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To: Chair & Members of the Council

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Tuesday, 5 November 2019

Dear Councillor

**COUNCIL**

You are hereby summoned to attend a meeting of the Council of the Bolsover District Council to be held in the Council Chamber, The Arc, Clowne on Wednesday, 13th November, 2019 at 10:00 hours.

Register of Members' Interests - Members are reminded that a Member must within 28 days of becoming aware of any changes to their Disclosable Pecuniary Interests provide written notification to the Authority's Monitoring Officer.

You will find the contents of the agenda itemised from page 2 onwards.

Yours faithfully

A handwritten signature in black ink that reads "Sarah Steenberg".

Joint Head of Corporate Governance & Monitoring Officer



**We speak your language**  
Polish **Mówimy Twoim językiem**  
Slovak **Rozprávame Vaším jazykom**  
Chinese **我们会说你的语言**

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# COUNCIL AGENDA

***Wednesday, 13th November, 2019 at 10:00 hours in the Council Chamber, The Arc, Clowne***

**Item No.    PART 1 – OPEN ITEMS**

**Page  
No.(s)**

**1.            Apologies For Absence**

**2.            Declarations of Interest**

Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of:

- a) any business on the agenda
  - b) any urgent additional items to be considered
  - c) any matters arising out of those items
- and if appropriate, withdraw from the meeting at the relevant time.

**3.            Chair's Announcements**

To receive any announcements that the Chair of the Council may desire to lay before the meeting.

**4.            Minutes**

To Follow

To approve the Minutes of the Council meeting held on the 11<sup>th</sup> September 2019

**5.            Questions from the Public**

In accordance with Council Procedure Rule 8, to allow members of the public to ask questions about the Council's activities for a period of up to fifteen minutes. A question may only be asked if notice of seven clear working days has been given.

- i)          Question submitted to Council by Mr. Atkin

*In view of the mounting international controversy over the safety of 5G communications, does BDC have a policy on the subject?*

- ii)        Question submitted to Council by Ms Gilbert

*Has BDC received any planning applications from any communications company for the erection of any 5G masts or antennae?*

**6. Questions from Members**

In accordance with Council Procedure Rule 9, to allow Members to ask questions about Council activities. A question may only be asked if notice of seven clear working days has been given.

**7. Motions**

5 - 12

In accordance with Council Procedure Rule 10, to consider motions on notice from Members.

a) Proposed by Councillor Clive Moesby

Motion on Chesterfield Campaign for Nuclear Disarmament (CND)

b) Proposed by Councillor Clive Moesby

Motion to support women born in the 1950s who have unfairly borne the burden of increases to the State Pension Age.

c) Proposed by Councillor Steve Fritchley

Motion to adopt the International Holocaust Remembrance Alliance (IHRA) working definition of Anti-Semitism

d) Proposed by Councillor James Watson

Motion for training sessions not to commence prior to 6:30pm

e) Proposed by Councillor Nick Clarke

Motion on the use of Fireworks

**8. Reports on urgency decisions taken by the Executive**

To receive a report from the Executive with details of any Key Decisions taken under special urgency provisions or Key Decisions which were exempt from Call In.

**9. Recommended Items**

13 - 17

To receive any items recommended for Council consideration from meetings of the Executive or Committees.

- i) **Change to the Constitution – Joint Employment and Appeals Committee – Bolsover only appointments**  
Recommended to Council by Standards Committee

**10. Change of Committee Seats**

To agree the replacement of Cllr J Tait and Cllr R Turner on the General Licensing Committee and Licensing and Gambling Acts Committees.

<b>11.</b>	<b>LGPS Pensions Discretions 2019</b>	<b>18 - 39</b>
	Report of the Portfolio Holder for Corporate Governance	
<b>12.</b>	<b>Reduction in Debt Charges Through Use of Reserves</b>	<b>40 - 49</b>
	Report of the Portfolio Holder for Finance and Resources	
<b>13.</b>	<b>Exclusion of the public</b>	
	To move:-	
	“That under Section 100(A)(4) of the Local Government Act 1972 (as amended), the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the stated Part 1 of Schedule 12A of the Act and it is not in the public interest for that to be revealed.” [The category of exempt information is stated after each item].	
<b>14.</b>	<b>Head of Service and Section 151 Officer</b>	<b>50 - 53</b>
	Report of the Portfolio Holder for Finance and Resources (Paragraphs 1, 2 and 3)	
<b>15.</b>	<b>Proposed Addition to Management Capacity</b>	<b>54 - 69</b>
	Report of the Leader of the Council (Paragraphs 1, 2, 3 and 4)	
<b>16.</b>	<b>Development Proposal - Whitwell Cluster - B@Home Framework</b>	<b>70 - 81</b>
	Report of the Portfolio Holder for Housing and Community Safety (Paragraph 3)	

## AGENDA ITEM 7 – MOTIONS TO COUNCIL 13<sup>TH</sup> NOVEMBER 2019

### a) CHESTERFIELD CAMPAIGN FOR NUCLEAR DISARMAMENT (CND)

Motion moved by Councillor Clive Moesby

The Council are in receipt of a letter calling for a recognition of residents concerns in relation to international developments in relation to nuclear weapons.

Below is the letter for reference:

*We write as citizens, concerned at international developments which have no national or local barriers : which impinge on, and threaten, us all.*

*We note:*

*The withdrawal of the USA from the International Treaty on Non-Proliferation of Nuclear Weapons of 1970*

*The withdrawal of the USA from The Paris Climate Agreement of 2015*

*Each of these agreements had been achieved only after extensive and prolonged discussions, at International, Bi-lateral and local level. Each of these agreements resulted from world-wide pressure from peoples everywhere.*

*We believe that the time has come when the peoples most concerned by the consequences of these decisions must okay their part in reversing these developments.*

*We further note :*

*We are not alone. Major powers, including Germany, China and Russia have declared their intention to implement their part in those agreements, - though as a result of President Trump's announcement, Russia too is withdrawing from the Non-proliferation Agreement.*

*Major Cities and States in the USA, including California and New York, have developed their own climate policies to meet those which President Trump has rejected.*

*Here in the UK, we have a history of local desire to play a part in these issues – expressed by the Derbyshire County Council's 'Nuclear-Free Zone' initiative at the time of the Cruise Missile crisis.*

*These examples show that we cannot leave our futures in the hands of the leaders who may be unworthy of such confidences. They show that popular pressure is needed to alert out populace of the dangers, and to get that awareness reflected in government decision making.*

*We are in a dangerous place, where the electorate and the peoples of the whole world are disfranchised from decisions which govern the quality or even the possibility of life on earth. We can work to lessen these dangers.*

*We appeal to Chesterfield Borough Council, North-East Derbyshire District Council, Bolsover District Council, and the Derbyshire County Council, to use their powers to act on these issues.*

*If you will join us, we may be able to make the world a less dangerous place.*

*For further information, please contact us.*

*Yours faithfully*

*Lyn Pardo (Secretary)    [lynpardo@phonecoop.coop](mailto:lynpardo@phonecoop.coop)*

*Joe Clark (Chair Person)    [clamak@tiscali.co.uk](mailto:clamak@tiscali.co.uk)*

In response I move that the Council note its previous representations to HM Government requesting Bolsover to be declared a nuclear free zone in 1982 and reaffirms its position on this matter.

