

EMPLOYERS' DISCRETIONS

Earlier this year employers were required to consider and publish their policies in relation to regulations 12, 13, 18 and 30 by 30 June 2008. Yate Town Council undertook and completed this requirement. Published policies attached appendix 1.

Further discretionary policies, regulations 22, 47, 72 & 73, 74, 76, 83(8) and the Redundancy Compensation Scheme are now due for consideration. Please find attached draft policies appendix 2 for Members consideration.

Regulations 72 & 73, 74, 76 and 83(8) have the same Details of Policy Concerning Resolution as South Gloucestershire Council.

Regulations 22 and 47 have been completed by officers for consideration.

The Redundancy Compensation Scheme is the same as South Gloucestershire Council's following consultation with the Town Council employees.

Members to:

resolve and adopt the new policy regulations 22, 47, 72 & 73, 74, 76, 83(8) and the Redundancy Compensation Scheme

Yate Town Council Discretionary Policy

- **Regulation 22** – Extending the time limit for members to pay contributions following a period of absence

*A scheme member may elect to pay **optional contributions** to cover a period of absence from duty providing the option is made within 30 days of return to work/cessation of employment or such longer period as the employer allows.*

Details of Policy Concerning Resolution

Scheme members will be allowed 30 days from the date of the letter advising of their option to pay optional contributions to make their election.

Yate Town Council Discretionary Policy

- **Regulation 47 – Exclusion of rights to a return of contributions**

A scheme member who meets the normal criteria for a refund of pension contributions is not entitled to such a refund if he/she left his/her employment because of:

- a) An offence of fraudulent character – unless the employer directs that a total or partial refund may be made to the member.*
- b) Grave misconduct – unless the employer directs that a total or partial refund may be made to the member, his/her spouse, civil partner nominated cohabiting partner or any dependant of his/her.*

Details of Policy Concerning Resolution

Each case to be individually considered by Members of the Council before a decision is made

Yate Town Council Discretionary Policy

- **Regulations 72 & 73 – Forfeiture of pension rights after conviction of employment-related offences**

If a scheme member is convicted of, and ceases employment as a result of an offence in connection with his/her employment which was gravely injurious to the State or liable to lead to a serious loss of confidence in the public service, the employer can apply to the Secretary of State for the issue for a forfeiture certificate. If a certificate is issued the employer may direct any of the pension rights to be forfeited.

- **Regulation 73 – Interim payments directions**

Where the Secretary of State has issued a forfeiture certificate but the employer has not applied the certificate nor notified the scheme member of an award of benefits under the LGPS the employer may direct that interim payments are made out of the Pension Fund until such time as it decides to apply the forfeiture certificate or make or make an award of benefits.

- **Regulation 74 – Recovery or retention where a former member has misconduct obligation**

Where a member

- (i) Ceases employ in consequence of a criminal, negligent or fraudulent act or omission in connection with that employment and*
- (ii) Has incurred a monetary obligation arising therefrom to the employer and*
- (iii) Is entitled to pension benefits under the LGPS, the employer may recover the amount of the monetary obligation or the value of the members pension rights, if less (other than transferred in pension rights) from the Pension Fund and reduce the members benefits accordingly.*

- **Regulation 76 – Transfer of sums from the pension fund to compensate for a member's misconduct**

Where

- (i) A member ceases employment in consequence of an offence involving fraud or due to grave misconduct in connection with that employment, and*
- (ii) The employer has suffered a direct financial loss resulting therefrom, and*
- (iii) The member is entitled to benefits under the LGPS and a forfeiture certificate has been applied, or the member is entitled to a refund of pension contributions*

The employer may direct the amount of the direct financial loss (or refund of the contribution, if less) be recovered from the Pension Fund.

Details of Policy Concerning Resolution

There are provisions whereby if a scheme member is convicted of, and ceases employment as a result of an offence in connection with his/her employment which was gravely injurious to the State or liable to lead to a serious loss of confidence in the public service, the employer can apply to the Secretary of State for the issue of a forfeiture certificate. If a certificate is issued the employer may direct that any of the person's right be forfeited. The council reserves the right to exercise this discretion in wholly exceptional circumstances.

