

# LOCAL GOVERNMENT PENSION SCHEME DISCRETIONS POLICY

Human Resources



## BACKGROUND

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (Statutory Instrument 2007 No. 1166) requires the Corporation to determine and publish its Policies in relation to specific Regulations Nos. 12, 13, 18 and 30. This Policy makes provision for those Regulations delegated under the Regulations to Weston College of FE Corporation.

## POLICY REVIEW

The Policy will be reviewed annually by the Principal and Chief Executive in consultation with the Director of Finance and all recommendations for change made to the Finance Committee of the Governing Body.

## POLICY

It is the Policy of the Corporation that:

1. All rules as set out in the Local Government Pension Scheme Regulations shall apply to all qualifying employees of the Corporations.
2. All administering authority discretions, delegated to Bath and North East Somerset Council within the rules of the Local Government Pension Scheme Regulations, shall apply to all qualifying employees of the Corporation.
3. The following policies, delegated to the Corporation as the employer shall apply to all qualifying employees:
  - a) **Power of employer to increase total membership of an active member (Benefits Regulation 12)**

The Corporation does not intend to make general use of the discretionary power to augment an employee's service but may wish to consider its use in exceptional cases in the future. The member's increase in membership under this Regulation shall not exceed 10 years.

**b) Power of employing authority to award additional pension (Benefits Regulation 13)**

The Corporation does not intend to make general use of the discretionary power to augment an employee's pension by the award of additional pension but may wish to consider its use in exceptional cases in the future. In all cases, the award of additional pension shall not exceed £5,000 per annum.

**c) Flexible Retirement (Benefits Regulation 18)**

The Corporation does not intend to make general use of the discretionary power to waive the need for, and/or for the Corporation to meet the cost of, in whole or in part, any actuarial reduction due to a member who has attained the age of 55 and wishes to reduce their hours, work or grade by taking flexible retirement, wholly or in part, in advance of the normal retirement age for the scheme.

**d) Choice of Early Payment of Pension (Benefits Regulation 30)**

The Corporation does not intend to make general use of the discretionary power to waive and/or for the Corporation to meet the cost of, in whole or in part, any pension reduction due to the decision of an employee to leave the employment of the Corporation before attainment of the normal retirement age for the scheme.

## **PROCEDURES**

The following Procedures are for use in relation to the exercise of those Regulations delegated to Weston College of FE Corporation (Regulation 12, 13, 18 and 30). The Procedures in relation to the exercise of all other regulations are in accordance with those laid down by the Local Government Pension Scheme as administered by Bath and North East Somerset (the 'Administering Authority').

1. Staff considering a request for:
  - a) Power of employer to increase total membership of an active member (Benefits Regulation 12)
  - b) Power of employing authority to award additional pension (Benefits Regulation 13)
  - c) Flexible Retirement (Benefits Regulation 18)
  - d) Choice of Early Payment of Pension (Benefits Regulation 30)

are advised to discuss their request with the Head of Human Resources to ensure that they are fully aware of the relevant Regulation(s) and the procedure to be followed by the Applicant.

2. The Applicant shall apply, in writing, to the Principal and Chief Executive stating:
  - (i) The background to the application
  - (ii) The benefit(s) sought by the Applicant
  - (iii) The grounds for the application
  - (iv) Any special factors which are relevant to the application
3. The Principal and Chief Executive shall reply to the Applicant within 5 working days including the date of a meeting between the Principal and Chief Executive and the Applicant, at which the Applicant shall be entitled to state his/her case. The date of the meeting shall be within 20 working days of the original letter from the Applicant.
4. The Applicant may be accompanied by a work colleague or Trade union official at the meeting. If the Applicant is accompanied, the Principal and Chief Executive may select an employee of the Corporation to attend the meeting as his/her 'friend'.
5. Where applications are made on compassionate grounds for the early release of pension benefits, the Applicant may be required by the Principal and Chief Executive to produce such evidence as is required to enable the Principal and Chief Executive to make an informed judgement.
6. The nature of the compassionate grounds referred to in paragraph (5) above shall be determined by the Corporation.
7. The Principal and Chief Executive shall, following the interview, consider the request and all implications including the financial costs of recommending the Applicant's request to the Finance Committee.
8. The Principal and Chief Executive shall provide the Applicant with a written response within 20 working days of the meeting or final receipt of all supporting evidence, recommending or rejecting the Applicant's request. The written response shall contain:
  - (i) The recommendation
  - (ii) The rationale for the recommendation
  - (iii) Advice on the next stage of the procedure

9. Where the Principal and Chief Executive recommends the application, the Principal and Chief Executive shall refer the application to the next meeting of the Finance Committee of the Governing Body. The Principal and Chief Executive shall set before the Committee:
  - (i) The benefits sought by the Applicant
  - (ii) The rationale for his/her recommendation
  - (iv) The full cost implication(s) upon the Corporation of acceptance of the application.
10. The decision of the Finance Committee shall be notified to the Applicant by the Clerk to the Corporation within 10 working days of the meeting.
11. All requests under the aforementioned Regulations shall be deemed to be confidential throughout the procedure.

