member with relevant pension rights may request the appropriate administering authority (via Peninsula Pensions) to accept a transfer value for some or all of those rights from the relevant transferor.</p> <p>The notice must be made in writing, given to the appropriate administering authority (via Peninsula Pensions) and the Scheme employer (SCC), before the expiry of the period of 12 months beginning with the date on which the person first become an active member in an employment (or such longer period as the Scheme employer and administering authority may allow).</p> <p>The Council will apply this discretion to accept requests after 12 months only where there are exceptional circumstances. For example: where there is evidence to</p>	<p>The Council will apply this discretion only in exceptional circumstances.</p>

support a reason why an earlier request was not practically possible, such as, a significant personal event within the first 12 months.	
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Please see page 5 & 6 below for 2008 Regulations

The following section covers scheme members who ceased active membership on or after 1 April 2008 and before 1 April 2014.

The Local Government Pension Scheme Regulations 2008

(Benefits, Membership and Contributions)

Policy effective from: 14 April 2016

Regulation B18	Policy decision
Flexible retirement & Waiving of Actual Reduction	
Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up while still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade based on a sound business case which is subject to the approval of Director of HR & OD. Where pension benefits are reduced in accordance with actuarial tables, the Council may waive the actuarial	The Council will apply this discretion only in certain circumstances

<p>reduction in accordance with the Council's Flexible Retirement Policy on the following grounds:</p> <ul style="list-style-type: none"> • compassionate reasons • a member has protected rights • in exceptional cases where the Council is satisfied there is a clear business case. 	
Regulation B30(2)	Policy decision
Early payment of deferred pension	
<p>Employers can also allow the early payment of deferred benefits to former members of the LGPS between the ages of 55 and before age 60.</p> <p>The Council will apply this discretion only where there is no cost to the Somerset Fund and where ex-employees are willing to suffer an actuarial reduction in accordance with the Council's Deferred Pension Policy.</p> <p>Please note where a deferred member left the LGPS before 1 April 2008 the employer policy under the 1997 Regulations will apply.</p>	<p>The Council will apply this discretion only in exceptional circumstances.</p>
Regulation B30(3)	Policy Decision
Reinstatement of suspended Tier 3 IHR	
<p>Employers may also grant an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60.</p> <p>The Council will apply this discretion only where there are compassionate grounds.</p>	<p>The Council will apply this discretion only in exceptional circumstances.</p>
Regulation B30(5)	Policy Decision
Waiving of Actuarial Reduction for deferred pensions & reinstated tier 3 IHR	
<p>In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights.</p> <p>The Council will apply this discretion only where there are compassionate grounds in accordance with the Council's Deferred Pensions Policy.</p>	<p>The Council will apply this discretion only in exceptional circumstances.</p>

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Looking forward to your retirement

Guidance notes on employer discretions policy

The Local Government Pension Scheme Regulations

All employers who participate in the Local Government Pension Scheme are required to draw up a discretions policy in accordance with Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008, and Regulation 60 of the Local Government Pension Scheme Regulations 2013.

The policy must be published and kept under review. A copy of the employer's published policy statement must be sent to the Pension Fund administering authority (Peninsula Pensions). Any amendments to the policy must be sent to Peninsula Pensions within one month of the amendment.

There are different types of discretions

There are many discretions in the current regulations, together with several more extant from the previous regulations – please see our [website](#) for the list.

However, there are only a handful of discretions where the employer is required to have a written policy statement, and these discretions are shown below. (Although not all discretions require a written policy, it may be useful for you to formulate a policy document which includes each discretion). For full guidance, please see the full [LGPS Guidance Notes](#).

What do you need to include?

Each employing authority must prepare a written statement of its policies relating to the exercise of its functions under regulations:

- 12: Power of employing authority to increase total membership of active members
- 16: Shared Cost Additional Pension *
- 17 and TP15: Shared Cost AVC arrangement
- 18: Flexible retirement
- 30: Choice of early payment of pension according to the Benefits Regulations
- 31: Power of employing authority to grant additional pension **
- TPSch 2: Power to 'switch on' the 85 year rule

* Pension awarded under Regulation 16 is reduced on redundancy / efficiency retirement and the full cost has to be paid to the Pension Fund while the member is still active.