**b)     SUPPORT FOR ALL WOMEN BORN IN THE 1950S WHO HAVE  
UNFAIRLY BORNE THE BURDEN OF INCREASES TO THE STATE  
PENSION AGE**

Motion moved by Councillor Clive Moesby

The Motion:

“This Council demonstrates support for all women born in the 1950s who have unfairly borne the burden of increases to the State Pension Age (SPA) by the Pensions Act of 1995 and 2011 by:-

- i) Calling upon the Government to make fair traditional State Pensions arrangements for all women born in the 1950s, who have unfairly borne the burden if the increase to the State Pension Age (SPA) with lack of appropriate notification.
- ii) identifying a named person as a champion for those women affected by state pension changes

iii) Notifying any interested parties as to council events where they may participate in educating and advising women about state pension changes.”

3.8 million Women had significant pension changes imposed on them by the Pensions Acts of 1995 and 2011 with little or no personal notification of the changes. 6,100 of these women affected live in the Bolsover District. Some women received as little as two years’ notice of the increases to their state pension age. Many had no notification at all.

Within the Bolsover District there are many women living in hardship purely because of the decade they were born in and the fact that successive governments gave inadequate notice of changes to their state pension age, not once but twice. Some women had already left the Labour Market, caring for elderly relatives or grandchildren – the sandwich generation. Others had been made redundant. Almost all were expecting their pension at 60. Instead they have had up to six years extra added which in real monetary terms means a loss of £48,000.

Of those who continue to work, many struggle mentally and physically. Some suffer discrimination in the workplace and feel guilty that the younger generation would be better equipped to carry out their roles. Others struggle to find employment and the proposition that there would be apprenticeships for women of this generation has proved nonsensical. Many women were ineligible for Job Seekers’ allowance so had to watch their hard-earned savings dwindle away. At least one woman in this district left work to care for her terminally-ill husband. After his death she attempted a Job Seekers’ scheme. It was physically too demanding so she had to sell the family home quickly in order to survive.

We know that very little information was available for 1950’s women when the 1995 Act was passed. A few small articles in financial papers and the occasional news item. As a full time worker with a husband, teenage daughter, four foster children, numerous pigs, piglets, chickens and pets, my reading matter was ‘Bob the Builder’ and I was tucked up in bed well before the ‘9 O’ Clock News’. Letters did not go out until 2010 and then only for a small cohort. Following the 2011 Act more letters were sent but not to all affected. Women MPs from both sides of the house have stated they received no letter. Judges and lawyers were unaware as divorce settlements were agreed on the pension age being 60. Even the DWP’s own website proclaimed the same until 1950s women pointed out the error.

These women have worked hard and contributed positively to society. They paid their taxes and national insurance with the expectation that they would be financially secure when reaching 60. It is not the pension age itself that is in dispute – it is widely accepted that women and men should retire at the same time (although one could argue that this generation who sought equality rarely received it in monetary terms). The issue here is that the rise in the women’s state pension age has been too rapid. It has happened without sufficient notice being given to the women affected, leaving them with no time to make alternative arrangements.

We are now in a situation where one woman, through no fault of her own is having to walk five miles each way to access a computer to complete job applications. No bus pass until you reach State Pension age now. Another walks a similar distance on a Saturday to purchase the 10p reduced loaves to keep her going. Across the country there are women living in vans being unable to pay rent. And, of course, there are those who never received a penny of their pension. My friend Sue, a nurse for forty years contracted motor neurone disease. She campaigned for her pension tapping on her keyboard right until her final days.

But it is not only the women that are affected. It goes across the generations. Listen to these words from Heather:- "My mum was a WASPI woman. She dies in January at the age of 62.

In the years before she died she had to fight for ESA and PIP as though she was a scrounger and didn't deserve the air she breathed. It took a huge toll on her mental health. She lived in real poverty and when she was dying in a hospice bed the main thing she was worried about was who was going to pay for it (thanks St Cuthbert's Hospice and out NHS).

I'll never forget the battles she had to fight."

On 3<sup>rd</sup> October 2019, one group of 1950s women were unsuccessful in their High Court Judicial Review. (Case no: CO/3174/2018) In their conclusion, the judges wrote 'We are saddened by the stories we read in the evidence lodged by the Claimants. But our role as judges in this case is limited. There is no basis for concluding that the policy choices reflected in this legislation were not put to Government. We are satisfied that they were. In any event they were approved by Parliament. The wider issues raised by the Claimants, about whether these choices were right or wrong or good or bad, are not for us; they are for the members of the public and their elected representatives'

So in summary, I ask Council, as elected representatives, to support the Motion for all 1950s women grotesquely disadvantaged by the 1995 and 2011 Pension Acts.

**c) THAT THE COUNCIL ADOPT THE INTERNATIONAL HOLOCAUST REMEMBRANCE ALLIANCE (IHRA) WORKING DEFINITION OF ANTI-SEMITISM**

Motion moved by the Leader, Councillor Steve Fritchley

That the Council adopt the International Holocaust Remembrance Alliance (IHRA) working definition of anti-Semitism which is as follows:-

**“Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”**

**d) MOTION FOR TRAINING SESSIONS NOT TO COMMENCE PRIOR TO 6:30PM**

Motion moved by Councillor James Watson

I move that from 1 December 2019 onwards, it is resolved that for any day where any member development and/or mandatory Councillor training sessions has been arranged or is to be arranged to take place, that all such sessions are scheduled to commence no earlier than 6:30pm on that day.

**e) USE OF FIREWORKS**

Motion moved by Councillor Nick Clarke

I move that Bolsover District Council resolves:

To require all public firework displays within the District boundaries to be advertised in advance of the event, allowing residents to take precautions for their animals and vulnerable people.

To write to the Government urging them to legislate that the law be changed to only allow the sale of fireworks to operators of licensed displays.

To actively promote a public awareness campaign about the impact of fireworks on animal welfare and vulnerable people - including the precautions that can be taken to mitigate risks.

To write to the UK Government urging them to introduce legislation to limit the maximum noise level of fireworks to 90db for those sold to the public for private displays.

To encourage local suppliers of fireworks to stock 'quieter' fireworks for public display.

To tighten up the restriction of sales of fireworks in the run up to Bonfire Night to under 18 year olds and to discourage proxy sales of fireworks for those under the age of 18.



**Ministry of Housing,  
Communities &  
Local Government**

**Rt Hon Robert Jenrick MP**

*Secretary of State for Housing, Communities  
and Local Government*

**Ministry of Housing, Communities and Local  
Government**

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15 October 2019

Council Leaders in England

Dear Local Leaders,

**Adoption of the International Holocaust Remembrance Alliance (IHRA) Working  
Definition of Antisemitism**

My predecessor wrote to you in early 2017 following the Government's adoption of the IHRA definition, encouraging you to formally adopt the definition as a clear message that antisemitic behaviour will not be tolerated. I am writing to you on this issue again to impress upon you the need to take urgent action, which is more important now than ever.

The Community Security Trust (CST) is the leading organisation monitoring and supporting victims of antisemitism, and I know many of you will be familiar with their work. Earlier this year, CST released their report on antisemitic incidents in the first six months of 2019. It showed the highest total on record over a six-month period, and an increase of 10% on the same period in 2018, with over 100 incidents per month for the third year running. Similarly, the annual figures for 2018 showed the highest number of antisemitic incidents on record.

This is a very worrying trend. CST's figures reflect the Home Office official statistics from October 2019 which show that 18% of religiously motivated hatred is targeted at Jewish people – up from 12% in 2018 – and that, per capita, Jewish people were most likely to report experiencing hatred.

