By:	Gary Cooke – Cabinet Member for Corporate & Democratic Services Amanda Beer – Corporate Director Human Resources	
To:	Personnel Committee	**Date:** 4 June 2014
Subject:	Review of LGPS Discretionary Pension Policy Statement	
Classification:	Unrestricted	

Summary:
The introduction of the new Local Government Pension Scheme (LGPS) from 1 April 2014 requires all scheme employers to review their existing discretionary pension policy statement and publish a new policy statement.

This report summarises the pension policies that need reviewing and makes recommendations for the adoption of a new pension policy statement.

For information, the report also summarises the main provisions of the new LGPS and provides a comparison with the 2008 scheme – **Appendix A.**

Additionally, greater flexibility is requested for funding early retirement costs by way of allowing lump sum payments.

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1. <u>Introduction</u>

1.1 The LGPS regulations require all scheme employers to publish and keep under review a written policy statement on how they will apply their discretionary powers in relation to certain provisions of the scheme. As the new LGPS came into force on 1 April 2014 it is necessary to adopt a new discretionary pension policy statement and to publish this by 30 June 2014.

2. <u>Background</u>

2.1 The cost of providing public sector pension schemes have been steadily increasing over many years leading to concerns about their long-term sustainability. Lord Hutton of Furness was appointed to chair an independent Public Service Pension Commission to undertake a fundamental structural review of public sector pension provision.

2.2 The main recommendations of the Commission were that:

- All public sector pension schemes should change from final salary pension schemes to Career Average Revalued Earnings schemes (CARE). An annual pension pot is calculated which is uprated each year to take into account inflation (Consumer Price Index (CPI)).
- Scheme retirement ages should be the same as state retirement pension ages.
- There should be a cost sharing mechanism introduced that requires scheme members to share the increasing costs of providing public sector pension schemes and not just the employers.
- Existing rights of current scheme members should be protected.

2.3 The present Government accepted the Commission's recommendations and tasked the government departments responsible for each public sector pension scheme to negotiate with the relevant employer representatives and unions on the required changes to the respective schemes.

2.4 Agreement has been reached between Department for Communities and Local Government (DCLG), the Local Government Association (LGA) and trade unions on the new LGPS which came into force on 1 April 2014.

3. Pension Policy Statements

3.1 Paragraphs 3.2 – 3.6 below outline the pension policy statements that have to be reviewed, together with a recommendation, where applicable, on the policy that should be adopted. The full Schedule of Discretions can be found in Appendix B incorporating the proposed recommendations and additional details.

3.2 Regulation 9 – Contributions

3.2.1 Currently the Authority determines the appropriate contribution band on 1 April each year and during the year when a material change takes place. The contributions bands applied are based on full time equivalent pay.

3.2.2 Under the new scheme, the contribution bands are based on the actual pensionable pay received, so it recommended that:

3.2.3 The Authority will apply the nationally determined scheme member contribution rates and bands. These are subject to review and may be varied.

3.2.4 The Authority will determine the appropriate contribution band for a scheme member by using the pensionable pay received on 1 April each year and every 3 months thereafter.

3.3 Regulation 16 (2)(e) & (4)(d) – Shared Cost Additional Pension Contribution (SCAPC)

3.3.1 There is provision, under this regulation, to allow scheme members to buy additional pension with a shared cost to the employer. KCC does not currently operate a shared scheme and it is recommended that we maintain our current position.

3.3.2 The above does not apply where a scheme member has had a period of child related leave or authorised unpaid leave. Employers do not have discretion for this element and must pay 2/3rds of the cost if the scheme member elects within 30 days of their return to work, to pay a SCAPC to cover the amount of pension 'lost' during the period of absence.

3.3.3 However, the new regulations are not currently clear on how these periods of unpaid leave are to be calculated and by whom and it may not be possible to provide scheme members with the information they need to make an election within the required time frame. To take this into account the following proposal is suggested.

3.3.4 Where it is not possible to provide the scheme member with the information they need to make their election within the 30 day deadline, the Authority will extend the limit. However, the scheme member must contact KCC to request this information within 30 days of returning to work and respond within 30 days of receiving the information.

3.4 <u>TR Regulations 1(1)(c) of Schedule 2 – whether to allow the rule of 85 to be 'switched on' for members age 55-59</u>

3.4.1 Currently where scheme members meet the 85 year rule before the age of 60 though technically they can apply for early release of their pension benefits we do not agree as there is a cost to the Authority.

3.4.2 The 85 year rule is where pensionable service and age equals 85 or more, with active members, as at 1 October 2006, having varying degrees of protections which relates to the individuals Critical Retirement Age (CRA).