** Pension bought by the employer under Regulation 31 isn't reduced when bought into payment when the member is retiring on redundancy / efficiency grounds, so incurs an additional strain cost. Regulation 31 can be exercised within 6 months of the employee leaving on redundancy or efficiency grounds.

The 85 Year Rule

The LGPS (Transitional Provisions and Savings) Regulations 2014 require employers to have a policy on whether to agree to apply the 85 year rule to a scheme member wishing to voluntarily draw (non-flexible retirement) benefits on or after 55 and before age 60. The 85 year rule does not automatically apply if the employee decides to voluntarily draw (non-flexible retirement) benefits on or after age 55 and before age 60 but you can agree to apply the 85 year rule. If you do, you would have to meet any strain on Fund cost (as under the 2008 Scheme). If you do not agree to apply the 85 year rule, the scheme member would meet any strain on Fund cost via an actuarial reduction applied to their pension. However, you do also have the discretion to waive actuarial reductions applied to a members benefits but this would incur a Strain cost.

Flexible Retirement

Each scheme employer must formulate, publish and keep under review a separate policy on flexible retirement should they decide to offer this option to their scheme members.

When designing a flexible retirement policy the employer will wish to ensure it fits with any other flexible working policies the employer may have. There are a number of factors that an employer may wish to consider when devising a flexible retirement policy e.g. flexible retirement may:

- be an effective means to reduce capacity
- help to avoid redundancies and the associated strain on Fund pension costs and redundancy payment/compensation costs
- enable the employer to retain or attain a balanced age profile within the workforce
- enable the transfer of skills / knowledge
- offer the opportunity of better succession planning and mentoring
- facilitate the retention of expertise, knowledge and contacts
- offer an acceptable solution to staff who are currently a blockage to promotion or reorganisation
- help alleviate burn out and stress
- improve morale
- offer the flexibility and productivity associated with part-time working / downshifting
- assist staff to
 - ease down into retirement
 - make a gradual adjustment to life without paid employment
 - gradually break free of the routine and habits of work
 - keep mentally / physically active

In deciding their flexible retirement policy, employers will need to:

1. Consider whether or not there should be a minimum reduction in hours or grade – LGPS regulations do not specify a minimum but employers might consider that, for example, an employee would have to take a minimum 20% cut in hours or a minimum reduction of one grade, before flexible retirement might be considered.

2. Consider whether or not the employee should commit to a reduction in hours or grade for a minimum period of time (say 6 months).
3. Consider whether or not the employee should commit to remaining in employment with the employer for a minimum period of time (say 1 year or to age 60 if earlier).

Your flexible retirement policy should also set out as part of the agreement:

- 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 the pension benefits they accrued after 31 March 2008 and before 1 April 2014, and / or
 - all, part or none of the pension benefits they accrued after 31 March 2014, and
 - 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 (NPA)

For more guidance on what to consider within your Flexible Retirement, please see the [LGE Circular 193](#) (pages 13 to 34) and the [LGA Technical Guide](#). Please send Peninsula Pensions a copy of your policy.

All the discretions that require you to have a written policy have been included in our [Example Policy document on our website](#).

Other Regulations that require a separate policy: Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations

Under Regulation 7 of the Discretionary Compensation Regulations **2006** and Regulation 26 of the Discretionary Compensation Regulations **2000**, each authority (other than an Admitted Body) is required to formulate and keep under review a policy which applies in respect of exercising their discretion in relation to discretionary compensation. Please see the [full list of discretions](#) for more guidance.

Discretions for scheme members (excluding councillor members) who ceased active membership on or after 1.4.08 and before 1.4.14

It will also be necessary to draw up a new list of discretions for post-31st March 2008 / pre-1st April 2014 leavers as you will still have to publish a policy in respect of your discretions for these leavers. For example, the need for employer consent to applications for early payment of benefits for employees under the age of 60 will fall away on 1st April 2014 as there is no equivalent 'consent' provision from April 2014 but, as it will still be possible for pre-1st April 2014 leavers to ask for employer consent to the early release of their deferred benefits, you will have to have a policy in this respect.

