

**This matter is/is not a key decision within the Council's definition and has/has not been included in the relevant Forward Plan.**

**Joint Report of the Director Finance,  
Property and Information Services  
and the Director Legal and  
Governance**

## **FUTURE PENSION OPTIONS FOR ELECTED MEMBERS**

### **1 Purpose of Report**

- 1.1 With effect from 1 April 2014, new regulations have been implemented that mean newly elected Members in England cannot access the Local Government Pension Scheme (LGPS) and terminates for existing members at the end of their current fixed term of office.
- 1.2 The purpose of the report is to outline the options open to both elected members and Barnsley Council in future and provide a recommended approach.

### **2 Recommendations**

**It is recommended that the Council exercise discretion as the relevant employing body under the Local Government Pension Scheme to allow existing elected Members to access their pensions at the age of 55 to reflect the fact that they are no longer permitted to participate in the Local Government Pension Scheme.**

**Such an approach to the exercise of discretion is consistent with the Council's policy with regard to officers where access to benefits at age 55 is permitted in appropriate cases.**

### **3 Background to the changes**

- 3.1 As outlined above, access to the LGPS for elected members has been abolished for new councillors or will be terminated when existing members next stand for office. All existing members of the LGPS will retain the rights that have been accrued as a result of previous membership. Of the 63 elected Members, there are currently 15 Barnsley Members who are part of the LGPS.
- 3.2 The Council are aware that other authorities and the LGA are considering alternative pension schemes. Discussions have been carried out with representatives of the authorities concerned and there are advantages and disadvantages to the proposed scheme.
- 3.3 For example, it will allow elected members to have access to a similar scheme to the one they are currently accessing and also act as a benefit that could therefore attract new elected Members into the Council. Set against this, the cost

of the scheme could be very expensive and it would be very difficult to find an alternative scheme that exactly matches the current scheme.

- 3.4 However, the biggest drawback facing the setting up of alternate pension schemes for elected Members is the legality of such schemes. Other authorities have indicated that they would look to join the existing Welsh pension funds (as this regulation only applies to elected Members in England) but no authority has managed to set up an alternative scheme to date or clarified that an alternative scheme is a legal option. Equally it is very clear from the new regulations that the current Government do not want new or existing Members to have access to 'defined benefit' pension schemes and therefore could implement further regulations to veto any alternate schemes should they be identified in future.
- 3.5 Set against this background of uncertainty surrounding alternate schemes, the main option open to elected Members is that when his/ her term of office comes to an end and they are aged 50 or over but under age 60 they will be awarded deferred benefits in the scheme. These would become payable at age 65 unless:-
- they choose to defer payment (usually for tax purposes) beyond that age, up to their 75<sup>th</sup> birthday at the latest, or
  - they elect to have them paid on or after age 60 and before age 65 (without the need to obtain their Council's consent), or
  - they request payment on or after age 50 and before age 60 (however this requires the Council's consent for the benefits to be paid), or
  - they become, because of ill health or infirmity of mind or body, permanently incapable of discharging efficiently the duties of the office they had held in which case the deferred benefits can immediately be paid, regardless of age.
- 3.6 An initial assessment of the option open to the Council to make payments after 50 and before 60 has been carried out by way of mitigation against the loss of the opportunity to continue to participate in the Scheme including a cost estimate provided by officers at the South Yorkshire Pension Fund for the 15 elected Members currently in the LGPS.
- 3.7 This analysis shows that 4 members will have reached their normal retirement date at the next election and will not incur any additional costs for the Council and 1 member is under the age of 50 at the next election date and again will not incur any immediate costs. Of the remaining 11 members it is estimated that the strain costs to the Council will be approximately £70,000.
- 3.8 However 2 members will be under the age of 55 at the next election date and accessing pension payments between the ages of 50 and 55 incurs a penal tax charge of 40%. This applies to the lump sum as well as the ongoing payment. As such accessing pension payments early may not necessarily be beneficial for individual members. Should the Council decide to adopt the full LGPS concession and allow payments at 50 individual members would need to make their own assessments of whether it would be worthwhile accessing their pension before 55 (see section 4 below).

3.9 If as recommended the Council restricts payments to Members when they reach 55 the estimated cost of this would be £39,000. This approach would be in line with the approach to the exercise of discretion with regard to the Council's officer scheme where the Council's policy provides for discretion to allow access to benefits in appropriate cases at age 55.

#### **4 Options and Proposals**

4.1 As there are no alternate defined benefit schemes that can be accessed at present the Council has the remaining options set out below:-

- To take up the full discretion allowed by the LGPS and make payments at 50. This is allowable under the LGPS scheme and goes some way towards compensating elected members for the curtailment of the scheme. However individual members will incur a tax charge before 55 and allowing elected Members to access pension payments at 50 will not be in line with the officer scheme that only allows access at 55.
- To make a local policy change to make payments to Members from the age of 55 which is at the discretion of the Council. This has the advantage of being in line with this aspect of the officer scheme and offsets any tax implications for the 2 members that could access their pension before 55. It is also a cheaper option for the Council than allowing payments at 50 (see above).
- To not take up the discretion at all and adopt the policy set out at para 3.5 whereby elected members can only automatically access payments at 65 unless they choose to do so at the ages stipulated (eg 60 or after 65 and upto 75) or suffer ill health.

#### **5 Financial Implications**

5.1 The current costs of adopting the recommended approach of paying Members when they reach 55 is estimated at estimated at £39k. However these costs are based on present date values which will be subject to change depending upon the date payments are made. These costs can be smoothed over a 3 year period and will be funded from the existing budgetary provision for employment policies (see Appendix A).

#### **6 Employee Implications**

6.1 None to employees but it will allow elected members access to pension payments under the age of 60 at the discretion of the Council in a similar way to which current employees have access to their pension schemes.

#### **7 Risk Management Issues**

7.1 In relation to the recommended proposal, there is a risk that the scheme costs could increase. Equally there is a risk that the Government could change the

scheme again. The risks in relation to alternative pension schemes are set out at section 3.

## 8. **Consultations**

- 8.1 Consultations have been carried out with the Director Legal and Governance and Director of Human Resources Performance and Communications. Other authorities have also been consulted in relation to their schemes.
- 8.2 Given that the issue under consideration concerns member remuneration the opportunity has also been taken to consult the Independent Remuneration Panel which makes periodic recommendations to the Council with regard to its Scheme of Allowances. The Panel was supportive of the proposal to allow eligible elected members access to their pensions at the age of 55 given that members are no longer permitted to remain active members of the Local Government Pension Scheme.

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