

COUNCIL

3 JANUARY 2018

REVISIONS TO COUNCIL CONSTITUTION – LGPS

Report of the Director of Finance: Alison Elsdon

Cabinet member: Councillor Nick Oliver, Corporate Services and Cabinet Secretary

Purpose of report

This report recommends two amendments to the NCC Constitution to update it for changes in relation to administration of the Local Government Pension Scheme (LGPS).

Recommendations

Council is recommended to:

- (i) with effect from 29 January 2018, remove the requirement to *assess and determine applications regarding the disposal of lump sum death benefits* from the Staff (Appeals) Committee's terms of reference; and
- (ii) remove Clause 7 (Pensions), which makes reference to councillor access to the LGPS, from Part 7 (Members' Allowances Scheme) of the Constitution.

Link to Corporate Plan

This report is relevant to the Developing the Organisation objective included in the NCC Corporate Plan 2013-2017.

Key issues

- 1 The Pension Fund Panel has reviewed and updated NCC's LGPS Governance Policy and Compliance Statement, and (from 29 January 2018) recommends to full Council replacing the NCC Staff (Appeals) Committee as decision maker in exercising the administering authority's death grant discretion, with Tyne and Wear Pension Fund's Head of Pensions as decision maker. An amendment to the Constitution is required to implement this change.

- 2 From 1 April 2014, a regulatory change closed the LGPS to new councillor members, and ended access for existing councillor members at the end of their term of office. Therefore, following the May 2017 elections in Northumberland, the LGPS Regulations do not permit any NCC councillor to be an active councillor member of the LGPS. An amendment to the Constitution is required to clarify this position.

BACKGROUND

Northumberland County Council is an administering authority under the Local Government Pension Scheme Regulations (meaning a body listed in Part 1 of Schedule 3 of the 2013 LGPS Regulations which maintains a fund within the LGPS). An administering authority is a Scheme Manager as defined by the Public Service Pensions Act 2013.

Delegation to NCC's Staff (Appeals) Committee

- 1 NCC delegates the functions and responsibilities relating to its role as administering authority for the Local Government Pension Scheme (“**the LGPS**”) to the Pension Fund Panel (“**the Panel**”). The one exception to this, as set out in NCC’s Constitution, is that where necessary the Staff (Appeals) Committee exercises the administering authority’s discretion over the recipient of a death grant.
- 2 The Panel’s remit includes approving and maintaining all administering authority policy statements including the Governance Compliance Statement. The statutory guidance for this Statement requires administering authorities to “*take steps to bring wider scheme issues within the scope*” of the “*main committee established by the appointing council*”. Therefore, NCC’s Governance Compliance Statement includes an explanation of why the death grant discretion is not exercised by the Panel.
- 3 The death grant discretion is part of the Staff (Appeals) Committee’s terms of reference because that Committee can be convened at short notice, and the payment of a death grant should not be delayed to fit with a meeting schedule which could involve (potentially) a four month wait.
- 4 On several occasions in the past, the Panel has considered and rejected recommending (to Council) a change to the Constitution to remove the power to exercise the administering authority’s death grant discretion from the Staff (Appeals) Committee, recognising that this function would not fit well with the normal business and length of meetings of the Panel. Further, delegating the discretion to an officer within NCC was not a viable option because NCC’s pensions administration service did not have sufficient resource to enable independent decision making to be evidenced.
- 5 NCC Pension Fund has very few death grant cases where the administering authority discretion is exercised. Typically, no more than one case every year is taken to the Staff (Appeals) Committee for a decision. As a result of the length of time between cases coupled with staff absences/vacant posts within NCC’s LGPS administration service, keeping Staff (Appeals) Committee members appropriately trained to be in a position to make a decision when needed has become problematic.

Shared administration service for LGPS with TWPF

- 6 NCC is in the process of moving its “in-house” LGPS administration service to a fully integrated shared administration service with Tyne and Wear Pension Fund (**TWPF**) to be delivered by South Tyneside Council (**STC**) from **29 January 2018**.
- 7 The LGPS is a **single scheme**, administered locally, with NCC and STC both designated as administering authorities in the Regulations. For the efficiency of the integrated shared administration service, local practices must be aligned where possible.
- 8 At a specially convened meeting held on 3 November 2017, the Panel considered areas of difference in administrative practices between NCC and STC and approved (for consultation) various policy statements to align NCC’s practices with STC’s. It should be noted that under the shared administration service arrangements, strategic decisions and administering authority policy decisions remain the responsibility of the Panel.
- 9 One difference in administrative practices between NCC and STC is the way each exercises the death grant discretion. NCC currently delegates the decision to the Staff (Appeals) Committee, and STC delegates to the Head of Pensions at TWPF.
- 10 STC’s Pensions Committee has delegated exercising the death grant discretion for TWPF to the Head of Pensions at TWPF, who must follow a **written protocol** which is reviewed annually by STC’s Committee. TWPF is a large LGPS administrator with strength and depth of expertise which enables independent decision making to be evidenced. Delegating this discretion to an officer means that there are no unnecessary delays in payment of the grant. Delays in payment may cause hardship for dependents, for example in meeting funeral expenses.
- 11 At the 3 November 2017 meeting, after taking advice from the NCC Pension Fund’s actuary, Aon Hewitt, the Panel agreed, from 29 January 2018, to delegate the death grant discretion for NCC Pension Fund to the Head of Pensions at TWPF. Aon Hewitt’s view is that TWPF’s written protocol exemplifies best practice. The protocol involves several review processes, including a legal review, to minimise risk of challenge.
- 12 The Panel’s remit includes approving and maintaining administering authority policy statements as required by the LGPS Regulations, and delegating the death grant discretion to the Head of Pensions at TWPF (from 29 January) is part of NCC’s Administering Authority Discretions Policy approved by the Panel on 3 November 2017.