The recent deplorable attack on a synagogue in Halle, Germany, which took the lives of two innocent people on Yom Kippur, the holiest day in the Jewish calendar, shows that antisemitic hate crime is not a thing of the past. This must give us all serious pause.

It is in this context that I write to you again, to strongly urge you to formally adopt the IHRA definition and use it on all appropriate occasions. The definition is not designed to be legally binding, but it is an invaluable tool for public bodies to understand how antisemitism manifests itself in the 21<sup>st</sup> century. It demonstrates a commitment to engaging with the experiences of Jewish communities and supporting them against the contemporary challenges they face.

I recognise the local authorities who have already adopted the definition and considered its practical application, and I am grateful to you for showing leadership in tackling this challenge.

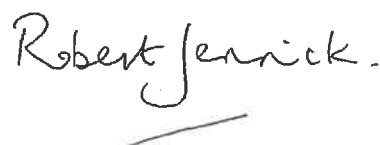
The IHRA definition is already used in guidance for the Police and Crown Prosecution Service, providing examples of the kinds of behaviours which, depending on the circumstances, could constitute antisemitism. The United Nations Special Rapporteur on Freedom of Religion or Belief also recently released a report which agreed that "the IHRA Working Definition of Antisemitism can offer valuable guidance for identifying antisemitism in its various forms" and encouraged its use in "education, awareness-raising and for monitoring and responding to manifestations of antisemitism".

For our part, the Government is absolutely committed to combatting antisemitism in all its forms, from wherever it arises. Examples of this include the strong work of the Cross-Government Working Group to Tackle Antisemitism, which builds on our close relationship with Jewish communities. The Government funds projects such as Solutions Not Sides which seeks to challenge stereotypes and foster more nuanced discussion of the Israel-Palestinian conflict, and we have recently announced a further £100,000 in funding to tackle online antisemitism.

I am a strong advocate for clear standards on hate crime and a consistent approach across institutions to strengthen the support we provide to students and communities.

We recognise the incredibly valuable role local authorities have to play in tackling all forms of hate crime, in partnership with local police forces. Your intimate knowledge of local communities and their concerns provides valuable evidence to target responses. Your work to build resilience and integration locally helps to challenge some of the factors that may cause hate crime, preventing prejudice and hatred from taking root.

Eradicating antisemitism is not a task that the Government can achieve on our own. We need local authorities to show leadership, alongside our partners in civil society and community activists. The Government has adopted the IHRA definition of antisemitism, as we recognise this is one of the strongest signals we can give our Jewish communities. It demonstrates that we hear and understand their concerns and are ready and willing to act in response. I would be grateful if you would inform me when you have adopted the definition, or the steps you are taking to adopt it, or otherwise explain your reluctance to do so, so that I can discuss the matter with you directly.

A handwritten signature in black ink that reads "Robert Jenrick". The signature is written in a cursive style with a horizontal line underneath the name.

**RT HON ROBERT JENRICK MP**

## **Bolsover District Council**

### **Council**

**13<sup>th</sup> November 2019**

<b>Change to the Constitution – Joint Employment and Appeals Committee – Bolsover only appointments – referral by Standards Committee.</b>
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### **Report of the Chair of the Standards Committee**

This report is public

#### **Purpose of the Report**

- To put to Members a mid year change to the Constitution in relation to Member Panels for interviewing and appointing Bolsover only members of SAMT.

#### **1 Report Details**

- 1.1 A report was submitted to Standards Committee on **23<sup>rd</sup> September 2019** in relation to the options for the interview panel for SAMT appointments which are Bolsover only appointments. Members will have seen elsewhere on this agenda that 2 such appointments are being put forward for consideration and ratification of these arrangements.
- 1.2 Standards Committee's recommendation is shown at Appendix 1.

#### **2 Conclusions and Reasons for Recommendation**

- 2.1 There is now a need for a Panel to deal with recruitment and selection and disciplinary matters relating to the appointment of SAMT members who work solely for Bolsover District Council. Such posts had not in the immediate past been part of the establishment.
- 2.2 Members of Standards Committee were given options from which to choose an appropriate Panel for the Authority and this is what is recommended for approval.

#### **3 Consultation and Equality Impact**

- 3.1 There are no consultation or equality issues in relation to this matter.

#### **4 Alternative Options and Reasons for Rejection**

- 4.1 This was the Panel preferred by the Standards Committee. It was a matter of choice for that Committee as to what to recommend and Members particularly wanted to include both main Opposition Leaders.

- 4.2 The other options are contained within the Standards Committee Minutes Extract at Appendix 1.

## **5 Implications**

### **5.1 Finance and Risk Implications**

- 5.1.1 There are no financial or risk implications from this report.

### **5.2 Legal Implications including Data Protection**

- 5.2.1 The Council has to have its arrangements for selecting and disciplining SAMT members within its Constitution so that arrangements are transparent. To reflect changing structures there was a need to make sure a Panel of Bolsover Members existed to interview for Bolsover only posts.
- 5.2.2 There are no Data Protection implications from this report.

### **5.3 Human Resources Implications**

- 5.3.1 As in the report

## **6 Recommendations**

- 6.1 that Members approve the recommendation from Standards Committee.

## **7 Decision Information**

<b>Is the decision a Key Decision?</b> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000    <input type="checkbox"/></i> <i>Capital - £150,000    <input type="checkbox"/></i> <i>NEDDC: Revenue - £100,000    <input type="checkbox"/></i> <i>Capital - £250,000    <input type="checkbox"/></i> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>Has the relevant Portfolio Holder been informed</b>	Yes
<b>District Wards Affected</b>	None
<b>Links to Corporate Plan priorities or Policy Framework</b>	All indirectly

## 8 Document Information

Appendix No	Title
1	Extract from the Draft Minutes of the Standards Committee on 23 <sup>rd</sup> September
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
Sarah Sternberg, Monitoring Officer	2414

Report Reference –

**RECOMMENDED ITEM FROM STANDARDS COMMITTEE - 23<sup>rd</sup> September 2019**

**0319. REVIEW OF THE COUNCIL'S CONSTITUTION (PART 2)**

Joint Employment and Appeals Committee (JEAC)

Appendix 4 to the report outlined a request for a general review of the JEAC Terms of Reference, however, Committee made no proposals to amend the Joint Committee's Terms of Reference but suggested that SAMT be consulted and a further report be brought back to Standards Committee with any recommended changes.

The Monitoring Officer set out 3 options for consideration by the Committee regarding changes to the JEAC Terms of Reference in relation to where the Council was undertaking a recruitment for a Head of Service or Director who would solely work for Bolsover and be a member of the Strategic Alliance Management Team.

Committee agreed that the following wording be added to the JEAC Terms of Reference for **Bolsover only** posts;

*Where the Authority determines to recruit to a Head of Service or a Director post outside the Strategic Alliance or determines to take any disciplinary action in relation to such a post the Member Panel will be called the Employment and Appeals Committee and will comprise:-*

*The 4 Members of the JEAC and;*

*(Option 1):-*

*Where there are 2 "Leaders of the Opposition" of groups of equal size, both Leaders of the Opposition will be Members of the Employment and Appeals Committee increasing the size of the Committee to 5.*

This proposed amendment was to be submitted to the next Council meeting, rather than as part of the full Constitution Review at Annual Council, due to the on-going Senior Management Restructure and recruitment taking place during the year.

