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Newport Girls' High School discretionary policies under the Local Government Pension Scheme Regulations and other related Regulations**Summary**

1. This report makes recommendations for Newport Girls' High School policies on discretions to be exercised:
 - i) under the LGPS Regulations 2013 from 1 April 2014 in respect of members of the Career Average Revalued Earnings (CARE) scheme,
 - ii) under earlier LGPS Regulations in respect of former employees who were members of the LGPS and who left prior to 1 April 2014,

Background

1. In March 2011, the Independent Public Service Pensions Commission, chaired by Lord Hutton, published its final report of the review of public service pensions. The report made clear that change was needed to "make public service pension schemes simpler and more transparent, [and] fairer to those on low and moderate earnings".
2. As a result, it was decided that the Local Government Pension Scheme (LGPS) should be reformed so that, from 1 April 2014, benefits accrue on a Career Average Revalued Earnings (CARE) basis rather than on a final salary basis.
3. The provisions of the CARE scheme, together with the protections for members' accrued pre 1 April 2014 final salary pension rights, are contained in the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014.

4. As a result of the changes, Newport Girls' High School is legally required to formulate, publish and send to the LGPS pension fund administering authority a written Statement of Policy on certain discretions under the LGPS which Newport Girls' High School has the power to exercise on and from 1 April 2014 in relation to members of the CARE scheme.
5. Newport Girls' High School is also legally required to (or where there is no requirement, is recommended to) formulate, publish and keep under review a Statement of Policy on certain other discretions it may exercise:
 - i) under earlier LGPS Regulations in respect of former employees who were members of the LGPS and who left prior to 1 April 2014.
6. Any amended policy must be published and sent to the LGPS pension fund administering authority within one month of the date the revisions to the policy were made.
7. Overall, Newport Girls' High School is:
 - i) required to formulate, publish and keep under review a written Statement of Policy on certain discretions in accordance with:
 - regulation 60 of the Local Government Pension Scheme Regulations 2013,
 - paragraph 2(2) of Schedule 2 to the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014,
 - regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008 (in respect of former employees who were members of the LGPS and who left between 1 April 2008 and 31 March 2014), and
 - regulation 106 of the Local Government Pension Scheme Regulations 1997 (in respect of former employees who were members of the LGPS and who left between 1 April 1998 and 31 March 2008).
 - ii) recommended to formulate, publish and keep under review a written Statement of Policy on one discretion under the Local Government Pension Scheme Regulations 1995 (in respect of leavers before 1 April 1998).

Decisions required

8. The Finance & Buildings Committee is asked:
 - i) to approve the policies on the discretions to be exercised under the LGPS Regulations in respect of those employees who are active scheme members after 31 March 2014 and members and who cease active membership after 31 March 2014, as set out in the table at Annex 1, and
 - ii) to approve the policies on the discretions to be exercised under the LGPS Regulations in respect of former employees who were scheme members and who left prior to 1 April 2014, as set out in the table at Annex 2, and

Consultation

9. Newport Girls' High School is not required to consult with GMB when Newport Girls' High School intends to adopt new, or change existing, discretionary policies.

However, it was considered appropriate to give advance notification to GMB that this report would be considered by the Finance & Buildings Committee.

Effective date of policies

10. The policies on discretions to be exercised under the LGPS Regulations 2013 take immediate effect from the date Newport Girls' High School agrees the policies. Any change to the policies on existing discretions to be exercised under the LGPS Regulations in respect of former employees who were members of the scheme and who left pre 1 April 2014 take immediate effect from the date Newport Girls' High School agrees the policies.

Non-fettering of discretions

11. The recommendations contained within this report, if approved, will form Newport Girl's High School policies on pension and compensation discretions. It should be noted that:
 - the policies will confer no contractual rights
 - subject to paragraphs 20 to 22, Newport Girls' High School will retain the right to change the policies at any time without prior notice or consultation "but Newport Girls' High School will endeavour to discuss changes with UNISON, and
 - only the policy which is current at the time a relevant event occurs to an employee / scheme member will be the one applied to that employee / member.

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Annex 1

Newport Girls' High School Policy

Table A: Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations 2013 in relation to active scheme members (other than local authority councillor members) and members who cease active membership after 31 March 2014 (other than local authority councillor members).

