

CHESHIRE EAST COUNCIL

CABINET

Date of Meeting:	4 th March 2013
Report of:	Head of Human Resources and Organisational Development
Subject/Title:	Pensions Discretions
Portfolio Holder:	Councillor Barry Moran Portfolio Holder for Performance

1.0 Report Summary

- 1.1 This report outlines two additional Local Government Pensions Discretions that must be considered by the Council and included within the Council's current Employer Discretions by 31 March 2013.

2.0 Decisions Requested

- 2.1 Cabinet is requested to consider the report and agree to the recommendation to exercise its discretion in the following two cases.
- 2.2 **First discretion to be considered:** Whether to release benefits early to employees who left local government with an entitlement to a Tier 3 ill health pension which has since come to an end. Employees in such circumstances cannot currently access their pension before the age of 60, leaving a period where they would not receive a pension. This new discretion enables employees in these circumstances to apply for payment of the deferred pension between the age of 55 and 60 (under Regulation 30 of the Local Government Pension Scheme) on compassionate grounds.
- 2.3 **Recommended:** That Cabinet adopts the discretion to provide for the early release of pension to a former employee who has a suspended Tier 3 ill health pension, on or after 55 and before the age of 60, where such release on compassionate grounds can be satisfied.
- 2.4 **Second discretion to be considered:** Where suspended (deferred) pension benefits are released in the above circumstances, whether or not to waive (on the grounds of compassion) any reductions that would otherwise apply to the member's pension and lump sum.
- 2.5 **Recommended:** That Cabinet does not adopt this discretion to waive, on compassionate grounds, the actuarial reduction applied to the release of pensions benefits paid early under regulation 30.

3.0 Reasons for Recommendations

- 3.1 To comply with the Local Government Pension Scheme (Miscellaneous) Regulations 2012, which came into force on 1 October 2012.

4.0 Wards Affected

- 4.1 None

5.0 Local Ward Members

- 5.1 N/A

6.0 Policy Implications including - Climate change - Health

- 6.1 N/A

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

- 7.1 There would be no direct financial cost to the Council in adopting the recommendation in this report to treat former employees who have previously received a Tier 3 ill health pension, in a consistent way with other former employees who have not (where such employees were members of the LGPS). Whilst the costs of early release of pension would eventually be absorbed into the next valuation for the Council, the overall impact would be negligible given that the historical number of applications have been very low, averaging one a year.
- 7.2 The report also recommends that Cabinet does not adopt the discretion to waive, on compassionate grounds, any actuarial reduction applied to the release of pension benefits paid early under Regulation 30. Therefore there are no costs associated with this aspect.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Employers are required to review and update and publish their Pensions Discretions in line with the Local Government Pension Scheme (Miscellaneous) Regulations 2012.

9.0 Risk Management

- 9.1 No risks were identified.

10.0 Background

- 10.1 Currently an employee of the Council can be granted retirement on the grounds of ill health where the Independent Registered Medical Practitioner (IRMP) determines from the evidence that they are permanently incapable of discharging the duties of their employment.