Moved by Councillor James Watson and seconded by Councillor Deborah Watson

**RESOLVED** that Option 1 above be the preferred option of the Standards Committee,

**RECOMMENDED** that the above wording be added to the JEAC Terms of Reference and that the Standards Committee recommend this to Council in November 2019.

(Monitoring Officer/Governance Manager)

**Bolsover District Council**

**Council**

**13<sup>th</sup> November 2019**

**LGPS Pension Discretions 2019**

**Report of the Portfolio Holder for Corporate Governance**

**Purpose of the Report**

- To consider the proposed policy and approach on the discretions the Council has to make, publish and review under the Local Government Pension Scheme.

**1 Report Details**

- 1.1 A series of changes has been made to the discretions applicable to the Local Government Pension Scheme (LGPS). These changes to the pension arrangements took place with effect from 1 April 2014. Under the LGPS regulations, employers are required to formulate, publish and keep under review a policy statement in relation to the exercise of a number of discretions that are available.
- 1.2 The report sets out an update on the decisions that are needed to ensure the Council has procedures in place to deal with the various discretions.
- 1.3 Whilst the common aspect in the Council's current LGPS discretionary policies is that generally the discretion will not apply, it is necessary to allow for this general approach to be varied should the circumstances of a particular case make this stance inappropriate. When making such decisions, each case will be considered on its own merits and full reasons will be given for the outcome.
- 1.4 The process for pension discretion applications is as follows:
  - Initial applications considered by the Chief Financial Officer who is the named person with respect to the pension fund, (or the appropriate Joint Strategic Director in any case where there is a conflict of interest) .
  - Where the Chief Financial Officer is of the view that it is appropriate to consider a discretionary award, a report is presented to Council recommending that a corresponding budgetary provision is established.
  - Where the Chief Financial Officer does not support an application then no report will be taken.
  - Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal to the Council. An Appeal should be made in the first instance to the Chief Executive.

- It is proposed that appeals will be dealt with by the Appeals Committee in accordance with the Council's Constitution. The employee/former employee concerned will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.

- 1.5 Attached at Appendix One is the list of discretions for which employers must consider in a policy statement under the Scheme. The Council's proposed position is based on the discretions approved by Derbyshire County Council.

## **2 Conclusions and Reasons for Recommendation**

- 2.1 Due to ongoing strains on the Pension Fund and wider budgetary pressures, the position of the Council has been that discretions only be applied generally where this does not involve additional strain on the pension fund or additional cost to the Council. The LGPS guidance advises that policies should not lead to "a loss of public confidence in the public service and therefore be affordable.
- 2.2 The Council's policy is generally in line with that adopted by Derbyshire County Council, while the overall approach is consistent with that of other local authorities.
- 2.3 Whilst the general approach is not to exercise any discretion where there is a cost to the Council, there may be some circumstances where this approach is too restrictive and the discretionary powers need further consideration. Whenever such circumstances arise, the case would firstly be considered by the Chief Financial Officer and if appropriate budgetary provision would be recommended to Council. Where the decision is not to vary the standard policy the individual would have a right to appeal to Council.

## **3 Consultation and Equality Impact**

- 3.1 The purpose of this report is to consult Council on the updated pension discretions and a copy of this report has been circulated to the Trade Unions.

## **4 Alternative Options and Reasons for Rejection**

- 4.1 Given all alternatives would potentially incur significant additional costs to the Council it is not considered appropriate to exercise any discretions as a matter of policy as this is considered to be an unfair burden on local taxpayers. The Council will, however, where requested review individual cases on their merits and may exercise discretion where appropriate

## **5 Implications**

### **5.1 Finance and Risk Implications**

All of the proposed responses to the discretions under the LGPS are made on the basis of no additional costs being incurred. The financial impact of any exercise of discretions in individual cases will be considered as such cases arise.

## 5.2 **Legal Implications including Data Protection**

As covered within the report

## 5.3 **Human Resources Implications**

As covered within the report

## 6 **Recommendations**

- 6.1 That Council consider and approve the report and proposals, and agree to the publication of the Council's position in respect of its discretions under the LGPS.

## 7 **Decision Information**

<b>Is the decision a Key Decision?</b>	No
<b>District Wards Affected</b>	N/A
<b>Links to Corporate Plan priorities or Policy Framework</b>	Transforming our organisation

## 8 **Document Information**

<b>Appendix No</b>	<b>Title</b>
Appendix One	LGPS Pension Discretions
<b>Background Papers</b>	
N/A	
<b>Report Author</b>	<b>Contact Number</b>
Sara Gordon - HR & OD Manager	Ext 7677

## Appendix 1

Local Government Pension Scheme 2014 – Employer Discretions Bolsover District Council For post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)	
Discretion	Recommendation
<p><b>Additional Pension Contributions Regulation 16(2) (e) and 16(4)(d) of the LGPS Regulations 2013</b></p> <p>Whether, how much, and in what circumstances to contribute to a shared cost Additional Pension Contribution (APC) scheme.</p> <p><del>An APC is payment of pension contributions to cover a break in pensionable service. If the break in service is an authorised break, for example, the no pay period of maternity leave and the person opts to pay for the break within 30 days from the end of the break, the shared costs APC automatically applies. The shared cost is split two thirds employer, one third scheme member.</del></p> <p><del>The Council needs to to consider a shared cost APC in exceptional circumstances, where a person opts to pay for the break after 30 days up to a period of 12 months, from the end of the break.</del></p> <p><b><u>Additional Pension - Regulation 31 of the LGPS Regulations 2013</u></b></p>	<p><u><i>Bolsover District Council reserve the right not to join into a shared cost additional pension contribution, unless in exceptional circumstance, considering the business case and foreseeable costs to the employer.</i></u></p> <p><del>If the person opts to pay an APC to buy extra pension after 30 days and within one year of the break the shared cost option does not apply.</del></p> <p><u>The Council has a general policy not to agree to grant additional pension to an active member or within six months of ceasing to be an active member by</u></p>

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## Appendix 1

### Local Government Pension Scheme 2014 – Employer Discretions Bolsover District Council For post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)

Discretion	Recommendation
<p><u>Whether to grant additional pension to an active member or within six months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,822 p.a.) (Figures as at 1 April 2018)</u></p>	<p><u>reason of redundancy or business efficiency (by up to £6,822 p.a.)</u></p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Council recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal for a review of that decision by writing to the Chief Executive Officer. The appeal will be heard by the Appeals Committee. The employee/former employee will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</p>

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Local Government Pension Scheme 2014 – **Employer Discretions Bolsover District Council For post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)**

Discretion	Recommendation
<p><b>Flexible Retirement – Regulation 30 (6) and Transitional Provision Regulations 2014 Regulation 11(2)</b></p> <p>Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)</p> <p><b>Flexible Retirement (Routine Cases) – Regulation 30 (8) of the LGPS Regulations 2013</b></p> <p>Whether to waive, in whole or in part actuarial reduction on benefits on flexible retirement.</p>	<p>That in accordance with the Council’s existing policy on flexible retirement, this discretion would normally be awarded only in cases where there is no additional cost to the Council.</p> <p>That the Council has a general policy that any flexible retirement must normally be at no cost to the Council.</p> <p>Where there is no cost to the Council approval of flexible retirement requests are delegated to the Chief Executive Officer, with a right of appeal to the Council’s Appeals Committee, should a flexible retirement request be refused.</p> <p>However, where the Council is seeking volunteers for flexible retirement as a way to avoid compulsory redundancies etc., the Council may consider bearing the cost to ensure there is no reduction in the employee’s pension in order to secure the financial benefits arising from reducing employee numbers. In these exceptional cases, a report will be submitted to Cabinet for its consideration.</p>

