

Report to the Cabinet



Report reference: C/024/2006-07.
Date of meeting: 10 July 2006.

**Epping Forest
District Council**

Portfolio: Finance, Performance Management and Corporate Support Services.

Subject: Local Government Pension Scheme (Amendment) Regulations 2006.

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Tony Tidey (01992 – 56 4050).**

Democratic Services Officer: Gary Woodhall (01992 – 56 4470).

Decisions Required:

- (1) That, as set out in the attached appendix, the new Local Government Pension Scheme (Amendment) Regulations 2006, be noted and a further report be submitted when guidance on the new regulations has been issued;**
- (2) That the deletion of regulation 15 from the Local Government Pension Scheme Regulations 1997 ('the Principal Regulations') be noted and that with effect from 6 April 2006 Employers will no longer be able to waive or reduce the contributions of employees who have completed 40 years; and**
- (3) That the option to exercise the discretion available under the regulations whereby partially waived superannuation contributions (i.e. at 6% rather than 3%) are sought retrospectively for all reckonable service prior to 6 April 2006 be decided by the Cabinet.**

Background:

1. The Local Government Pension Scheme has been subject to review over the last year, and this has resulted in a number of changes, or proposed changes, to the scheme. Although the full scope of the changes is not yet clear and it is understood that the Secretary of State, following consultation, will be publishing these shortly, some amendments to the scheme have been put in place.
2. The Local Government Pension Scheme (Amendment) Regulations 2006 contain those changes some of which take effect from the 6 April 2006. A summary of the amendment regulations is set out in appendix 1. Many of these changes are employee related and do not impact on the Council or the Council needs to take time to reflect on their consequences. However an important change has been implemented, with effect from 6 April 2006, which introduces a Council discretion requiring a Member decision. This change concerns the position of staff with over 40 years membership of the Scheme whilst employed in local government.

Regulation 8:

3. Regulation 8 of The Local Government Pension Scheme (Amendment) Regulations 2006 deletes regulation 15 from "the Principal Regulations". In accordance with this regulation Employers will, as from 6 April 2006, no longer be able to waive or reduce the contributions of employees who have completed 40 years membership of the Scheme whilst employed in local government. Thus, as from 6 April 2006, the contributions of any employee whose contributions have been waived or reduced will need to be increased back to the normal employee contribution rate. This is to tie in with the fact that employees will now be able to count more than 40 years

membership (regulation 35) which was previously restricted between the ages of 58 and 60.

4. In 1998 the Council had exercised its discretion under the previous regulation and reduced contribution rates from 6% to 3% for such employees but only for the period of time when the employee had been a member for at least 40 years and was aged between 58 and 60. The argument for reducing the contribution rate for those employees who fulfilled those conditions was that under the regulations they accrued no additional benefits for this service period.
5. Furthermore, under the amended regulations Employers may, if they wish, recover from the employee the contributions that would otherwise have been paid by the employee if the contributions had not been reduced or waived (bearing in mind that the employer may, by virtue of regulation 80(4)(a) of "the Principal Regulations", already have had to meet any extra charge resulting from their decision to waive or reduce the employee's contributions under regulation 15 of "the Principal Regulations"). The membership for the period during which contributions were waived or reduced will count regardless of whether or not the employing authority recovers contributions from the employee.
6. As this is a discretionary provision the purpose of this report is to seek Cabinet's decision on whether these retrospective deductions should be sought from affected employees. The Council's decision in 1998 was based on reducing an employee's contributions for the duration of the period during which the employee accrues no further pensionable service. Therefore for those employees who are or who have been employed by the Council since 6 April 2006 for whom this regulation applies retrospective contributions should be sought.
7. In this authority, there are relatively few staff who are in the position of attaining 40 years superannuable service prior to the age of 60 (currently two staff).
8. The Deputy Leader of the Council has determined in accordance with Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs (6) and (24) of the Council's Procedure Rules, that this report be submitted to this meeting as one of the affected members of staff is due to retire from the Council in July 2006, and therefore a swift decision is required.

Statement in support of recommended action

9. Prior to 6 April 2006 such staff were unable to count, towards their pension entitlement, service in excess of 40 years, which would have been accrued between the ages of 58 and 60. The Council's policy and practice was that instead of requiring a contribution of 6%, this was reduced to 3% in recognition of the fact that staff in this position would receive no benefit for this service period.
10. The change to the regulations that requires Councils to charge employees the full 6% superannuation contributions for any superannuable service over 40 years from 6 April 2006, would seem to be equitable in that the employee will now directly benefit from a higher final pension and lump sum based on all years of pensionable service. The Council must decide whether contributions should be matched with benefits entirely and that all eligible contributions prior to 6 April 2006 should be charged retrospectively, given that the increased benefits will apply prior to this date in any event.

Other options for action:

11. The Council may not continue to charge employees at 3% for superannuation contributions over 40 years from 6 April 2006 but could decide not to seek

retrospective contributions.

Consultation undertaken:

12. Essex County Council as the administering body.

Resource implications:

Budget provision: No additional budget provision is required as the rate of contribution being considered is that of the individual not the Council.

Personnel: As set out in the report.

Land: N/A.

Community Plan/BVPP reference: None.

Relevant statutory powers: Local Government Pension Scheme (Amendment) Regulations 2006.

Background papers: Former Office of the Deputy Prime Minister correspondence available from the Head of Finance.

Environmental/Human Rights Act/Crime and Disorder Act Implications: None.

Key Decision reference: (if required) Not applicable.