

MAIDSTONE BOROUGH COUNCIL

MEMBER AND EMPLOYMENT AND DEVELOPMENT PANEL

THURSDAY 7 AUGUST 2014

REPORT OF CHIEF EXECUTIVE

Report prepared by Dena Smart
Head of HR Shared Services

1. PENSION DISCRETION POLICY - UPDATE

1.1 Issue for Decision

1.1.1 The Pension Discretion Policy was agreed by the Member and Employment and Development Panel (MEDP) at the meeting on 9th July 2014. The agreed policy was given to the pension administrators at Kent County Council(KCC) for their records and they have now given feedback that one of the required rules has not been covered in the policy. The MEDP is asked to agree the updated policy at Appendix One.

1.2 Reason for Urgency

1.2.1 The council's policy needs to be accurate to comply with the regulations and as the MEDP does not meet often it is considered appropriate to submit the amendment as soon as possible, the feedback from KCC has only recently been received.

1.3 Recommendation of Head of HR Shared Services

1.3.1 That the MEDP agree the amended Pension Discretion Policy at Appendix One this now includes one additional reference to the regulations as set out below;

TP Regulations 1(1)(c) of Schedule 2 – whether to allow the rule of 85 to be 'switched on' for members age 55-59.

It is not Maidstone Borough Council's general policy to make use of the discretion to 'switch back on' the 85 year rule protections unless there are clear financial or operational advantages to the council. Each case will be considered on its merits by Head of Human Resources, the Head of Finance and the relevant Director.

1.3.2 The rule of 85 applies to some members who originally joined the LGPS before 2006. It allows members who meet the rule to retire earlier than the normal pension age, taking their pension benefits in full. However, under the LGPS 2014 Regulations certain members would lose some of the rule of 85 protections if they wished to draw their pension benefits between 55 and 59. Hence this discretion allows the protections to be re-instatement by the employer; this will have cost implications for the council so it is recommended that the council's policy would only be to consider this if there was a clear benefit to the council.

1.3.3 Within the Local Government Pension Scheme regulations there are several terms about which each employer must have a policy and this should be communicated to employees within the scheme. If the employer does not have a policy then the pension scheme administrator will either refer every case separately to the employer or default to the minimums set out in the regulations. With the major reform of the LGPS in 2013 the regulations changed and under Regulation 60(1) of the Local Government Pension Scheme Regulations 2013, it is compulsory for all employers to make a policy decision under Regulations 16(2)(e), 16(4)(d), 30(6), 30(8) and 31 and Paragraph 2(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and amendments) Regulations 2014 .

1.3.2 The pension regulations are extremely complicated and the council relies upon the advice of the pension administrators to guide us in the pension discretions policy. To ensure that the policy was accurate the first draft was sent to KCC before it was put before the MEDP in July, however the policy relating to the Transitional Provisions was omitted in error and not identified by KCC; this amendment rectifies the error.

1.4 Alternative Action and why not Recommended

1.4.1 The Member and Employment and Development Panel must ensure that the Council has a policy on these employer discretions. If the Panel did not agree to adopt the amended policy the council would not meet its statutory requirements. The panel could choose to vary the wording of the policy in some way but further advice would need to be taken to ensure that the change did not constitute a breach of the regulations.

1.5 Impact on Corporate Objectives

1.5.1 Failure to amend the existing policy would mean that the Council was not meeting the legal pension regulation requirements.

1.6 Risk Management

1.6.1 There are risks to the Council if it does not have a published policy; the purpose of this paper is to ensure the Council meets this legal requirement.

1.7 Other Implications

1.7.1

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|----|---------------------------------------|---|
| 1. | Financial | X |
| 2. | Staffing | X |
| 3. | Legal | X |
| 4. | Equality Impact Needs Assessment | |
| 5. | Environmental/Sustainable Development | |
| 6. | Community Safety | |
| 7. | Human Rights Act | |
| 8. | Procurement | |
| 9. | Asset Management | |

1.7.2 Financial - All pension scheme changes have some impact on the ultimate cost of the scheme, these have been anticipated within current budgets.

1.7.3 Staffing - These proposals can potentially affect both current and future employees. We have a duty to inform all current members of the pension scheme of the change and this cannot then be implemented until one month and one day after the information has gone out.

1.7.4 Legal - There is a legal requirement for us to have a policy on the Employer Discretions and for this policy to be up to date.

1.8 Relevant Documents

1.8.1 Appendices

Appendix One: Pension Discretion Policy

1.8.2 Background Documents None

IS THIS A KEY DECISION REPORT?

THIS BOX MUST BE COMPLETED

Yes

No

If yes, this is a Key Decision because:

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Wards/Parishes affected:

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