

**LONDON BOROUGH OF BRENT**

**COUNCIL MEETING – 17<sup>TH</sup> NOVEMBER 2003**

**REPORT FROM THE DIRECTOR OF FINANCE**

**Councillor Access to the Local Government Pension Scheme & adjustment to Brent's discretionary policies**

**1. SUMMARY**

The Local Government Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003 together with The Local Authorities (Members Allowances) (England) Regulations 2003 allow Councillor members access to the Local Government Pension Scheme (LGPS). This report seeks a decision from members about what allowances will be pensionable at Brent and the basis on which Councillors who will have access to the pension scheme

**2. RECOMMENDATIONS**

**2.1 That Members:**

- (a) decide whether the Basic Allowance or the Special Responsibility Allowance or both will be pensionable
- (b) decide the categories of Councillors will have access to the pension scheme

**2.2 Members agree the proposed change to Brent's discretionary policies for the operation of the LGPS for Councillor members contained in Appendix 1 of this report.**

**3. FINANCIAL IMPLICATIONS**

**3.1 The LGPS requires that scheme members pay a pension contribution to the fund. Brent and its employers are required to pay contribution to the fund dependant on the liabilities not covered by employee contributions and fund investments, assessed by the actuary on a three yearly basis. Councillor access to the LGPS will therefore increase the amount Brent will be required to pay to the pension fund. Eligible councillors themselves will be required to contribute 6% of their pensionable allowances if they opt into the scheme.**

**3.2 Regulation 7 (6) Local Government Pension Scheme regulations requires that, in most instances, employees immediately be brought into the scheme unless they opt not to be a member. This does not apply to eligible Councillors who, must opt to join the scheme. Given that this meeting must decide the categories of Councillor that will be pensionable, the earliest that Councillors may opt to join the pension scheme 1<sup>st</sup> December 2003. The following costings are provided on the basis that the employer cost for the current year will be between 1<sup>st</sup> December 2004 31<sup>st</sup> March 2004. Full**

costings are also provided for the financial year 1<sup>st</sup> April 2004 to 31<sup>st</sup> March 2005.

Cost with effect from 1 <sup>st</sup> December to March 2004				
All Councillors SRA & BA	All Councillors BA only	Councillors with special responsibility SRA & BA	Councillors with special responsibilities SRA only	Councillors with special responsibilities BA only
£36.5k	£22k	£30k	£14.5k	£15k
The cost for one financial year				
All Councillors SRA & BA	All Councillors BA only	Councillors with special responsibility SRA & BA	Councillors with special responsibilities SRA only	Councillors with special responsibilities BA only
£109k	£66k	£89.5k	£43k	£46k

BA - Basic Allowance

SRA - Special Responsibility Allowance

All figures based on allowances paid in the tax year 2002 – 03. The actual cost will depend on:

- the level of take up by eligible Councillors
- any amendments made to the level of allowances in the scheme
- the impact of the 2004 valuation on the employer contribution rate
- career changes of Councillors.

3.3 Where an employee joins the LGPS the Council is entitled to pay reduced rate National Insurance. It is estimated that should all councillors become members of the LGPS the National Insurance saving would be in the region of £10k. *This figure is based in the average Councillor earnings in the 2002/03 year.*

#### 4.0 LEGAL IMPLICATIONS

4.1 The recently issued Local government (Members' Allowances) (England) Regulations 2003 replace all previous regulations covering allowances at Brent. The Council's members allowances scheme may now provide for the basic and/or special allowances paid to councillors or particular post-holders to be pensionable under the LGPS but only where this has been recommended by the Independent Remuneration Panel. The Council's scheme must now set out which members of the authority are to be entitled to a pension and whether the basic allowance, special allowance or both should be pensionable.

4.2 The new Regulations provide for the Association of London Government to establish an independent remuneration panel to make recommendations to London Borough Councils on their allowances schemes if they choose to adopt the ALG panel as their independent panel. The Council decided to

adopt the ALG Panel as its independent remuneration panel for the purposes of the earlier regulations.

- 4.3 The ALG Remuneration Panel has recently issued its third report as a response to the revised regulations. In considering this report members must have regard to the recommendations of the ALG Panel which are set out in paragraph 6.2 of this report.
- 4.4 The Local Government Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003 make specific modifications to the LGPS for Councillor members. Some of these modifications are described in the body of this report and some which are relevant to the exercise by the Council of certain discretions under the scheme are identified in Appendix 1.