A Full list of discretions can be found on the [LGA Website](#)

Policy Requirements

- Each employing authority must send a copy of its statement to each relevant administering authority and must publish its statement within three months of becoming an employer within the LGPS.
- An employing authority must:
 - Keep its statement under review, and
 - Make such revisions as are appropriate following a change in its policy.
- Each employing authority must send a copy of its revised statement to each relevant administering authority and must publish its statement as revised within one month of making any amendments.
- In preparing, or reviewing and making revisions to its statement, an employing authority must
 - consider the extent to which the exercise of any of the functions under the mentioned regulations in accordance with its policy could lead to a serious loss of confidence in the public service, and
 - be satisfied that the policy is workable, affordable and reasonable having regard to foreseeable costs.
- Please note that a relevant administering authority – in relation to an employing authority – is any authority which is an appropriate administering authority for that employer’s employees.

Points for employers to consider when setting policies

Costs

This may go without saying, but exercising discretionary powers comes at a price. An employer is required to formulate policies that do not lead to loss of confidence in public service. It follows, therefore, that these policies should be affordable.

Exercising the major discretions may result in a cost to the employer (commonly called ‘pension strain’). However, an employer can obtain an estimate of the strain cost from Peninsula Pensions before making a decision about whether to apply a particular discretion or not. This is only an option if you have stated in your policy that you may allow discretion or make a decision on a case for case basis etc.

Fettering discretions (restricting or limiting)

Your pension policy should show the basis on which the employer would make its decisions on the various discretions.

The government has advised you should not ‘fetter their discretion’; i.e. policies should not be so rigid or restrictive as to prevent flexibility where a (possibly unanticipated) situation requires it.”

It is not advisable just to simply state you will not apply a discretion as this will restrict your flexibility and bind employers to make the same decision in every single case. The government have advised that in these cases, a scheme employer can state that’s its normal policy is not to exercise the discretion but then goes onto explain the circumstances where the discretion might be exercised. For example:

'the authority will not exercise discretion x on grounds of cost, except in exceptional circumstances where there is clear merit or where the cost to the authority is not considered to be significant or material'

Other example wording:

"This discretion will only be exercised in the most exceptional circumstances having regard to the Council's general policies and the particular circumstances of the case.

The xxxxx Council will only consider exercising these discretions in the most exceptional circumstances having particular regard to the following:

- The interests of the Council;
- Any potential benefits or savings to the Council;
- Other options that are, from time to time, available under the Council's severance arrangements;
- The member's personal circumstances;
- The additional contributions due to the Fund;
- The ability of the Council to meet the cost of granting such an award;
- The funding position of the Council within the xx Pension Fund."

Anti-discrimination laws

In drafting any policy, employers should have regard to the age regulations, whether it is on an 'each case on its merits' policy, one that applies a standard approach, or even one that uses either approach depending on the circumstances.

The policy will need either to be free of age influence, or if age-related criteria or criteria that could be indirectly age discriminatory are used, the employer should be reasonably assured that the policy falls within the exceptions provided by the age regulations. If not, the employer would need to be able to defend any claim of age discrimination by satisfying a tribunal that its policy is objectively justified. In order to do so, the employer would have to demonstrate that the policy pursues a legitimate aim and that it is proportionate (in other words, it is an appropriate and necessary means of achieving that aim). Employers will need to provide real evidence to support any claim of objective justification. Assertion alone will not be sufficient and each case must be considered on its individual merits.

Age discrimination is not the only form of discrimination that must be avoided but it is the forefront of most policy makers' minds. Care needs to be taken, also, to make sure that the criteria do not discriminate on other grounds, such as:

- Gender
- Race
- Disability
- Sexual orientation
- Religion, or
- Belief.

Why 'follow my leader' isn't necessarily sensible.

Some employers play 'follow my leader' and wait for the lead authority that holds the pension fund for their area to issue their employer discretions policy. A simple 'copy and paste' procedure then follows, with a 'top and tail' to make it their own.

Quite often, the lead authority is the biggest employer in the local fund. It is thought of as the local expert in the LGPS and that it's sensible to follow its lead. However, the membership demographics and funding levels of one employer are unlikely to match that of another, so following the lead authority may not be appropriate.

Each employer is advised, therefore, to consider the issues outlined in these notes and formulate their own policies based on their membership base and budgetary constraints.

Remember, your policy needs to be:

Workable – easy and definitive

Affordable – fits in with your budget

Reasonable – fair or 'not unreasonable'

Foreseeable – affordable for the future budget (2/3 years)

If you need further advice about setting up an Employer's Discretion Policy, please contact Emma Davies on 01392 383000 or via email emma.davies@devon.gov.uk