3.4.3 The new scheme provides employers with the discretion to waive the reductions to the member's benefits if we agree to the release of pension before the age of 60 (referred to as 'switching back on' the 85 year rule). This would require us meeting the costs incurred.

3.4.4 It is recommended that we maintain our current position of not agreeing unless there are exceptional circumstances.

3.5 <u>Regulation 21(5) – in determining Assumed Pensionable Pay whether a lump sum payment made in the previous 12 months is a 'regular lump sum'</u>

3.5.1 Under the new scheme there is a change in how the pay for periods of unpaid authorised leave including child related leave is calculated. This is now done by Assumed Pensionable Pay and employers are required to have a policy on what are considered 'lump sum' payments paid to members which should be included in this calculation. A list of these is kept within Employee Services for payroll purposes.

3.5.2 A regular lump sum payment is a payment for which the member's employer determines there is a reasonable expectation that such a payment would be paid on a regular basis.

3.6 <u>Regulation 30(8) – Waiving of Actuarial Reductions</u>

3.6.1 Currently an employer has the discretion to allow a scheme member to retire voluntarily between the ages of 55-59 and receive immediate payment of their pension benefits. From age 60 the employer's permission is not required.

3.6.2 The Authority's current policy is to consider individual cases on their merits and under normal circumstances the pension paid would be reduced. However, in exceptional circumstances, when it is in the operational interests of the Authority or on compassionate grounds the reduction could be waived and the pension paid without reduction and we would pick up the costs incurred.

3.6.3 Under the new scheme, scheme members between 55 and 59 will no longer need their employer's permission to retire and can receive immediate payment of their pension benefits. However, the pension benefits payable would be subject to a reduction to allow for early payment. The extent of the reduction will be based on the Government Actuary Department (GAD) guidance on pension reduction factors. Employers have the discretion to waive these reductions.

3.6.4 It is recommended that we maintain our current position of not agreeing to waive the reduction unless there are exceptional circumstances.

4. Funding of early retirement costs

4.1 Since 1998 KCC pays all charges incurred by the organisation for early retirement costs (i.e. redundancies or early release of pension benefits) by instalments only. KCC is the only organisation within the Kent Pension Fund not to use the ability to pay by lump sum. There are budget implications to this, however, there is agreement that small lump sum payments should be allowed within our provisions.

4.2 It is recommended that Personnel Committee agree that costs incurred by the organisation as a result of payments in respect of early retirement costs should be made by lump sum payment where the instalment value is up to and including £2,000. Where the instalment value is over £2,000, payment must continue by annual instalments due to the impact on the overall KCC budget.

4.3 (The £2,000 refers to the total instalment value i.e. on occasions Pensions provide an amended cost figure between the estimated and actual costs, due later information being provided. A decision will not, therefore, be able to be made until the final cost figures are received to ensure the £2,000 limit is adhered to).

5. Conclusion

5.1 A formal review of the Authority's discretionary pension policy statements is required due to the introduction of the new Local Government Pension Scheme from 1 April 2014 and needs to be published by 30 June 2014.

6. Recommendations

6.1 The Personnel Committee are asked to approve the recommendations as discussed and summarised below.

6.2 Regulation 9

The Authority will determine the appropriate contribution band for a scheme member by using the pensionable pay received on 1 April each year and every 3 months thereafter.

6.3 Regulation 16(2)(e) and (4)(d)

It is not KCC's policy to operate a Shared Cost Additional Pension Contribution scheme for scheme members.

6.4 However, this does not apply where a scheme member has had a period of child related leave or authorised unpaid leave and elects, within 30 days of return to work, to pay a SCAPC to cover the amount of pension 'lost' during the period of absence. KCC will pay 2/3rd of the cost of the 'lost' pension for periods of authorised unpaid leave, including periods of child related leave, if a scheme member elects, within 30 days of their return to work, to pay a SCAPC.

6.5 Where it is not possible to provide the scheme member with the information they need to make their election within the 30 day deadline, the Authority will extend the limit. However, the scheme member must contact KCC to request this information within 30 days of returning to work and respond within 30 days of the information being provided.

6.6 Transitional Regulations Schedule 2, paragraph 2(2)
We maintain our current position of not agreeing to the early release of pension to anyone who meets the 85 year rule before the age of 60 unless there are exceptional circumstances.

6.7 Regulation 30(8)
We maintain our current position of not agreeing to waive any actuarial reduction applied to benefits paid early to both active and deferred members unless there are exceptional circumstances.

