

EAST AYRSHIRE COUNCIL

CABINET – 21 OCTOBER 2009

CHIEF OFFICERS, LOCAL GOVERNMENT EMPLOYEES, CRAFT OPERATIVES LOCAL GOVERNMENT PENSION SCHEME EMPLOYERS' DISCRETIONS

Report by Depute Chief Executive/Executive Director of Corporate Support

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek Cabinet's approval of proposed revisions to the Council's current Statement of Policy of Employers Discretions which are required as a result of the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2009, subject to consultation with Trade Unions.

2. BACKGROUND

- 2.1 In terms of Regulation 61 of the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008, and Regulation 51 of the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 as amended, the Council is required to formulate, publish and keep under review a Statement of Policy in relation to certain Employers' Discretions provided within the Regulations.
- 2.2 The Council and the Strathclyde Pension Fund, as Administering Authority, have a particular responsibility to ensure that, when exercising these discretions, they act with prudence and propriety. The discretions offer an opportunity for more flexibility but a careful and considered approach is required with due regard being paid to the potential implications for funding and employers' contribution levels together with fairness and consistency of application.
- 2.3 The Council's current Statement of Policy was approved by Cabinet at its meeting on 17 June 2009. Cabinet noted that further revisions would require to be made to the Employers' Discretions when the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2009 were issued. Previous Statements of Policy were formulated and submitted to the Strathclyde Pension Fund as Administering Authority outlining the discretions adopted by the Council at that time.
- 2.4 A review of the Employers' Discretions has been necessary as the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2009 have now been issued.
- 2.5 The Statement of Policy of Employers' Discretions is applicable to Local Government Employees, Craft Operatives and Chief Officers. **They do not apply to Teaching Staff who have their own Pension Scheme.**

2.6 Copies of the revised Employers' Discretions are available in the Members' Information Point and Members' Portal.

3. PROPOSED CHANGES

3.1 The Statement of Policy has been updated to take account of the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2008. The changes to the existing Employers' Discretions are summarised below:

- **AWARD OF ILL HEALTH DISCRETIONARY GRANT Part VI Regulation 49B**

(This Regulation allows the Council to award an employee, who is an active member of the Local Government Pension Scheme with at least two years total membership of the Scheme, a one-off lump sum payment based on one week's pay for every year of employment with the Council up to a maximum of 30 weeks pay. This payment can only be considered in circumstances where employment is terminated on grounds of ill-health but the employee is not eligible to receive ill-health retirement benefits because they are not permanently incapable of discharging efficiently their duties).

Council Position

The Council will only exercise this discretion in exceptional circumstances where it is deemed to be of benefit to the Council.

Reason For Change

This is a new discretion.

- **COMPENSATION PAYMENT PART IV Regulation 35**

(This allows the Council to make a redundancy compensation payment of up to 104 weeks remuneration where no added membership years have been awarded under Regulation 35 of the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998, as amended.)

Council Position

The Council will not implement the increased compensation discretion at this time but will continue to apply an Enhanced Redundancy Payments Scheme which provides for a compensation payment of up to a maximum of 66 weeks remuneration to be made to employees aged 50/55 and over (see undernoted Administrative Note) who have at least two years qualifying employment and who have not been awarded compensatory added membership years, and those employees aged 18 to 50/55 and over (see undernoted Administrative Note) who have at least 2 years qualifying employment, who leave the Council's employment by reason of redundancy. The compensation payment will be based on an enhanced multiplier scheme which mirrors the Government's Statutory

Redundancy Payments Scheme determined by the employee's contractual pay, age and completed years of service.

Reason For Change

The Regulations have provided the option to increase the compensation payable from a maximum of 66 weeks to 104 weeks with the intention of providing Councils with flexibility to release employees.

Administrative Note

The minimum retirement age in the new Local Government Pension Scheme (apart from retirement on ill-health grounds) is 55. This includes:

- *Flexible Retirement (Regulation B18)*
- *Efficiency/Redundancy (Regulation B19)*
- *Early Payment of Pension (Regulation B30)*

Employees who were in the Local Government Pension Scheme on 31 March 2009, will retain the minimum retirement age of 50 until 31 March 2010. Employees who were in the Pension Scheme on 5 April 2006 will retain the minimum retirement age of 50 in respect of Regulation B19 only.

Employees who were members of the Local Government Pension Scheme on 30 November 2006 may have protected rights regarding early payment of benefits up to 31 March 2020 in relation to the Early Payment of Pension benefits (Rule of 85).

- 3.2** The updated Statement of Policy of Employers' Discretions will continue to assist the Council to achieve and sustain a corporate and consistent approach to its application of the discretions under the Local Government Pension Scheme, thereby assisting the Council to operate effectively and deliver quality services. It will also contribute to elements of effective workforce planning.

4. COMMUNICATIONS

- 4.1** The updated Statement of Policy will come into effect within one month of the date of the Cabinet approval and will require to be forwarded to Strathclyde Pension Fund as Administering Authority within the same period.
- 4.2** Employees will be made aware of the amendments to the Statement of Policy of Employers' Discretions via the Council's intranet site, Eastwords and the issue of a relevant PER Circular.

5. FINANCIAL IMPLICATIONS

- 5.1** There are no additional costs arising from the proposed changes to the Statement of Policy of Employers' Discretions.

6. CORPORATE MANAGEMENT TEAM

6.1 At their meeting on 5 October 2009, the Corporate Management Team considered and approved the content of this report.

7. POLICY/LEGAL IMPLICATIONS

7.1 The proposed changes will ensure that the Council meets its legislative requirements as an employer in relation to the Local Government Pension Scheme Regulations and the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations. The proposals meet the pursuit of continuous improvement and best value and the guiding principles of the Community Plan.

8. TRADE UNIONS

8.1 The proposed changes are subject to Trade Union consultation.

9. RECOMMENDATIONS

9.1 Cabinet is asked to approve the above changes to the Statement of Policy of Employers' Discretions, subject to consultation with Trade Unions.

Elizabeth Morton
Depute Chief Executive/Executive Director of Corporate Support
6 October 2009

LIST OF BACKGROUND PAPERS

1. The Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2009.
2. Report on Policy Statement on Employers Discretions by the Depute Chief Executive/Executive Director of Corporate Support to Cabinet of 17 June 2008.
3. The Local Government Pension Scheme (Administration) (Scotland) Regulations 2008.
4. The Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008.
5. The Local Government Pension Scheme (Scotland) Regulations 1998 as amended.
6. The Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 as amended.

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