Yate Town Council Discretionary Policy

- **Regulation 83 (8)** – Inward transfer of pension rights

If a scheme member wishes to transfer pension into the LGPS he/she must opt to do so within 12 months of joining the LGPS or such longer period as the employer may allow.

Details of Policy Concerning Resolution

If a scheme member wishes to transfer pension rights into the LGPS he/she must opt to do so within 12 months of joining the LGPS. Only in exceptional circumstances will a longer period be allowed so long as there is no known reason or prospect of the employee having access to their pension rights within the next 12 months.

Yate Town Council Discretionary Policy (Pensions)

- **Regulation 12 – Power to Increase Total Membership of an Active Member**

An employer may increase (i.e.augment) the total membership of an employee who is currently paying contributions to the Scheme. For example, to enhance the package for staff with scarce and/or key skills.

The member's (of the pension scheme) increase in membership under this regulation (including additional membership in respect of different employments) must not exceed 10 years.

Details of Policy Concerning Resolution

The Council has no intention of making a general use of this power but may wish to consider its use in exceptional cases in the future

Yate Town Council Discretionary Policy (Pensions)

- **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.

Details of Policy Concerning Resolution

The Council may resolve to award a member of the pension scheme additional pension of not more than £5,000 a year. The Council has no intention of making use of this power in the foreseeable future.

Members of the Avon Pension Fund may choose to enhance their pension benefits by purchasing additional pension up to a maximum of £5000 (in multiples of £250) by paying Additional Regular Contributions (ARCs). The Council already makes a significant contribution to the Avon Pension Fund for its employees as determined by an independent Actuary.

Yate Town Council Discretionary Policy (Pensions)

- **Regulation 18 – Power to Increase Total Membership of an Active Member**

A member of the pension scheme 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 1st April 2008 and 1st April 2010 for those who are members of the scheme on 31st March 2008. Therefore, from 1st April 2008 to 31st March 2010 the minimum retirement age will be 50 for those who are members of the scheme on 31st March 2008.

Details of Policy Concerning Resolution

An application for Flexible Retirement will only be approved where there are no pension costs to the Council arising from the employee's flexible retirement. (Pension estimates for Flexible Retirement from Avon Pension Fund will reflect this policy)

Or where the Flexible Retirement will provide benefits to the Council arising, for example financial savings or the facilitation of organisational or staffing changes and will not result in any detriment to the level of service.

If the request is to work reduced hours, the Council's assessment must be that there would be no operational problems caused, or recruitment difficulty anticipated, in making up the reduced hours.

If the request is for a move to a lower graded post, this would be subject to an appropriate vacancy arising and the operation of the Council's normal recruitment procedures in filling the post.

Yate Town Council Discretionary Policy (Pensions)

Regulation 30 – Choice of Early Payment of Pension

When a member of the pension scheme 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 1st April 2008 and 1st April 2010 for those who are members of the scheme on 31st March 2008. Therefore, from 1st April 2008 to 31st March 2010 the minimum retirement age will be 50 for those who are members of the scheme on 31st March 2008.

Details of Policy Concerning Resolution

The Council has decided that applications for early payment of pension before the age of 60 will only be accepted where it can be demonstrated as being in the Council's interests or where there are compassionate grounds for the early release of pension benefits.

If the Council agrees to permit early retirement with the immediate payment of pension benefits for reasons other than compassionate grounds, an actuarial reduction will normally be applied to the person's accrued pension benefits to take account of the fact the benefits will be paid for longer.

The Council has the discretion to waive any actuarial reduction for early payment. Doing this normally involves a cost to the Council. In such cases where early release of pension benefits is approved, any actuarial reduction will not be waived in any circumstances.

As a general rule, the Council will only agree to the early release of pension benefits on compassionate grounds if it can be demonstrated that the person is unable to continue working or resume employment due to circumstances outside of their control, for example to look after and care for a dependant spouse. Financial reasons alone will not normally be considered sufficient grounds for the early release of benefits.