6.8 Funding of early retirement costs
Personnel Committee agree that costs incurred to the organisation as a result of payments for early retirement costs can be made as a lump sum as well as by instalments. A £2,000 instalment value limit has been agreed with the Corporate Director of Finance.

Colin Miller
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Appendix A

COMPARISONS

	LGPS 2014	**LGPS 2008**
Basis of Pension	Career Average Revalued Earnings (CARE)	Final Salary (FS)
Accrual Rate	1/49th	1/60th
Revaluation Rate	Consumer Price Index (CPI)	Based on final salary
Pensionable Pay	Pay including non-contractual overtime & additional hours for part-time staff	Pay excluding non-contractual overtime & non-pensionable additional hours
Contributions	9 bands Contributions paid on actual pay received	7 bands Contributions paid on FTE
Normal Pension Age	Equal to the individual member's State Pension Age (minimum 65)	65
Flexibility of Contribution	Members can pay 50% contributions for 50% of the pension benefit. This is a short term alternative to opting out	No
Lump Sum Trade Off	Trade £1 of pension for £12 lump sum	Trade £1 of pension for £12 lump sum

	LGPS 2014	LGPS 2008
Death in Service Lump Sum	3 x pensionable pay	3 x pensionable pay
Death in Survivor Benefits	1/160th accrual based on Tier 1 ill health pension enhancement	1/160th accrual based on Tier 1 ill health pension enhancement
Ill Health Provision	Tier 1 – immediate payment with service enhanced to Normal Pension Age Tier 2 – immediate payment of pension with 25% service enhancement to Normal Pension Age Tier 3 – temporary payment of pension for up to 3 years	Tier 1 – immediate payment with service enhanced to Normal Pension Age (65) Tier 2 – immediate payment of pension with 25% service enhancement to Normal Pension Age (65) Tier 3 – temporary payment of pension for up to 3 years

Appendix B

Proposed Pension Policy Statement

This policy statement clarifies the Authority's position on the discretions it can exercise in accordance with the LGPS 2014 regulations and guidance on how they apply to different retirement options.

The policy statement applies to all members of staff who are eligible to be members of the LGPS, as defined in the regulations i.e. employees with a contract of employment of over 3 month's duration and who are under 75 years of age and are contractually enrolled at the start of employment. Those with contracts of less than 3 months, including casuals, can join but need to elect to do so.

Employees who are members of the pension scheme are only entitled to receive pension benefits if they have 2 years or more service. Under LGPS 2014 Regulation 18, if an employee leaves within 2 years of the start of their employment their contributions can be repaid or transferred to another scheme, unless there is some fraudulent offence or misconduct in connection with the employment.

Principles

The Authority will treat any individual retirement case and decisions on its merits.

Decisions relating to retirement will be made taking into account the business case and business implications, the financial implications, employment law consideration, the regulations and the legality of each case. It may also take into account long term savings, affordability, skills and skills retention and impact on service delivery.

The definition of business efficiency shall include, but not be limited to financial savings and/or quality improvements judged on a case by case basis.

Each decision will be made free from discrimination on the grounds of any protected characterising – age, disability, gender reassignment, marriage or civil partnership, pregnancy & maternity, race, religion and belief, sex, sexual orientation or any other personal criteria.

The Authority's decisions relating to retirement and the release of pension benefits will be in line with the current pension regulations. These regulations may be updated from time to time and the Authority will default to the regulations if the policy is not explicit on any current or future regulation.

Decisions relating to the release of deferred benefits to former employees will refer to the relevant pension policies applicable at the time of their employment. In such cases, the decision as to the release of deferred benefits will be on a case by case basis and will take into account the criteria detailed in these principles. Guidance may be sought from the pension administrators as required.

Compassionate grounds are defined in the Blue Book (Terms & Conditions of Employment) as: circumstances must be exceptional and would not reasonably be expected to prevail i.e.

the occurrence of a disaster or accident etc. Financial hardship alone would not normally be deemed sufficient.

Discretions
Within the regulations there are a number of discretionary statements that require the Authority to explicitly state their position. The discretions detailed below relate to the current LGPS 2014 regulations and guidance. They also reflect discretions approved by the Authority for the previous pension scheme policies.

Regulation 9 (1) & (3) - Contributions

KCC will apply the nationally determined employee contribution rates and bands. These are subject to change and may be varied.

KCC will pay the rate of contributions determined in the regulations for employees whose pay is reduced through ill health or during authorised unpaid leave, including child related leave.

KCC will determine the appropriate contribution band for an employee by using the pensionable pay received on 1 April each year and every 3 months thereafter.