Local Government Pension Scheme 2014 – **Employer Discretions Bolsover District Council For post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)**

Discretion

Recommendation

~~**Policy for Flexible Retirement (Routine Cases) – Regulation 30 (8) of the LGPS Regulations 2013**~~

~~An employer can consent to a reduction in an employee's hours or grade and consent to the release of pension benefits where the employee is aged 55 and over.~~

~~For the purpose of this policy, requests for flexible retirement can be categorised as follows:~~

~~• Category one – Employee is age 60 or over – There is no cost to the council as the employee is at or past their earliest retirement date. If they do not meet the Rule of 85 (\*1) their pension benefits will be reduced to reflect early payment.~~

~~• Category two – Employee is age 55 or over but less than 60 and does not meet the Rule of 85 until on or after their 60th birthday. In this case the regulations allow for the cost of the early payment of pension benefits to be borne by the employee so as to avoid a pension fund shortfall. The benefits are actuarially reduced to reflect the fact that they are paid early.~~

~~• Category three – Employee is age 55 or over but less than 60 and does meet the Rule of 85 either at the date of flexible retirement or at a later date that is before their 60th birthday. In this case we would have to meet the Pension Fund shortfall arising from the early payment of pension benefits from the date when the Rule of 85 is met.~~

~~(\*1 The Rule of 85 is where the sum of the scheme member's age plus period of membership in the Pension Scheme (both in whole years) is 85 or greater).~~

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**Local Government Pension Scheme 2014 – Employer Discretions Bolsover District Council For post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)**

Discretion

Recommendation

~~That the Council has a general policy that any flexible retirement for category one and category two cases must normally be at no cost to the Council.~~

~~Where there is no cost to the Council approval of flexible retirement requests are delegated to the Chief Executive Officer, with a right of appeal to the Council's Elected Member Appeal Panel, should a flexible retirement request be refused.~~

~~However, where the Council is seeking volunteers for flexible retirement as a way to avoid compulsory redundancies etc., the Council may consider bearing the cost to ensure there is no reduction in the employee's pension in order to secure the financial benefits arising from reducing employee numbers. In these exceptional cases, a report will be submitted to Council for its consideration.~~

~~The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Council recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal to Council for a review of that decision. Such an appeal should be made in the first instance to the Chief Executive who will arrange for the appeal to be heard by the Appeals Committee. The employee/former employee concerned will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.~~

**NOTE**

**Increases in hours after taking flexible retirement**

Local Government Pension Scheme 2014 – **Employer Discretions Bolsover District Council For post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)**

Discretion	Recommendation
<p><del>Where an employee has been allowed to reduce their hours for the purposes of flexible retirement they will not be allowed to increase them on a permanent basis. Where it is in our interests, a temporary increase in hours for a period not exceeding six months can be permitted. The temporary increase in hours must be authorised by the chief officer.</del></p> <p><del>An employee who has reduced their hours and taken flexible retirement must only be allowed to work additional hours or overtime at the same level that applied prior to the reduction in contractual hours. The aim is to prevent employees compensating for a reduction in contractual hours by working additional hours and overtime. The chief officer must approve requests for temporary increases in additional hours and overtime in advance.</del></p>	
<p><b>Retirement at age 55 - Regulation 30(8) of the LGPS Regulations 2013</b></p> <p>Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age.</p>	<p><del>That</del> the Council has a general policy not to <del>agree to</del> waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age.</p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Council recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the</p>

**Local Government Pension Scheme 2014 – Employer Discretions Bolsover District Council For post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)**

Discretion	Recommendation
	<p>application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal to Council for a review of that decision by writing to the Chief Executive Officer. The Appeal will be heard by the Appeals Committee. The employee/former employee will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</p>
<p><b>Additional Pension – Regulation 31 of the LGPS Regulations 2013</b></p> <p><del>Whether to grant additional pension to an active member or within six months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 p.a.)</del></p> <p><u>Why is this highlighted in green?</u></p>	<p><del>That the Council has a general policy not to agree to grant additional pension to an active member or within six months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 p.a.)</del></p> <p><del>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Council recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal for a review of that decision by writing to the Chief Executive Officer. The appeal will be heard by the Appeals Committee. The employee/former employee will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</del></p>

Local Government Pension Scheme 2014 – **Employer Discretions Bolsover District Council For post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)**

Discretion	Recommendation
<p><b>Switching on the Rule of 85 - Transitional Provision Schedule 2, paragraph 2(2) of the Transitional Provision Regulations 2014</b></p> <p>Whether to 'switch on' the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.</p>	<p>That the Council has a general policy not <del>to agree</del> to switch on the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.</p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Council recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal for a review of that decision by writing to the Chief Executive Officer. The appeal will be heard by the Appeals Committee. The employee/former employee will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</p>
<p><b>Compassionate Grounds - Transitional Provision 3(1), Transitional Provision Schedule 2, paragraph 2(1) and 2(2), of the Transitional Provision Regulations 2014 and Regulations B30(5) and B30A(5) of the LGPS (Benefits,</b></p>	<p>That the Council has a general policy not to waive any actuarial reduction on pre and/or post April 2014 benefits paid early on compassionate grounds.</p> <p>The initial application will need to be directed to the Chief Financial Officer</p>

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Local Government Pension Scheme 2014 – <b>Employer Discretions Bolsover District Council For post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)</b>	
Discretion	Recommendation
<b>Membership and Contributions ) Regulations 2007</b>  Decide whether to waive any actuarial reduction on pre and/or post April 2014 benefits paid early on compassionate grounds.	who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Council recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal for a review of that decision by writing to the chief Executive Officer. The appeal will be heard by the Appeals Committee. The employee/former employee will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.

## Appendix 2

### Local Government Pension Scheme 2008 – Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1 April 2008 and before 1 April 2014

Discretion	Recommendation
<p><del>Augmented Pension – Regulation B12 of the LGPS (Benefits, Membership and Contributions ) Regulations 2007</del></p> <p><del>Whether, for a member leaving on the grounds of redundancy or business efficiency on or before 31<sup>st</sup> March 2014, to augment membership (by up to 10 Years). The resolution to do so would have to be made within 6 months of the date of leaving. Hence this discretion is spent entirely after 30<sup>th</sup> September 2014.</del></p>	<p><del>That the Council has a general policy not to agree to augment membership (by up to 10 Years) for a member leaving on the grounds of redundancy or business efficiency on or before 31<sup>st</sup> March 2014.</del></p> <p><del>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Council recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal for a review of that decision by writing to the Chief Executive Officer. The appeal will be heard by the Appeals Committee. The employee/former employee will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</del></p> <p><del>The resolution to do so would have to be made within 6 months of the date of leaving. Hence this discretion is spent entirely after 30<sup>th</sup> September 2014.</del></p>

Local Government Pension Scheme 2008 – Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1 April 2008 and before 1 April 2014

