

# EMPLOYERS' DISCRETIONS

## **Discretions on which Employers must make Policies and publish such Policies**

Each employer must prepare a written statement of its policy in relation to the exercise of its functions under the following Benefit Regulations:

- regulation 12 (power of employing authority to increase total membership of active members),
- regulation 13 (power of employing authority to award additional pension),
- regulation 18 (flexible retirement),
- regulation 30 (choice of early payment of pension)

The statement must be published by the 30 June 2008 to members of the LGPS and copied to the Avon Pension Fund by the same date.

An employer must:-

- keep its statement under review
- make appropriate revisions following a change in its policy

If the statement is revised it must be published within one month of the date it is revised sent to members of the LGPS and a copy sent to the Avon Pension Fund within that month.

In preparing, or reviewing and making revisions to, its statement, an employer must have regard to the extent to which the exercise of any of the functions in accordance with its policy could lead to a serious loss of confidence in the public service.

## **Discretionary powers must: -**

- not be used for an ulterior motive and be exercised reasonably
- be used with regard to all relevant factors e.g. the cost to council tax payers must be balanced against the benefit to the employer
- only be used when there is a real and substantial future benefit to the employer in return for incurring the extra costs
- be duly recorded when used

## **In drawing up policy statements, employers must satisfy themselves that they are: -**

- applying the discretions reasonably
- not fettered i.e. being used in such a way that individual circumstances cannot be considered or usual practice rigidly followed

### **1. Regulation 12 - Power of employer to increase total membership of an active member**

This regulation allows an employer to resolve to increase the total membership of a member who is currently paying contributions to the Scheme. The member's increase in membership under this regulation (including additional membership in respect of different employments) must not exceed 10 years.

*Whitchurch Parish Council resolve that the power to increase total membership would not normally be granted under Regulation 12 and such payments should only be granted on exceptional compassionate grounds.*

### **2. Regulation 13 - Power of employing authority to award additional pension**

This regulation allows an employer to resolve to award a member additional pension of not more than £5000 a year payable from the same date as his / her pension payable under any other provisions of the Benefit Regulations.

Additional pension may be awarded in addition to any increase of total membership resolved under Benefits Regulation 12.

*Whitchurch Parish Council resolve that additional pension benefits would not normally be granted under Regulation 13 and such payments should only be granted on exceptional compassionate grounds.*

### **3. Regulation 18 - Flexible retirement**

A member who has attained the age of 55 and with his / her employer's consent, reduces the hours he / she works, or the grade in which he / she is employed, may make a request in writing to the Avon Pension Fund to receive all or part of his / her benefits under the Benefits Regulations. However, payment of the benefits cannot be made without the employer's consent.

If the benefits are reduced in accordance with guidance issued by the Government Actuary, the employer may agree to waive, in whole or in part, any such reduction.

The minimum retirement age is 55 for new scheme members from 1<sup>st</sup> April 2008 and 1<sup>st</sup> April 2010 for those who are members of the scheme on 31<sup>st</sup> March 2008. Therefore, from 1<sup>st</sup> April 2008 to 31<sup>st</sup> March 2010 the minimum retirement age will be 50 for those who are members of the scheme on 31<sup>st</sup> March 2008.

*The flexible retirement policy & procedure should be simplified and Whitchurch Parish Council should continue to allow individuals to take their accrued pension benefits under these regulations, however such applications should only be approved where there is little or no cost; on exceptional compassionate grounds; or if it was in the Council's business interests to allow it.*

#### **4. Regulation 30 - Choice of early payment of pension**

When a member leaves an employment before he /she is entitled to the immediate payment of retirement benefits, once he / she has attained the age of 55 he / she may choose to receive payment of them immediately.

A choice made by a member aged less than 60 is ineffective without the consent of his / her employer or former employer.

If the benefits are reduced in accordance with guidance issued by the Government Actuary, the employer may agree to waive, in whole or in part, any such reduction.

The minimum retirement age is 55 for new scheme members from 1<sup>st</sup> April 2008 and 1<sup>st</sup> April 2010 for those who are members of the scheme on 31<sup>st</sup> March 2008. Therefore, from 1<sup>st</sup> April 2008 to 31<sup>st</sup> March 2010 the minimum retirement age will be 50 for those who are members of the scheme on 31<sup>st</sup> March 2008.

*Whitchurch Parish Council resolves to grant the early release of pension benefits for former employees, who had left the authority before they were entitled to immediate payment of their pension benefits. Such payments should only be granted on exceptional compassionate grounds, but in these circumstances their pension benefits should not be reduced because of early payment.*