Variable time employees will have their initial contribution rate at 1 April 2014 set at 5.5% with a reassessment every 3 months thereafter.

KCC will notify employees of their individual contribution rates in their April payslips each year and thereafter when any changes are made. Details of the contribution rates, bands and appeal process will be made available Kent Scheme Newsletter each April and on KNet.

Regulation 16 (2)e and (4)d – Shared Cost Additional Pension Contributions (SCAPC)
KCC will not operate a SCAPC where an employee wishes to purchase extra annual pension (up to the limit defined in the regulations).

The above does not apply where a scheme member has had a period of child related leave or authorised unpaid leave and elects, within 30 days of return to work, to pay a SCAPC to cover the amount of pension 'lost' during the period of absence, KCC will contribute 2/3rds of the cost. If an election is made after the 30 day time limit the full costs will be met by the employee.

Where it is not possible to provide the employee with the information they need to make their election within the 30 day deadline, KCC will extend the limit. However, the scheme member must contact KCC to request this information within 30 days of returning to work and respond within 30 days of the information being provided.

TP Regulations 1(1)(c) of Schedule 2 – whether to allow the rule of 85 to be 'switched on' for members age 55-59.
It is not KCC's general policy to make use of the discretion to 'switch back on' the 85 year rule protections unless there are clear financial or operational advantages to KCC. Each

case will be considered on its merits by the relevant Corporate Director and the Corporate Director of Human Resources.

Regulation 17 (1) – Shared Cost Additional Voluntary Contributions (SCAVC)
KCC will not operate a SCAVC for employees.

Regulation 21(5) – in determining Assumed Pensionable Pay whether a lump sum payment made in the previous 12 months is a 'regular lump sum'
KCC will maintain a list which details what KCC considers being a regular lump sum payment made to our employees to be used in the calculation of the Assumed Pensionable Pay.

Regulation 22 (7)(b) & (8)(b) - Aggregation of Benefits
Employees who have previous LGPS pension benefits in England and Wales will automatically have these aggregated with their new LGPS employment unless they elect within 12 months of commencing membership of the LGPS in the new employment to retain separate benefits. KCC has the discretion to extend this period beyond 12 months and each case will be considered on its own merits.

Regulation 30(6) & 30(8) – Flexible Retirement
It is KCC's policy to provide consent to consider flexible retirement requests only where there are clear financial or operational advantages to KCC.

If consent has been given under Regulation 30(6) it is not KCC's general policy to waive any actuarial reduction unless there are exceptional circumstances.

Each case will be considered on its merits by the relevant Corporate Director and the Corporate Director of Human Resources.

Regulation 30(8) – Waiving of Actuarial Reductions
It is not KCC's general policy to waive any actuarial reductions applied to benefits paid early or where a scheme member has previously been awarded a deferred benefit. Each case will be considered on its merits by the relevant Corporate Director and the Corporate Director of Human Resources.

Where flexible retirement has been agreed under Regulation 30(6) and the benefits payable to the scheme member are to be actuarially reduced, the employer can choose to waive that reduction.

A deferred member from age 55 can request payment of their deferred benefit before their normal pension age. Whether employers consent is required is dependent on the date that the member left.

It is not KCC's general policy to waive any reduction to these requests but each case will be considered on its merits by the relevant Corporate Director and the Corporate Director of Human Resources.

Regulation 31 – Award of Additional Pension
KCC has the discretion to award additional pension (up to the additional pension limit defined in the regulations) to an active member or within 6 months of leaving the scheme to a scheme member who was who are dismissed on grounds of redundancy or business efficiency.

KCC will only exercise this discretion in exceptional circumstances and only at the discretion of the relevant Corporate Director and the Corporate Director of Human Resources.

Regulation 100(6)
If an employee wishes to transfer any pension benefits they have built up in other schemes to the Local Government Pension Scheme, the election to do so must be made within 12 months of starting a new period of membership. This time limit may be extended if the employee can demonstrate exceptional circumstances so as to justify this.

NB: Under Regulation 60(1) of the Local Government Pension Scheme Regulations 2013, it is compulsory for all employers to make a policy decision under Regulation 16, 30(8) and 31 and Paragraph 2(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and amendments) Regulations 2014.

Under Regulation 60(2) a copy of the policies must be sent to the Pensions Section by 30th June 2014 and be publishable to their scheme members on request.

Under Regulation 60(3) employers must keep the policies under review and make any appropriate changes.

Under Regulation 60(4) any amendments to these policies must be made available to the Pensions Section and to scheme members within a month of the date of change.

Signed ___________________________________ **Date** ______________________

Designation ____