1. Newport Girls' High School will not make use of the discretion to grant extra annual pension of up to £6,675 (figure at 1 April 2015) to an active scheme member or, within 6 months of leaving, to a member who is dismissed by reason of redundancy or business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency except in exceptional circumstances where Newport Girls' High School considers it is in its financial or operational interests to do so. Each case will be considered on the merits of the financial and/or operational business case put forward.
2. Newport Girls' High School will only voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC) where:
 - an active scheme member returns from a period of authorised leave of absence, and
 - the member does not, within 30 days of returning from the leave of absence, make an election to buy-back the amount of pension 'lost' during that period of leave of absence, and
 - the member subsequently makes an election to do so whilst an active member and it can be demonstrated that the reason for the member missing the original 30 day deadline was because the member had not been made aware of that deadline, and
 - the election is made no more than 3 months after the member returns from the period of leave of absence or such longer period as Newport Girls' High School may deem reasonable in any individual case.

A decision on whether the member meets the above criteria (and on whether the 3 month period referred to should be extended in any individual case) will be taken by the Finance and Buildings Committee and, where it is agreed that the conditions are met, Newport Girls' High School will be required to contribute 2/3rds of the cost of buying back the 'lost' pension via a SCAPC.

3. Flexible retirement

Newport Girls' High School will not agree to flexible retirement except in circumstances where Newport Girls' High School considers it is in its financial or operational interests to do so. Each case

- will be considered on the merits of the financial and/or operational business case put forward,
- will set out whether, in addition to any pre 1 April 2008 benefits, the member will be permitted, as part of the flexible retirement agreement, to take
 - a) all, some or none of their 1 April 2008 to 31 March 2014 benefits, and/or
 - b) all, some or none of their post 31 March 2014 benefits, and
- will require the approval of the Finance and Buildings Committee

[Note:

- where flexible retirement is being considered, there must be a reduction of at least one grade or, in the case of a flexible retirement due to a reduction in working hours, be a minimum reduction in hours of, say, 20% e.g. the equivalent of the hours for one working day]

Waiver of any actuarial reduction on flexible retirement

Where flexible retirement is agreed, the benefits payable will be subject to any actuarial reduction applicable under the Local Government Pension Scheme Regulations and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014. Newport Girls' High School will only waive any such reduction, in whole or in part, where it considers it is in its financial or operational interests to do so. Each case will be considered on the merits of the financial and / or operational business case put forward and will require the approval of the Finance and Buildings Committee including, where the reduction is only to be waved in part, approval for the amount of reduction to be waived.

- ### 4.
- Newport Girls' High School will not agree to apply the 85 year rule where members choose to voluntarily draw their benefits on or after age 55 and before age 60 except in circumstances where Newport Girls' High School considers it is in its financial or operational interests to do so. Each case

- will be considered on the merits of the financial and/or operational business case put forward, and
- will require the approval of the Finance and Buildings Committee.

5. Where members choose to voluntarily draw their benefits on or after age 55 and before Normal pension Age, Newport Girls' High School will not agree to waive in whole or in part any actuarial reduction that would otherwise be applied to their benefits except in circumstances where Newport Girls' High School considers it is in its financial or operational interests to do so or there are compelling compassionate¹ reasons for doing so.

Each case

- will be considered on the merits of the financial and/or operational business case put forward, or
- will be considered on the merits of the compassionate case put forward, and
- will require the approval of the Finance and Buildings Committee including, where the reduction is only to be waved in part, approval for the amount of reduction to be waived.

6. Newport Girls' High School will only extend the 12 month time limit within which a scheme member who has a deferred LGPS benefit in England or Wales following the cessation of any employment (or cessation of a concurrent employment) after 31 March 2014 may elect not to have the deferred benefits aggregated with their new LGPS employment (or ongoing concurrent LGPS employment):

- a) where Newport Girls' High School agrees that the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration
- b) where Newport Girls' High School agrees that the available evidence indicates the member had made an election within 12 months of joining the LGPS but the election was not received by the Pension Fund administering authority (eg. the election form was lost in the post); or

¹ There is no definition in the Regulations of "compassionate grounds". However, one could take the view that, for example, releasing benefits because the member is short of funds / out of work would not be appropriate (as the pension scheme is not a social security scheme); whereas, for example, releasing benefits because the member has had to give up work to look after orphaned grandchildren would clearly be a case where an employer might wish to exercise compassion.

