

EAST AYRSHIRE COUNCIL

CABINET – 12 JANUARY 2011

CHIEF OFFICERS, LOCAL GOVERNMENT EMPLOYEES AND CRAFT OPERATIVES

LOCAL GOVERNMENT PENSION SCHEME (LGPS) INTERNAL DISPUTES RESOLUTION PROCEDURE

Report by Executive Director of Finance and Corporate Support

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to recommend to Cabinet the appointment of the Head of Legal, Procurement and Regulatory Services as the 'Appointed Person' under the Local Government Pension Scheme Internal Disputes Resolution Procedure.

2. BACKGROUND

- 2.1 The LGPS Regulations give members, prospective members or the widow, widower, partner or dependants of a deceased member, access to a two stage appeal process known as the Internal Disputes Resolution Procedure if they disagree with any decision made by a Scheme employer or the Administering Authority which affects their rights under the Scheme and which has not been resolved to their satisfaction.
- 2.2 The LGPS Regulations require employers to make decisions known as "*first instance decisions*" and inform the person concerned of these decisions. The employing authority must nominate a person who will consider complaints under Stage 1 of the appeal process.
- 2.3 The Appointed Person must be independent and not be involved in any capacity in the decision against which the member is appealing. At present, the Council does not have an Appointed Person under the Local Government Pension Scheme Internal Disputes Resolution Procedure to hear such appeals.

3 INTERNAL DISPUTES RESOLUTION PROCEDURE (IDRP)

- 3.1 The LGPS Regulations require employers to make decisions known as "*first instance decisions*" and inform their employees of these decisions. Examples of these *decisions* include:
- An employer may decide that an employee, as a member of the LGPS, is not entitled to a benefit e.g. if early retirement on the grounds of ill-health is considered and the employer's independent medical adviser has reported that the member does not meet the criteria for ill health retirement in terms of the Regulations.

- On commencing employment the employer must decide whether or not the employee is eligible to be a member of the Pension Scheme.
- An employer must decide the rate of pension contributions that a member must pay into the Pension Scheme. This rate is subject to change each year in line with statutory guidance and is based on the member's full time equivalent rate of pay.

3.2 A Scheme member or prospective member who has a complaint concerning a decision made by the employer should in the first instance contact the employer giving them the opportunity to resolve the dispute.

3.3 Where a complaint cannot be resolved by the employer, the member can invoke the two-stage IDR. The member has six months from the date of notification of the decision to appeal to the employer (Stage 1).

3.4 The employing authority must nominate a person who will consider the complaint under Stage 1 of the appeal process and it is proposed that the Head of Legal, Procurement and Regulatory Services be appointed as the Council's Appointed Person for this purpose. This meets the requirements for the Appointed Person to be independent and not be involved in any capacity in the decision against which the member is appealing. The Appointed Person will either uphold or dismiss the appeal but will first contact Strathclyde Pension Fund to ensure any determination made is in accordance with the Regulations.

3.5 If the Scheme member or prospective member is dissatisfied with the decision of the Appointed Person, they have a further right of appeal (Stage 2) to the Scottish Ministers within 6 months of the Stage 1 determination.

4. COMMUNICATIONS

4.1 Individuals will be advised of the appeals process when any "*first instance decisions*" are made under the LGPS Regulations.

5. FINANCIAL IMPLICATIONS

5.1 There are no financial implications arising from the proposal to nominate an 'Appointed Person'.

6. POLICY/LEGAL IMPLICATIONS

6.1 The proposed changes will ensure that the Council meets its responsibilities as an employer in relation to the Local Government Pension Scheme Regulations.

7. RECOMMENDATIONS

7.1 Cabinet is recommended to:-

- i) appoint the Head of Legal, Procurement and Regulatory Services as the 'Appointed Person' under the Local Government Pension Scheme Internal Disputes Resolution Procedure; and
- ii) otherwise note the content of the report.

Alexander McPhee
Executive Director of Finance and Corporate Support
13 December 2010

LIST OF BACKGROUND PAPERS

1. Local Government Pension Scheme Regulations

Implementation Officer: Martin Rose, Head of Human Resources (Telephone 01563 576092).