

North Yorkshire County Council

Executive

29 January 2019

LGPS Employer Discretions Policy

Report of the Assistant Chief Executive – Business Support

1.0 Purpose of report

- 1.1 To present to members, for their consideration and recommendation to full Council for agreement, proposed amendments to NYCC's policy regarding the exercise of employer's pension discretions under the Local Government Pension Scheme (LGPS).
- 1.2 Changes to the LGPS Employer Discretions Policy must be agreed by full Council as pension matters are non-executive functions and the original policy was agreed by full Council.

2.0 Background

- 2.1 NYCC is required to publish a policy on how it chooses to exercise the discretionary provisions of the Local Government Pension Scheme.
- 2.2 A full review of the existing NYCC discretionary policies has been undertaken in response to the publication of a revised template discretion document from the North Yorkshire Pension Fund. This coincided with the need to revise an existing provision due to a change in employment law. These provided an opportunity to bring all relevant discretions and provisions into one document.
- 2.3 The Council's position has been that discretions will not be exercised where there is a resultant cost to the Authority. This position has been maintained, with the exception of the legal requirement below, and in one proposal the discretion has been amended to reduce the Council's potential exposure to increased pension strain in redundancy situations.

3.0 Recommended Changes

- 3.1 Only the amendments which result in a change to the Council's policy on discretions have been included for approval in this paper. These are as follows:

Proposed amendment	Impact
Revision in the redundancy pay calculation as a result of employment law change requiring the incorporation of employers' pension contributions into the calculation of a week's pay.	<p>NYCC currently bases redundancy calculations on the actual weekly pay received by employees. This employment law change will have the effect of increasing redundancy payments, and therefore costs, by up to 22.6%. NYCC is changing its redundancy pay calculation to incorporate the use of the statutory weekly capped amount (currently £508) as a way of mitigating this additional cost. Employees earning below the cap will receive a redundancy payment based on the lower of:</p> <ul style="list-style-type: none"> • their actual pay plus the employer's pension contribution or • the statutory cap

	Employees earning above the cap will receive a redundancy payment based on their actual pay without the addition of the employer's pension contribution.
Revision of discretion allowing aggregation of LGPS service for pre-2014 re-joiners	This will reduce the potential exposure of the fund to higher pension strain costs in redundancy cases
Revised provision around the application of pension bands to employees' pay	Currently an employee's pension contribution band can only be changed mid-year as a result of a move to a new post. The revised provision enables the same mid-year re-banding where an employee's salary reduces at the end of a period of pay protection. There is no cost implication for the Council or the fund in this and it will help ensure employee's pay pension contributions on the correct band

3.2 Other minor changes have been made to the document, but, as these do not result in a change of policy, they are detailed here for information only:

- Revisions recommended by NYPF to ensure the policy reflects regulatory guidance
- Amendments to ensure the discretions policy reflects current working practices
- Streamlining policy documentation including amalgamating all provisions into one policy and removal of duplicated information available in other policies
- Reformatting and organisation of information including reduction of appendices to improve clarity and consistency

4.0 Financial Implications

4.1 Redundancy payments for staff earning under approximately £26,400 per annum will increase by up to 22.6%. The application of the statutory weekly capped amount for staff over this level will reduce the impact of this change.

5.0 Legal Implications

5.1 The amended redundancy payment calculation is being proposed due to a recent legal change as a result of an Employment Appeal Tribunal decision. Failure to adopt the new calculation is likely to result in legal challenge from any member of staff being made redundant going forward, including those earning over the statutory weekly capped amount. The legal advice received is that the Council should implement this change.

6.0 Consultation Undertaken and Responses

6.1 Unison, as part of usual consultation arrangements, have raised the need to adopt the legal change. They have been consulted on the proposals and are supportive.

7.0 Recommendation

7.1 The Executive are asked to note the proposed revisions to the LGPS Employer Discretions Policy and recommend to the full County Council that they approve the changes.

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