- 13 Once the shared administrative service is fully operational, NCC will no longer have an in-house LGPS administration team to prepare reports for and provide expertise and advice to support the Staff (Appeals) Committee in making decisions on death grants. Buying in external legal support for this Committee, or maintaining in-house legal expertise for a decision which, on average, is needed once a year, would be disproportionately costly. In contrast, delegating to the Head of Pensions at TWPF will be practical and efficient.

NCC's LGPS Governance Compliance Statement

- 14 The LGPS Regulations require administering authorities to prepare and maintain a **Governance Compliance Statement** which shows whether the governance arrangements in place comply with statutory guidance.
- 15 The remit of the Panel, as set out in NCC's Constitution, includes approving and maintaining NCC's LGPS Governance Policy and Compliance Statement ("**the GPCS**"). At its meeting held on 3 November 2017, the Panel revised the GPCS effective from 29 January 2018.
- 16 NCC Pension Fund's revised GPCS states that from 29 January 2018, NCC's administering authority discretion over the recipient of a death grant will be exercised by the Head of Pensions at TWPF. This replaces the current version of the GPCS which states that this discretion is exercised by the Staff (Appeals) Committee.
- 17 The revision to the GPCS made by the Panel involves changing the terms of reference and powers of another committee of the Council (i.e. the Staff (Appeals) Committee), which requires a change to NCC's Constitution by full Council. The Panel itself has the power to delegate this administering authority discretion to the Head of Pensions at TWPF as part of its "*approving and maintaining policy statements*" power.

Consultation

- 18 NCC Pension Fund's forty participating employers (including NCC, some town and parish councils in Northumberland, and Northumberland National Park Authority) and relevant trade unions were consulted, in November 2017, on the change to the GPCS from 29 January 2018. No responses to the consultation were received.
- 19 At its meeting held on 11 December 2017 NCC's LGPS Local Pension Board reviewed the process followed by the Panel in changing the GPCS, and endorsed the Panel decision. The role of NCC's LGPS Local Pension Board is to assist the Scheme Manager in securing compliance with legislation and regulations and ensure the efficient and effective governance and administration of the LGPS (i.e. an oversight role).

Decision of full Council

- 20 This report seeks approval from full Council to **remove** from the Staff (Appeals) Committee's remit the requirement to *assess and determine applications regarding the disposal of lump sum death benefits*.

Councillor access to the LGPS

- 21 Information relating to councillors' pensions is included in the current NCC Constitution, dated 1 November 2017, as follows:

Within Part 7: **Members' Allowances Scheme**

7. Pensions

7.1 Where a councillor was an active councillor member of the Local Government Pension Scheme before 1 April 2014 he or she can remain in the Scheme until the end of his or her current term of office, with his or her basic allowance and special responsibility allowance treated as pensionable.

7.2 A councillor who was not an active councillor member of the Local Government Pension Scheme before 1 April 2014 cannot join the Scheme.

- 22 From April 2003, Regulations were introduced allowing councillors to be members of the LGPS at the discretion of the local authority. In 2009, NCC approved a recommendation to allow its councillors access to the LGPS, with basic and special responsibility allowances treated as pensionable.
- 23 From 1 April 2014, regulatory changes closed the LGPS to new councillor members, and ended access for existing councillor members at the end of their term of office. For Northumberland, this meant that any active councillor members automatically became deferred or pensioner councillor members at the end of the Council term in May 2017. Therefore, after the May 2017 local election, *no* councillor of NCC can be an active councillor member of the LGPS.
- 24 As NCC councillors cannot gain access to the LGPS, either as new active councillor members or as continuing active councillor members, to update the Constitution, references to LGPS for Members Allowance Scheme (i.e. clause 7 of Part 7 of the Constitution) should be removed altogether.

Implications

Policy	The proposed revisions to the NCC Constitution include implementing a policy decision of the Pension Fund Panel made on 3 November 2017.
Finance and value for money	Replacing the requirement for the Staff (Appeals) Committee to exercise the death grant discretion with the requirement for Head of Pensions at TWPF to do so will improve the value for money achieved by the NCC Pension Fund.
Legal	Revisions to the Constitution are required to ensure that the actions of the Council are lawful.
Procurement	n/a
Human Resources	n/a
Property	n/a
Equalities (Impact Assessment attached) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>	n/a
Risk Assessment	The TWPF death grant protocol is reviewed annually by STC's Pensions Committee ensure it reflects best practice, which should minimise the risk of challenge of decisions made under the discretion.
Crime & Disorder	n/a
Customer Consideration	NCC Pension Fund's participating employers and relevant trade unions were consulted (in November 2017) on the revised GPCS, effective from 29 January 2018.
Carbon reduction	n/a
Wards	All

Background papers

- The Local Government Pension Scheme Regulations
- The NCC LGPS Governance Policy and Compliance Statement
- Pension Fund Panel reports
- NCC's Administering Authority Discretions Statement

Report sign off

	initials
Finance Officer	n/a
Monitoring Officer/Legal	LH
Human Resources	n/a
Procurement	n/a
I.T.	n/a
Director	AE
Portfolio Holder(s)	NO

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