## **5. STAFFING IMPLICATIONS**

- 5.1 There are no implications for existing staff arising from this report other than the potential additional responsibility of administering the LGPS for Councillor members.

## **6. DETAIL**

- 6.1 The Local Government Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003 together with The Local Authorities (Members Allowances) (England) Regulations 2003 allow Councillor members access to the Local Government Pension Scheme. The making of these regulations follows a period of consultation by the Government with interested parties including London boroughs.
- 6.2 The consultation exercise indicated that the regulations should not restrict membership of the scheme to particular categories of members and it is therefore for the Council to determine which members should be allowed access to the scheme having regard to the recommendations of the ALG Remuneration Panel. The ALG Panel also makes recommendations about the allowances, which should be treated as pensionable. The ALG Panel met in July 2003 and made the following recommendations:

“Allowances schemes should provide for allowances to be pensionable through the Local Government Pension Scheme, and that all members under the age of 70 should in principle be eligible to join the scheme, in respect of all allowances paid to them, and without reference to any qualifying period of service as a member”.

6.3 Officers have sought the actions taken by other local authorities. Of those questioned:

- 10 - All Councillors have access
- 1 - Mayor and senior Councillors only to have access
- 2 - No Councillors to have access/decision deferred

6.4 The version of the scheme available to Councillors varies from that accessible to other Council employees. Some of the unique features are:

- Eligible Councillors must opt to join the scheme rather than being automatically included in the scheme unless they opt out as is the case with employees.
- Pensionable pay will be a “career average”. Currently pension benefits are calculated as follows:

1/80	x	pensionable pay	x	scheme membership	= pension
3/80	x	pensionable pay	x	scheme membership	= lump sum

Superficially the calculation is no different for Councillor members. However, the pensionable pay element calculated for Councillors differs from that of other scheme members in that:

Councillor members pensionable pay = Career Average

Example

Year1	£ 12,000	
Year2	£ 12,400	} for each year the pay is uprated by inflation
Year3	£ 12,800	
Year4 (leaves scheme)	<u>£ 13,000</u>	
Total	£50,200	÷ 4 (yrs) = £12550

Pensionable pay for other scheme members is normally the pay earned in the last 365 days of scheme membership.

- Councillor membership can not be joined with any other LGPS membership unless the new employment is again as a Councillor with the same local authority.
- Other pension rights can not be transferred into the LGPS
- Normal retirement age is 70 rather than age 65 for current scheme members

6.5 Following the Council’s decision on this report eligible Councillors will be informed of their right to join the LGPS. A briefing session will be provided for this. Scheme membership will commence from the month following that in which the option to join is made.

## **6. BACKGROUND INFORMATION**

- 6.1 The Local Government Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003
- 6.2 The Local Authorities (Members Allowances) (England) Regulations 2003
- 6.3 The report from the Association of Local Government 8<sup>th</sup> July 2003.
- 6.4 The Local Government Pension Scheme Regulations 1997

**STEPHEN HUGHES**  
**Director of Finance**

## Appendix 1

### Amendment of discretionary policies

Benefits under the Local Government Pension Scheme (LGPS) are largely prescribed by statute. There are however a number of areas of the pension scheme that are the responsibility of the employer or the administering authority – these are known as discretionary policies.

The Policy and Resources Committee agreed Brent's employer discretions on 16<sup>th</sup> February 1998. These policies were subsequently reviewed and endorsed by a multi-disciplined team who found that the policies were both robust and fair. General Purposes Committee agreed the continuation of these policies on 18<sup>th</sup> March 2002.

Brent also has a responsibility to exercise its discretions under the scheme as administering authority. In this regard Corporate Deciding Committee agreed the policy of abatement where those in receipt of pensions enter into paid employment on 2<sup>nd</sup> August 2000.

Due to the unique nature of Councillor membership, as described in the detail of this report, it is recommended that the certain policies be amended to reflect this.

Listed below are Brent's current policies and, where required, the recommended change to that policy to apply in the case of Councillor members:

Discretion required	Current Policy	Application in relation to Councillors
<b>Certificate of Protection</b> Gives limited protection to pensionable pay where a members pay is frozen or reduced in circumstances beyond their control	A certificate of protection of pensionable pay will be issued automatically in Circumstances where re-deployment following re-organisation results in a reduced or restricted salary.	<b>The regulations specifically exclude Councillors in this regard.</b>
<b>Widower's Pensions</b> All women accrue a widower's pension for service from 6 <sup>th</sup> April 1988. Local Authorities have the discretion to allow widower's benefits for service prior to 6 <sup>th</sup> April 1988	All women with pre 1988 service shall have that service counted towards a widowers Pension, at no cost to themselves, unless they specifically opt not to have this service Counted towards a widowers pension	<b>Councillors will only have access to the LGPS from 2003. This discretion has no relevance to Councillor members</b>