<p>c) where the member has pre 1April 2014 membership and Newport Girls' High School agrees the available evidence indicates that, due to maladministration, the member had not been informed of the implications of having benefits aggregated and would, in consequence, suffer a detriment to their pension benefits (for example, where member's whole-time equivalent pensionable pay on commencing with Newport Girls' High School is, in real terms after allowing for inflation, significantly less than the whole-time equivalent pensionable pay upon which the deferred benefits were calculated).</p>
<p>7. Newport Girls' High School will only extend the 12 month time limit within which a scheme member must make an election to transfer other pension rights into the LGPS after joining the LGPS:</p> <ul style="list-style-type: none"> - where the member asked for transfer investigations to be commenced within 12 months of joining the LGPS but a quotation of what the transfer value will purchase in the LGPS has not been provided to the member within 11 months of joining the LGPS. The time limit for such a member to make a formal election to transfer pension rights into the LGPS will be extended to one month beyond the date of the letter issued by the Pension Fund administering authority notifying the Scheme member of the benefits the transfer will buy in the LGPS; - where the available evidence indicates the member made an election within 12 months of joining the LGPS, but the election was not received by the Pension Fund administering authority (eg. the election form was lost in the post); - where the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration.
<p>8. The pension contribution band/rate to which an employee is allocated will be determined on joining the Scheme and each subsequent April.</p>
<p>9. In assessing Assumed Pensionable Pay (APP) Newport Girls' High School will not, other than in exceptional circumstances, include in the calculation any 'regular lump sum payments' in which case the decision to include the 'regular lump sum payment' will be subject to the approval of the Finance and Buildings Committee.</p>

Annex 2

Newport Girls' High School Policy

Table B: Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations 2013 in relation to scheme members who cease active membership between 1 April 2008 and 31 March 2014.

1. Where a former scheme member who left the scheme between 1 April 2008 and 31 March 2014 requests early release of deferred benefits on or after age 55 and before age 60 (on grounds other than permanent ill health), approval will only be given on compassionate grounds². Each case will be considered on its merits and will be subject to the approval of the Finance and Buildings Committee. Subject to entry 2 below, the benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations.
2. Newport Girls' High School will consider an application to waive, on compassionate grounds, any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65. Each case will be considered on its merits and will be subject to the approval of the Finance and Buildings Committee.
3. Where a former scheme member who left the scheme between 1 April 2008 and 31 March 2014 requests early release of deferred benefits on or after age 55 and before age 60 (on grounds other than permanent ill health), approval will only be given on compassionate grounds³. Each case will be considered on its merits and will be subject to the approval of the Finance and Buildings Committee. Subject to entry 4 below, the benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations.
4. Newport Girls' High School will consider an application to waive, on compassionate grounds, any actuarial reduction that would normally be applied to a suspended Tier 3 ill health pension which is brought back into payment before age 65. Each case will be considered on its merits and will be subject to the approval of the Finance and Buildings Committee.

² There is no definition in the Regulations of "compassionate grounds". However, one could take the view that, for example, releasing benefits because the member is short of funds / out of work would not be appropriate (as the pension scheme is not a social security scheme); whereas, for example, releasing benefits because the member has had to give up work to look after orphaned grandchildren would clearly be a case where an employer might wish to exercise compassion.

³ There is no definition in the Regulations of "compassionate grounds". However, one could take the view that, for example, releasing benefits because the member is short of funds / out of work would not be appropriate (as the pension scheme is not a social security scheme); whereas, for example, releasing benefits because the member has had to give up work to look after orphaned grandchildren would clearly be a case where an employer might wish to exercise compassion.

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Table C: Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations 2013 in relation to scheme members who cease active membership between 1 April 1998 and 31 March 2008.

1. Where a former scheme member who left the scheme between 1 April 1998 and 31 March 2008 requests early release of deferred benefits on or after age 50 and before age 60 (on grounds other than permanent ill health), approval will only be given on compassionate grounds⁴. Each case will be considered on its merits and will be subject to the approval of the Finance and Buildings Committee. Subject to entry 2 below, the benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations.
2. Newport Girls' High School will consider an application to waive, on compassionate grounds, any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65. Each case will be considered on its merits and will be subject to the approval of the Finance and Buildings Committee.

⁴ There is no definition in the Regulations of "compassionate grounds". However, one could take the view that, for example, waiving a reduction because the member is short of funds / out of work would not be appropriate (as the pension scheme is not a social security scheme); whereas, for example, releasing benefits because the member has had to give up work to look after orphaned grandchildren would clearly be a case where an employer might wish to exercise compassion.

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Table D: Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations 2013 in relation to scheme members who cease active membership before 1 April 1998.

1. Where a former scheme member who left the scheme before 1 April 1998 requests early release of deferred benefits on or after age 50 and before age 65 on compassionate grounds, the case will be considered on its merits and will be subject to the approval of Finance and Buildings Committee.