Discretion	Recommendation
<p><u>Early Payment of Deferred Benefits – Regulation B30(2) of the LGPS (Benefits, Membership and Contributions) Regulations 2007</u></p> <p>Whether to grant an application for the early payment of deferred benefits on or after age 55 and before age 60.</p> <p><u>Switching on the Rule of 85 - Transitional Provision Schedule 2, paragraph 2(2) of the Transitional Provision Regulations 2014</u></p> <p>Whether to 'switch on' the 85 year rule for a deferred member voluntarily drawing benefits on or after age 55 and before age 60.</p>	<p>That the Council has a general policy not to grant application for the early payment of deferred benefits on or after age 55 and before age 60 where there is a cost to the council.</p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Council recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal for a review of that decision by writing to the Chief Executive Officer. The appeal will be heard by the Appeals Committee. The employee/former employee will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected. That the Council has a general policy not to switch on the 85 year rule for a deferred member voluntarily drawing benefits on or after age 55 and before age 60.</p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is</p>

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Local Government Pension Scheme 2008 – Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1 April 2008 and before 1 April 2014	
Discretion	Recommendation
	<u>appropriate to consider a discretionary award they will take a report to Council recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer</u>
<b>Compassionate Grounds - Regulation 30(5) of the LGPS (Benefits, Membership and Contributions ) Regulations 2007</b> Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30	<p>That the Council has a general policy not to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30.</p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Council recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal to Cabinet for a review of that decision. The employee/former employee will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</p>
<b>Suspended Tier 3 Ill Health – Regulation 30A (3) of the LGPS</b>	<del>That</del> the Council <u>has a policy not to</u> <del>would</del> grant an application for early payment of a suspended tier three ill health pension on or after

Local Government Pension Scheme 2008 – **Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1 April 2008 and before 1 April 2014**

Discretion	Recommendation
<p><b>(Benefits, Membership and Contributions ) Regulations 2007</b></p> <p>Whether to grant an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60. (i.e. if an employer has discontinued the ill health retirement benefits where an ex employee is in gainful employment or is capable of being in such employment, the ex employee may, on reaching age 55, choose to receive the retirement pension immediately)</p>	<p>age 55 and before age 60, where there is no cost to the council.</p>
<p><b>Compassionate Grounds - Regulation 30A(5) of the LGPS (Benefits, Membership and Contributions ) Regulations 2007</b></p> <p>Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30 <a href="#">A for a suspended tier 3 member.A.</a></p>	<p><del>That</del> the Council has a general policy not to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30A.</p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Council recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal for a review of that decision by writing to the Chief Executive Officer. The appeal will be heard by the Appeals Committee. The employee/former employee will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</p>

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Local Government Pension Scheme 2008 – Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1 April 2008 and before 1 April 2014	
Discretion	Recommendation

Local Government Pension Scheme 1997 –Discretions in relation to active councillor members and councillor members who ceased active membership on or after 1 April 1998 and any other scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008	
Discretion	Recommendation
<p><b>Early Payment – Regulation 31(2) of the LGPS Regulations 1997</b></p> <p><del>Whether to grant application from a post 31 March 1998/pre 1 April 2008 leaver or from a councillor for early payment of benefits on or after age 50/55 and before age 60.</del></p>	<p><del>That the Council approve granting an application from a post 31 March 1998/pre 1 April 2008 leaver or from a councillor for early payment of benefits on or after age 50/55 and before age 60, where there is no cost to the council.</del></p>
<p><b>Compassionate Grounds - Regulation 31(5) of the LGPS Regulations 1997</b></p> <p>Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31 March 1998/pre 1 April 2008 leaver or councillor leaver.</p>	<p>That the Council has a general policy not to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31 March 1998/pre 1 April 2008 leaver or councillor leaver.</p> <p>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Council recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal for a review of that decision by writing to the Chief Executive Officer. The employee/former employee/councillor will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</p>

**Commented [WP4]:** Isn't this regulation relating to Deferred Benefits?

**Local Government Pension Scheme 1997 –Discretions in relation to active councillor members and councillor members who ceased active membership on or after 1 April 1998 and any other scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008**

Discretion	Recommendation
<b>Optant Out Payments - Regulation 31(7) of the LGPS Regulations 1997</b>  <del>Decide whether councillor optants out and pre 1 April 2008 employee optant outs only get benefits paid from normal retirement date (NRD) if employer agrees. Optants out only to get benefits paid from NRD if employer agrees.</del>	<del>That councillor optants out and pre 1 April 2008 employee optant outs will only be allowed to get benefits paid from normal retirement date (NRD).</del>  That the council will allow optants out to only get benefits paid from normal retirement date (NRD)
<b><u>Whether to ‘switch on’ the 85 year rule for a deferred member voluntarily drawing benefits on or after age 55 and before 60. Regulation, TP Sch2, Para 1(2) &amp; 1(1)(f) &amp; R60</u></b>	<u>The council will not normally exercise this discretion but may consider it under exceptional circumstances, taking into account the business case and foreseeable costs to the employer.</u>
<b><u>Grant application for early payment of deferred benefits on or after age 50 and before age 55. Regulation 31 (2)</u></b>	<u>The council will consider early release on a case by case basis, taking into account the business case, HMRC unauthorised payment charges and foreseeable costs to the employer.</u>

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**Local Government Pension Scheme 1997, – Discretions relating members who ceased active membership before 1 April 1998**

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<b><u>Discretion</u></b>	
<b><u>Grant application for early payment deferred benefits on or after age 50 on compassionate grounds</u></b>	<u>That the Council has a general policy not to waive, on compassionate grounds, the actuarial reduction applied to benefits paid before 1<sup>st</sup> April 1998.</u>  <u>The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Council recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the</u>

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Local Government Pension Scheme 1997 –**Discretions in relation to active councillor members and councillor members who ceased active membership on or after 1 April 1998 and any other scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008**

Discretion	Recommendation
	<u>individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal for a review of that decision by writing to the Chief Executive Officer. The employee/former employee/councillor will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.</u>

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**Policy for Flexible Retirement (Routine Cases) -Regulation 30 (8) of the LGPS Regulations 2013**

Bolsover District Council consent to a reduction in an employee's hours or grade and consent to the release of pension benefits where the employee is aged 55 and over.

For the purpose of this policy, requests for flexible retirement can be categorised as follows:

- Category one - Employee is age 60 or over - There is no cost to the council as the employee is at or past their earliest retirement date. If they do not meet the Rule of 85 (\*1) their pension benefits will be reduced to reflect early payment.
- Category two - Employee is age 55 or over but less than 60 and does not meet the Rule of 85 until on or after their 60th birthday. In this case the regulations allow for the cost of the early payment of pension benefits to be borne by the employee so as to avoid a pension fund shortfall. The benefits are actuarially reduced to reflect the fact that they are paid early.

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- Category three - Employee is age 55 or over but less than 60 and does meet the Rule of 85 either at the date of flexible retirement or at a later date that is before their 60th birthday. In this case we would have to meet the Pension Fund shortfall arising from the early payment of pension benefits from the date when the Rule of 85 is met.

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(\*1 The Rule of 85 is where the sum of the scheme member's age plus period of membership in the Pension Scheme (both in whole years) is 85 or greater).

That the Council has a general policy that any flexible retirement for category one and category two cases must normally be at no cost to the Council.

Where there is no cost to the Council approval of flexible retirement requests are delegated to the Chief Executive Officer, with a right of appeal to the Council's Elected Member Appeal Panel, should a flexible retirement request be refused.

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However, where the Council is seeking volunteers for flexible retirement as a way to avoid compulsory redundancies etc., the Council may consider bearing the cost to ensure there is no reduction in the employee's pension in order to secure the financial benefits arising from reducing employee numbers. In these exceptional cases, a report will be submitted to Council for its consideration.