## **APPEALS**

12. All Applicants shall have a right of Appeal against the decision of the Principal and Chief Executive or the Finance Committee.

### **APPEAL AGAINST THE DECISION OF THE PRINCIPAL AND CHIEF EXECUTIVE**

13. The Applicant may appeal against the decision of the Principal and Chief Executive within 20 working days of the Applicant's receipt of the recommendation.
14. The Appeal shall be registered by the Applicant notifying the Clerk to the Corporation of his/her appeal, in writing. The notification shall include the reasons why the applicant considers that the application should have been accepted.
15. The Clerk to the Corporation shall, within 20 working days, convene a special Committee of the Governing Body consisting of a minimum of three Governors of the Corporation excluding the Principal and Chief Executive, staff or student Governors. A special Committee shall have at least one male and one female member.
16. A special Committee shall:
  - (i) Consider all correspondence between the Applicant and the Principal and Chief Executive.

- (ii) Call the Principal and Chief Executive to give evidence in support of his/her decision.
  - (iii) Call the Applicant to give evidence in support of his/her application. The Applicant may be supported by a work colleague or Trade Union official.
  - (iv) Call any other employee(s) of the Corporation who may be able to provide evidence to inform a special Committee's decision.
  - (v) Ask any necessary questions of the respective parties to enable them to decide upon the Appeal.
17. The decision of a special Committee shall be notified to the Applicant by the Clerk to the Corporation within 10 working days of the Committee meeting.
18. Where a special Committee upholds the (i) decision of the Principal and Chief Executive, the matter is final and no further appeals may be made; (ii) Appeal by the Applicant, the matter is referred to the next meeting of the Finance Committee for further consideration. Where a special Committee does not uphold the decision of the Principal and Chief Executive, the matter will be referred to the Finance Committee for consideration.

#### **APPEAL AGAINST THE DECISION OF THE FINANCE COMMITTEE**

19. The Applicant may appeal against the decision of the Finance Committee within 20 working days of his/her receipt of the decision.
20. The Appeal shall be registered by the Applicant notifying the Clerk to the Corporation of his/her appeal, in writing. The notification shall include the reasons why the Applicant considers that the application should have been accepted.
21. The Clerk to the Corporation shall, within 20 working days, convene a special Committee of the Governing Body consisting of a minimum of three Governors of the Corporation, excluding the Principal and Chief Executive, staff or student Governors. A special Committee shall have at least one male and one female member.
22. A special Committee shall:
- (i) Consider all correspondence between the Applicant, Principal and Chief Executive, the Finance Committee and any other concerned parties.

- (ii) Call the Chair of the Finance Committee to give evidence in support of the Committee's decision.
  - (iii) Call the Applicant to give evidence in support of his/her application. The Applicant may be supported by a work colleague or Trade Union official.
  - (iv) Call any other employee(s) of the Corporation who a special Committee thinks may be able to provide evidence to inform the Committee's decision.
  - (v) Ask any necessary questions of the respective parties to enable them to decide upon the Appeal.
23. The decision of a special Committee shall be notified to the applicant by the Clerk to the Corporation within 10 working days of the Committee meeting.
24. Where a special Committee upholds the (i) decision of the Finance Committee, the matter is final and no further appeals may be made; (ii) appeal by the Applicant the matter is referred back to the meeting of the Finance Committee for further consideration, detailing a special Committee's rationale for the recommendation. Where a special Committee does not uphold the decision of the Finance Committee, the matter will be referred to the Finance Committee for reconsideration.

#### **APPEAL AGAINST THE RECONSIDERED DECISION OF THE FINANCE COMMITTEE RESULTING FROM A REFERRAL FROM A SPECIAL COMMITTEE**

25. The Finance Committee shall reconsider its previous decision in the light of a special Committee's decision and rationale.
26. Following reconsideration of the matter, the decision of the Finance Committee shall be notified to the Applicant and the Chair of a special Committee within 10 working days of the meeting.
27. Where the previous Finance Committee's decision is confirmed and the Applicant wishes to appeal further, then the matter shall be referred again to a special Committee of the Governing Body.
28. The Clerk to the Corporation shall, within 20 working days, convene a special Committee of the Governing Body consisting of the original panel or a majority thereof.

29. A special Committee shall further review the Finance Committee's decision receiving such further advice, guidance and evidence as may be necessary to enable the Committee to reach a final decision.
30. The Clerk to the Corporation shall notify the final decision of a special Committee within 10 working days of the meeting. **This decision is final and no further appeals may be made.**

This policy was approved by the Finance Committee under delegated authority on 5 November 2009.