

	<p align="center">Brent Pension Fund Sub-Committee 21 February 2024</p>
	<p align="center">Report from the Corporate Director, Finance and Resources</p>
<p align="center">Administering Authority and Employing Authority Discretions</p>	

Wards Affected:	All
Key or Non-Key Decision:	Non-key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
List of Appendices:	<p>Three:</p> <p>Appendix 1 - Administering Authority Discretions</p> <p>Appendix 2 - Employing Authority Discretions Template</p> <p>Appendix 3 - How to Exercise Discretion</p>
Background Papers:	N/A
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1.0 Executive Summary

- 1.1 The Local Government Pension Scheme Regulations give the administering authority and employing authorities a range of discretions in relation to pension matters. The Pension Fund has prepared Brent's Administering Authority

Discretions and a template for Employing Authority discretions with the decision fields left blank. The template can be used as a framework by all the employers in the pension fund to develop their own policies.

2.0 Recommendation(s)

2.1 That the Pension Fund Sub-Committee approves Brent's Administering Authority Discretions as contained in Appendix 1.

2.2 That the Pension Fund Sub-Committee notes the Employing Authority Discretions Template at Appendix 2 together with the Guidance note at Appendix 3.

3.0 Detail

3.1 Contribution to Borough Plan Priorities & Strategic Context

3.1.1 The work of the Pension Fund is critical in ensuring that it undertakes statutory functions on behalf of the Local Government Pension Scheme (LGPS) and complying with legislation and best practice. Efficient and effective performance and service delivery of the Pension Fund underpins all Borough Plan priorities.

3.2 Background

3.2.1 The Local Government Pension Scheme Regulations give the administering authority and the employing authorities a range of options in relation to pension matters that are known as discretions. They fall into three categories; (1) a relatively small number that are mandatory and a policy must be published, (2) a slightly larger number that are mandatory but there is no requirement to publish a policy and (3) the largest group are non-mandatory (optional).

3.2.2 Under Regulation 60 of the Local Government Pension Scheme Regulations 2013, a Scheme Employer must prepare a written statement of its policy in relation to the exercise of its functions under regulations 16(2)(e) and 16(4)(d) (funding of additional pension), 30(6) (flexible retirement), 30(8) (waiving of actuarial reductions) and 31 (award of additional pension).

3.2.3 An Administering Authority must prepare such a statement in relation to the exercise of its functions under regulation 30(8) (waiving of actuarial reductions) in cases where a former employer has ceased to be a Scheme employer.

3.2.4 A discretion is a choice and any option relating to an administering or employing authority that is prefixed by a "may" is a discretion.

3.2.5 In addition to any legal requirement, it is best practice to publish a policy about how an administering/employing authority intends to exercise its discretions as it ensures consistency in decision making and helps to guard against challenges and appeals from discontented parties. It also demonstrates good governance and provides clarity to members of the scheme.

- 3.2.6 The proposed discretions for the administering authority in relation to requirements under the various acts and regulations relating to the Local Government Pension Scheme set out are attached in Appendix 1. The Sub-committee is asked to review and approve the proposed Administering Authority Discretions.
- 3.2.7 The employing authority template is attached in Appendix 2 which leaves the decision field blank so that it can be populated by the employer. Employers can design their own bespoke policy or use the template as a framework for developing their own policies.
- 3.2.8 Any employing authority considering writing a new policy will be referred to the two-page introductory document; "How to exercise discretion" attached in Appendix 3, before drafting it.
- 3.2.9 The employing/administering authority can change its policy from time-to-time in response to changes in legislation or in the light of experience.

4.0 Stakeholder and ward member consultation and engagement

- 4.1 There are no direct considerations arising out of this report.

5.0 Financial Considerations

- 5.1 Application of discretions including where discretions are applied to individual cases will be considered on their own merits. Where a discretion is applied there may be a financial cost attached however given the nature of discretions it is not possible to estimate the cost. Employers should be aware that use of employer discretions can also attract a financial cost and advice can be sought from Pension Fund officers if necessary.

6.0 Legal Considerations

- 6.1 As detailed at paragraph 3.2.2, Regulation 60 of the Local Government Pension Scheme Regulations 2013 places an obligation on a Scheme Employer and an Administering Authority to prepare a written statement of its policy in relation to the exercise of various functions under LGPS legislation.
- 6.2 Officers have reviewed possible LGPS discretions and detailed at Appendix 2 is a list of Administering Authority discretions together with details of the legislation creating the discretions. Officers have suggested possible ways to in which the discretions could be exercised for Pension Fund Sub-Committee review and approval.
- 6.3 Pension Fund Sub-Committee is required to keep the list of Administering Authority discretions under review.
- 6.4 Officers have also drafted a list of discretions for which Scheme Employers should have a written policy for note.

7.0 Equality, Diversity & Inclusion (EDI) Considerations

7.1 There are no equality considerations arising out of this report.

8.0 Climate Change and Environmental Considerations

8.1 There are no climate change and environmental considerations arising out of this report.

9.0 Human Resources/Property Considerations (if appropriate)

9.1 There are no HR or property considerations arising out this report.

10.0 Communication Considerations

10.1 There are no communication considerations arising out of this report.

Report sign off:

Minesh Patel

Corporate Director, Finance and Resources