<b>Shared cost AVC's</b>	It has been agreed not to set up a shared cost additional voluntary contributions.	<b>The regulations specifically exclude Councillors in this regard.</b>
<b>Voluntary Early Retirement after age 50</b> Scheme members require employer consent for this policy.	<p>It has been agreed not to grant early payments of benefits to employees seeking early Retirement unless one or more of the following conditions apply:</p> <ul style="list-style-type: none"> <li>▪ There are operational or financial advantages to Brent (or there are no such disadvantages)</li> <li>▪ The result is cost neutral to Brent and to the Brent Pension Fund and no operational disadvantages apply.</li> <li>▪ There are genuine and compelling compassionate grounds.</li> </ul> <p><i>(Reasonable Arrangements must be made to maintain services in these circumstances)</i></p>	<p>It is proposed that Councillors will not be permitted to request early retirement under this discretion unless they become a deferred beneficiary and apply for the early release of their benefits where "there are genuine and compelling compassionate grounds"</p> <p><b>Brent's discretionary policies reflect the Council's fiduciary duty to its citizens. It is anticipated that there will not be efficiency or cost savings as a result of the early retirement of Councillor members.</b></p> <p><b>This proposal also reflects the indeterminate nature of Councillor "employment".</b></p>
<b>Forty Years Contributions</b> Where a scheme member has achieved 40 years scheme membership Local Authorities have the discretion to allow the cessation of contributions. This reflects the fact that if the member is under the age of 60 they can not accrue any further service. Varying tax regimes also debar certain categories of scheme members accruing further service after the age of 60.	A decision to waive or reduce the contribution rate for employees with 40 years Local Government Service will be taken after considering the case on its own merits but in particular the cost to Brent Council and the benefits to members, following actuarial Advice.	<p>It is proposed that this discretion will also apply to Councillors in its current format.</p> <p><b>It should be noted that with respect to Councillor members the membership must be Brent Councillor membership. By the same token Councillor membership may not be used when considering the point at which other scheme members have accrued 40 years service.</b></p>

<p><b>Extra Years Membership</b> Regulations 53 and 52 of the LGPS gives authorities discretion to award additional membership for new joiners and leavers respectively.</p>	<p>It has been agreed not to award additional years at leaving or joining the LGPS, but Keep this policy under regular review.</p>	<p><b>The regulations exclude Councillors from the application of this discretion.</b></p>
<p><b>Abatement of Pension</b> Abatement is the reduction or cessation of pension benefits during re-employment in local government. The reduction/suspension remains in force for the duration of the second employment. Regulation 109 of the LGPS requires that administering authorities formulate a policy in this regard.</p>	<ul style="list-style-type: none"> <li>Members who retire on age grounds after the age after the age of 60 do not incur abatement.</li> <li>Members who have retired early i.e. on redundancy or ill-health will incur abatement but provided that their remuneration is no greater than £25k the member can appeal to waive up to 20% of £25k (i.e. £5k) of the abatement where there are exceptional circumstances. For clarity this means that up to £5k of the abated amount can be waived on appeal.</li> </ul>	<p>Non Councillor members have the ability to transfer their LGPS membership from authority to authority. The regulations do not allow Councillor members to do this. Due to the restrictive nature of Councillor membership it is proposed that the current discretionary policy be augmented as follows:</p> <p>In the case of Councillor members abatement shall only apply where the member has retired before the age of 65 and again becomes a Councillor member with the London Borough of Brent. In such circumstances the Councillor member will be allowed the right to appeal to waive up to 20% of £25k (£5k) which is the limit for current scheme members.</p> <p>It is also proposed that Non Councillor members who have retired early and return to Local Government employment as a Councillor member of the scheme will not suffer abatement in respect of that membership. *</p>

\* With regard to the change in the abatement policy members are reminded that;

- Before the amended policy can take effect Brent must consult with its scheduled and admitted bodies.
- Once the period of consultation has taken place the policy can only be enforced after one month after of the change has been advertised.



Officers have sought actuarial advice regarding the cost of the change in this policy. They have stated that they could:

"confirm that unless there is an incidence of such cases which far exceeds the low level that we would expect, the effect of the policy on the finances of the Brent Fund will be negligible in the overall context of the fund"