The initial application will need to be directed to the Chief Financial Officer who is the named person with respect to the pension fund. In a situation where the Chief Financial Officer takes the view that it is appropriate to consider a discretionary award they will take a report to Council recommending that a corresponding budgetary provision is established. In a position where the Chief Financial Officer did not support such an application then no such report will be taken with the individual submitting the application notified to that effect. Where the individual making the application is not satisfied with the decision of the Chief Financial Officer they may appeal to Council for a review of that decision. Such an appeal should be made in the first instance to the Chief Executive who will arrange for the appeal to be heard by the Appeals Committee. The employee/former employee concerned will be allowed to submit a written statement of case while the Chief Financial Officer will provide a written statement setting out the reasons why the application should be rejected.

## **NOTE**

### **Increases in hours after taking flexible retirement**

Where an employee has been allowed to reduce their hours for the purposes of flexible retirement they will not be allowed to increase them on a permanent basis. Where it is in our interests, a temporary increase in hours for a period not exceeding six months can be permitted. The temporary increase in hours must be authorised by the chief officer.

An employee who has reduced their hours and taken flexible retirement must only be allowed to work additional hours or overtime at the same level that applied prior to the reduction in contractual hours. The aim is to prevent employees compensating for a reduction in contractual hours by working additional hours and overtime. The chief officer must approve requests for temporary increases in additional hours and overtime in advance.

## **Bolsover District Council**

### **Council**

**13<sup>th</sup> November 2019**

## **Reduction in Debt Charges Through Use of Reserves**

### **Report of the Portfolio Holder for Finance and Resources**

This report is public

#### **Purpose of the Report**

- To seek approval to swap the financing of the general fund capital programme to the use of reserves from borrowing to make substantial savings through reduced debt charges.

#### **1 Report Details**

- 1.1 At its meeting on 16<sup>th</sup> September 2019, Executive received the report at **Appendix 1**.
- 1.2 The proposal was to swap the financing of the General Fund Capital Programme to the use of reserves, rather than borrowing.
- 1.3 Executive supported the proposal to invest £3.937m from the Transformation Reserve to finance the Capital Programme to generate a revenue return of £0.841m over the years 2020/21 – 2022/23 and a further £3.096m over the remaining life of the assets.

#### **2 Conclusions and Reasons for Recommendations**

- 2.1 The Transformation Reserve balance at 31<sup>st</sup> March 2019 was £8.354m, with £5.998m uncommitted. When the Capital Programme was initially financed in the MTFP it was planned to use prudential borrowing as no other resources were available.
- 2.2 In considering CIPFA's 'Treasury Management Code' and the Ministry for Housing, Communities and Local Government 'Statutory Guidance on Local Government Investments' a risk v's reward approach has been taken to review the financing the capital programme through reserves rather than borrowing. Put simply, using the savings account to fund capital purchases rather than a credit card.

- 2.3 There is little or no financial risk in the proposal and with favourable rates of return compared with other forms of investment, as follows:

Options	Risk	Return
Report proposal	None	7% - 17%
Commercial Investment Portfolio (Neighbouring authority)	Tenant financial stability, sector risk, condition of the building, lease length, etc.	4.98% - 8.78%

- 2.4 In conclusion, it is recommended that Council approve that the Capital Programme is re-financed by reserves rather than borrowing.

### **3 Consultation and Equality Impact**

- 3.1 There are no equality impact implications from this report.

### **4 Alternative Options and Reasons for Rejection**

- 4.1 Do nothing. Council could choose not to agree to re-finance the Capital Programme from the reserve as proposed. As an unspent reserve the interest accrued is less than 1%. Any alternative investment project to the one proposed is likely to involve more financial risk with potentially a lower return.

### **5 Implications**

#### **5.1 Finance and Risk Implications**

- 5.1.1 Financial issues and implications are covered in the relevant sections throughout this report.
- 5.1.2 The risks are covered throughout the report.

#### **5.2 Legal Implications including Data Protection**

- 5.2.1 There are no Data Protection issues arising directly from this report.

#### **5.3 Human Resources Implications**

- 5.3.1 There are no Human Resources issues arising directly from this report.

### **6 Recommendations**

- 6.1 That Council agree to re-finance the Capital Programme from reserves of £3.937m rather than borrowing. 41

## 7 Decision Information

<b>Is the decision a Key Decision?</b>  A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/>  <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/>  <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	N/A
<b>Is the decision subject to Call-In?</b>  (Only Key Decisions are subject to Call-In)	N/A
<b>Has the relevant Portfolio Holder been informed</b>	Yes
<b>District Wards Affected</b>	All
<b>Links to Corporate Plan priorities or Policy Framework</b>	Transforming Our Organisation:  Ensuring financial sustainability and increasing revenue streams

## 8 Document Information

Appendix No	Title
1	Executive Report 16 <sup>th</sup> September 2019, Reduction in debt charges through use of reserves.
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
<b>Report Author</b>	<b>Contact Number</b>
Chief Accountant and Section 151 Officer	2458

**Bolsover District Council****Executive****16<sup>th</sup> September 2019****Reduction in debt charges through use of reserves****Report of the Portfolio Holder - Finance & Resources**

This report is public

**Purpose of the Report**

- To seek approval to swap the financing of the general fund capital programme to the use of reserves from borrowing to make substantial savings through reduced debt charges.

**1 Report Details**

- 1.4 The Medium Term Financial Plan was approved by Members in February 2019. This covered the financial years 2019/20, 2020/21, 2021/22 and 2022/23. After being updated for the 2019/20 council tax increase, the latest budget position for the Council is shown in **table 1**.
- 1.5 As the table shows, the extent of the current budget shortfall totals £4.384m over the life of the current plan after the estimated surplus for the current year.

<b><u>Table 1</u></b>	<b>2019/20 Budget £000</b>	<b>2020/21 Budget £000</b>	<b>2021/22 Budget £000</b>	<b>2022/23 Budget £000</b>
Budget Shortfall – MTFP Feb 2019	83	974	1,559	2,204
Efficiencies identified to date (removed from budget)	(119)	(115)	(115)	(123)
<b>Current Budget Shortfall</b>	<b>(36)</b>	<b>859</b>	<b>1,444</b>	<b>2,081</b>
Efficiencies identified <u>not yet realised</u>	(339)	(551)	(734)	(916)
Target Budget Shortfall	(375)	308	710	1,165