- 10.2 However, where the IRMP judges that the employee is medically capable of undertaking any gainful employment within three years, a Tier 3 benefit is awarded to the employee as a short term interim pension. Tier 3 benefits are time limited for a maximum of three years or sooner if the employee is able to return to work within the 3 years. The pension is therefore suspended at the end of the three year period, or earlier if the employee is able to return to work and remains deferred until the employee reaches normal retirement age. It should be noted that there are three tiers of ill health pension benefits with Tiers 1 and 2 providing for the permanent release of pension (with differing levels of enhancement). Tier 3 however differs in two ways, in that it does not provide for an enhancement and is time limited.
- 10.3 'Gainful employment' is defined in the LGPS regulations as paid employment for not less than 30 hours in each week for a period of not less than 12 months.
- 10.4 As a result of the Local Government Pension Scheme (Miscellaneous) Regulations 2012, which came into force on 1 October 2012, employers are now required to incorporate two additional discretions, detailed in sections 2.2 and 2.4 and in the table below, into their published policy by 31 March 2013.
- 10.5 The current Pensions Discretion Policy already allows deferred pensioners to request early release of their pension under regulation 30 of the Local Government Pension Scheme, on compassionate grounds. However, it does not specify that this would also include former employees whose Tier 3 pension benefit has been stopped or suspended (which will be no later than three years after it was awarded).
- 10.6 Where early release is granted for deferred members,(as stated above, which can only be on compassionate grounds), the Council's current Pensions Discretion Policy states that pension benefits will be actuarially reduced for deferred members (unless the deferred member is in the protected '85 year rule' group). Therefore the current Pensions Discretions Policy does not waive, on the grounds of compassion, any reductions that would otherwise apply to the deferred member's pension (unless they are in the protected group.)
- 10.7 It is proposed that the Council apply the same discretions that would apply to former members requesting early release of their pension on compassionate grounds (as stated in the table below), to a former member who has previously received a Tier 3 ill health pension which has now ceased. The rationale being that once a Tier 3 pension has ended (no longer than three years after being granted) the former employee shouldn't be treated any differently to any other former employee who may request to have early release of their pension on compassionate grounds. This provides for consistent treatment of pensions for former employees.

- 10.8 Typically, the Council received approximately one request per year on this basis and so the number of occurrences the Council would apply this discretion would be few and far between.
- 10.9 The table below lays out the Council's current policy on the application of the discretions whereby the Council presently considers early release of pensions on compassionate grounds. The shaded part of the table illustrates how these two new proposed discretions would apply, should they be adopted.

Discretion	Current Policy on the Discretion	Proposed Policy on the Discretion
Choice of early payment of pension	<p>Policy for Active Members. – Early release of pension to an active employee will only be approved where the Council is satisfied that such release represents value for money, or is on compassionate grounds. The Council will release benefits on compassionate grounds in full for active members.</p> <p>Policy for Deferred Members (former employees) – Early release of pension to a former employee will only be approved where the Council is satisfied that such release is on compassionate grounds. See footnote.</p> <p>Benefits will be actuarially reduced for deferred members (unless the deferred member is in the protected '85 year rule' group).</p>	No change
Early payment of pension – ill health	Requests from ex employees with deferred benefits who seek early release of their pension on the grounds of ill health will be referred to an IRMP who will certify whether or not the	No change

	ex employee is permanently incapable of undertaking the duties of their former employment because of ill health and that they have a reduced likelihood of obtaining any gainful employment before age 65 or for at least three years whichever is the sooner.	
Where a Tier 3 ill health pension has previously been suspended, discretion to grant an application for release of deferred pensions benefits on or after 55 and before age 60 on compassionate grounds.	No current policy	Policy for Deferred Members – Early release of pension to a former employee who has a suspended Tier 3 ill health pension, on or after 55 and before the age of 60, will only be approved where the Council is satisfied that such release is on compassionate grounds.
Where a Tier 3 ill health pension has been suspended, discretion to waive, on compassionate grounds, the actuarial reduction applied to the release of a deferred pension paid early (i.e. on or after age 55 and before age 60 under Regulation 30.	No current policy	Policy for Deferred Members: The Council will not be adopting this discretion to waive, on compassionate grounds, the actuarial reduction applied to the pension paid early under regulation 30 (unless the deferred member is in the protected '85 year rule' group).

Footnote: *Requests for release on Compassionate Grounds - Such cases normally arise as a result of an employee's/former employee's need to give up work to care for a very dependent relative. Pension release will not be agreed where the care needed is temporary (e.g. in terminal cases). Decisions will be based on the circumstances of the individual case and not on the cost, although this issue will need to be addressed if release is agreed.*

11.0 Access to Information

- 12.1 The background papers relating to this report can be inspected by contacting the report writer:

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