

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

5 AUGUST 2010

**REPORT OF CORPORATE
MANAGEMENT TEAM**

COUNCIL DECISION/CABINET DECISION

Corporate Management and Finance – Lead Cabinet Member – Councillor Terry Laing

LOCAL GOVERNMENT PENSION SCHEME – EMPLOYER DISCRETIONS

1. Summary

It is a requirement of the Local Government Pension Regulations (LGPS) that all employing authorities, including admitted bodies, formulate, publish and keep under review a policy on how it will exercise the various discretions provided by the LGPS.

2. Recommendations

It is recommended that:

1. The attached revised statement of policy (Appendix 1) regarding the exercise of discretion with regard to the application of the LGPS Regulations be approved.
2. Council be recommended to approve the discretions included within the policy in relation to active councillor members, including the decision process in each case.

3. Reasons for the Recommendations

Since 1997 the LGPS Regulations have required every employer to issue a written policy statement on how it will exercise the various discretions provided by the LGPS. Following the introduction of the New Look Pension Scheme in April 2008 employers have been advised to update their discretionary policy statement. The delay in doing so is due to the clarification of some elements of the regulations by the pensions administrators. The new Discretionary Policy Statement is attached at **Appendix 1**.

The Council's current Discretionary Policy Statement has been in place since February 2007 and is attached at **Appendix 2**.

4. Members' Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

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SUMMARY

It is a requirement of the Local Government Pension Regulations (LGPS) that all employing authorities, including admitted bodies, formulate, publish and keep under review a policy on how it will exercise the various discretions provided by the LGPS.

RECOMMENDATIONS

It is recommended that:

1. The attached revised statement of policy (**Appendix 1**) regarding the exercise of discretion with regard to the application of the LGPS Regulations be approved.
2. Council be recommended to approve the discretions included within the policy in relation to active councillor members, including the decision process in each case.

DETAIL

1. Since 1997 the LGPS Regulations have required every employer to issue a written policy statement on how it will exercise the various discretions provided by the LGPS. Following the introduction of the New Look Pension Scheme in April 2008 employers have been advised to update their discretionary policy statement. The delay in doing so is due to the clarification of some elements of the regulations by the scheme's administrators. The new Discretionary Policy Statement is attached at **Appendix 1**.
2. The Council's current Discretionary Policy Statement has been in place since February 2007 and is attached at **Appendix 2**.
3. Employers have to publish their statement and send a copy to the appropriate pension Fund which for Stockton Borough Council is Mouchel Business Services – Pensions Unit. Any revisions to the Policy Statement have to be issued at least one month in advance of the date the new policy takes effect.
4. The revised Policy Statement includes a number of existing employer discretions which have been retained in the new statement. New discretions following changes to Pension Regulations have also been included and advice sought where appropriate from Mouchel Business Services – Pensions Unit.
5. Following this advice, it is recommended that the Council's revised policy statement also includes a section relating to any discretions applicable to Councillors and a section has therefore been included (**Appendix 1 pages 7, 8 & 9**). Currently there are 8 Councillors who contribute to the LGPS. The policy on each discretion and the process

for consideration and approval where appropriate, mirrors the Council's policy applicable to other scheme members.

6. In light of some recent decisions made by the Ombudsman in respect of the wording used in employer policy statements, further guidance is being prepared nationally and by Mouchel Business Services – Pensions Unit in respect of suitable and acceptable wording which employers can use in their policy statements. This may require some further amendments over the coming 12 months.

FINANCIAL IMPLICATIONS

7. Financial implications will arise on the application of some of the discretionary elements which will need to be considered in relation to the Council's Medium Term Financial Planning Process and individual service budgets for example the Redundancy/Efficiency Scheme. In relation to the other discretions approval will only be given if there is a clear financial and operational advantage to the Council in doing so.

LEGAL IMPLICATIONS

8. The Local Government Pension Scheme Regulations require the employer to formulate, publish and keep under review a statement of their Discretionary Policy. In addition, failure to do so could lead to inconsistency in decision making and increased costs both to the employer and to the pension fund.

RISK ASSESSMENT

9. The contents of the policy changes in this report are categorised as low to medium risk. The management systems and daily routine activities to administer the application of employee requests relating to the Discretionary Policy Statement are sufficient to control and reduce risk.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

10. The proposals contained in this report do not impact on the Sustainable Community Strategy

EQUALITIES IMPACT ASSESSMENT

11. This report has been subject to an Equality Impact Assessment and has been judged to have a positive impact. No remedial actions are required.

CONSULTATION INCLUDING WARD/COUNCILLORS

12. There are no specific ward implications arising out of this policy. However, consultations have been undertaken with the relevant Trades Unions.

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Education related?

No

Background Papers

Discretionary Compensation Regulations 2006

LGPS (Administration) Regulations 2008

Ward(s) and Ward Councillors: None

Property: None