- 1.6 The Council's financial position is not dissimilar to other Councils throughout the country and is in fact a better position than quite a few, particularly Counties. The Council has for a number of years been successful in making efficiency savings and increases to income through proactive business decisions.
- 1.7 In response to the national funding position, The Institute of Fiscal Studies published a report in March 2019 on the options for expanding local taxation. *"Local Government in England already raises local taxation (council tax and business rates) that funds 81% of the expenditure it controls. However, these taxation streams are not buoyant because they do not increase with growth in the economy and will not increase sufficiently rapidly to keep pace with rising costs and demands for services in the future. It is therefore highly likely that either funding from central government grants will have to be increased or new sources of locally raised revenues will have to be found."*
- 1.8 In the Local Government Finance Settlement for 2019/20, government funding increased in line with inflation with no new funding for district councils. A number of fundamental changes to future local authority funding are currently being considered by the Government. Funding is likely to be moved away from districts to other tiers of local government. The Fair Funding Review and Business Rates Reset are both likely to negatively affect district councils. The impact of these reviews was expected to be incorporated into the 2020/21 settlement but this has been delayed and will not now be implemented until 2021/22.
- 1.9 The Council's Transformation Plan was formally launched in March 2018 as a direct result of the changes in central government funding and the future financial position facing the Council. These were seen as both considerable challenges and considerable opportunities over the coming years.
- 1.10 At 31<sup>st</sup> March 2019, the Council's transformation reserve had a balance of £8.354m. Commitments already made against the reserve for 2019/20 and future years amounted to £2.356m leaving £5.998m uncommitted. This reserve is available to support investment in cost reduction and income growth, reflecting the Council's pro-active approach to addressing the financial challenges it faces.
- 1.11 A suggestion has been made as part of the Transformation Programme which would reduce the amount of General Fund debt charges the Council pays each year. Instead of borrowing to finance the future capital programme, an amount from the transformation reserve would be used to fund the expenditure instead.
- 1.12 The figures in **table 2** show the total amount of General Fund capital expenditure to be funded from borrowing currently included in the approved capital programme as £6.573m for the whole three years. The debt charges associated with this level of borrowing are already included in the General Fund budget at £1.441m. The debt charges associated with the £3.793m borrowing in 2019/20 is £0.312m and this is payable for every year of the life of the asset. This is why the total debt charges in the table are not simply £0.733m.

Table 2	2019/20	2020/21	2021/22	Total
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	£'000	£'000	£'000	£'000
Total cost of capital expenditure	3,793	770	2,010	6,573
Total cost of borrowing for capital expenditure	312	84	337	1,441
<b>Cost of high value/low life assets</b>	<b>2,732</b>	<b>460</b>	<b>745</b>	<b><u>3,937</u></b>
<b>Cost of borrowing for those assets</b>	<b>191</b>	<b>70</b>	<b>127</b>	<b>841</b>
<b>Proposed total saving in debt charges</b>	<b>191</b>	<b>261</b>	<b>389</b>	<b>841</b>

- 1.13 If the Council didn't have to borrow at all the Council could save £1.441m over this period which would eventually total £6.573m over the whole life of the capital programme as the cost is simply divided over the life of the assets. As the Council does not have enough reserves to do this, calculations have been done to make the most benefit for the Council from any reserve amount used. The way debt charges are calculated means the largest savings can be made on the highest value assets with the shortest lives for example vehicles.
- 1.14 **Table 2** shows that by using £2.732m of reserves in 2019/20, £0.191m can be saved in that year. Again this will be saved for all three of the years. If a further £0.460m in 2020/21 and £0.745m in 2021/22 of reserves were used, over the full three years £0.841m would be saved. Over the whole life of the capital programme for these assets the total used from the reserve would be saved in the General Fund (£3.937m). While most assets included have a life estimated to be less than ten years, one expensive scheme is estimated at fifty.
- 1.15 CIPFA's 'Treasury Management Code' and the Ministry for Housing, Communities and Local Government 'Statutory Guidance on Local Government Investments' both state *"Where organisations invest in other financial assets and property primarily for profit, these investments should be proportional to the level of resources available to the organisation and the organisation should ensure that the same robust procedures for the consideration of risk and return are applied to these decisions. Robust and transparent governance procedures and decision making remain critical in all investments an authority makes"*.
- 1.16 With both these documents in mind each transformation idea must be considered for risk and reward. The Council's Capital Strategy approved in February 2019 states that the Council accepts higher risk on commercial investment than with treasury investments and that the financial viability of each individual potential investment opportunity will be fully assessed within a comprehensive business case. This is in order to reflect the potential risk that may arise as a consequence of undertaking commercial property investment.
- 1.17 There are no financial risk associated with using reserves in this way. There is however always the opportunity to spend/invest the money on other things before

we have replenished the reserve. In all likelihood a scheme in excess of £3m in value would almost certainly be capital and in which case we would borrow the money and incur debt charges at that time, subject to a business case. If substantial revenue funds were required the General Fund has a working balance of £2m.

- 1.18 The reward from swapping the reserves for the borrowing is £0.841m revenue savings over 3 years as outlined in **table 2**, plus £3.096m over the remaining life of the assets. The return on the amounts borrowed for each year are 2019/20 7%, 2020/21 15% and 2021/22 17%, all for each year of the asset.
- 1.19 As a comparison, a neighbouring authority has purchased a number of commercial investment properties over the last five years at a cost in the region of £24m. The return on the individual investments ranges from 4.98% to 8.78%. This return on investment is not without risk. Tenant financial stability, sector risk, condition of the building are all risks with can be outside of the control of the Council and significantly impact on the value of the investment.
- 1.20 As a final note, there will be no effect on investment interest as a result of making this change. The financing of the capital programme by reserves does not cause any more money to leave the Council's bank account than using borrowing.
- 1.21 If the recommendation is approved and £3.937m of reserves is swapped for borrowing the updated budget position for the Council will be as shown in **table 3**. The savings occur in the year after the reserves are used as that is how debt charges have to be calculated.

**Table 3**

	2019/20	2020/21	2021/22	2022/23
	Budget £'000	Budget £'000	Budget £'000	Budget £'000
Budget Shortfall - MTFP Feb 2019	83	974	1,559	2,204
Efficiencies identified to date (removed from budget)	(119)	(115)	(115)	(123)
Savings from reduced debt charges	0	(191)	(261)	(389)
<b>Updated Budget Shortfall</b>	<b>(36)</b>	<b>668</b>	<b>1,183</b>	<b>1,692</b>
Efficiencies identified <u>not yet realised</u>	(339)	(551)	(734)	(916)
Target Budget Shortfall	(375)	117	449	776

## **2 Conclusions and Reasons for Recommendations**

- 2.1 In considering CIPFA's 'Treasury Management Code' and the Ministry for Housing, Communities and Local Government 'Statutory Guidance on Local Government Investments' a risk v's reward approach has been taken to review the financing the capital programme through reserves rather than borrowing. Put simply, using the savings account to fund capital purchases rather than a credit card.
- 2.2 There is little or no financial risk in the proposal and with favourable rates of return compared with other forms of investment, as follows:

<b>Options</b>	<b>Risk</b>	<b>Return</b>
Report proposal	None	7% - 17%
Commercial Investment Portfolio (Neighbouring authority)	Tenant financial stability, sector risk, condition of the building, lease length, etc.	4.98% - 8.78%

- 2.3 In conclusion, it is recommended that Executive invest £3.937m of Transformation Reserve to finance the Capital Programme generating a revenue return of £0.841m over three years and a further £3.096m over the remaining life of the assets. This would reduce the Transformation Reserve from £8.354m (as of 31 March 2019) to £4.417m with £2.061m uncommitted.

## **4 Consultation and Equality Impact**

- 4.1 There are no equality impact implications from this report.

## **4 Alternative Options and Reasons for Rejection**

- 4.1 Rather than fund the full £3.937m from Transformation Reserve, a smaller amount of reserve could be utilised. This would reduce the overall revenue saving achieved from the proposal and any alternative Transformation Reserve scheme will incur more financial risk.
- 4.2 Do nothing. Executive could choose not to spend the reserve on refinancing as proposed. As an unspent reserve the interest accrued is less than 1%. Any alternative investment project is likely to involve more financial risk and a return below 7%-17%.

## **5 Implications**

### **5.1 Finance and Risk Implications**

- 5.1.1 Financial issues and implications are covered in the relevant sections throughout this report.
- 5.1.2 The risks are covered throughout the report.

## 5.4 Legal Implications including Data Protection

5.2.1 There are no Data Protection issues arising directly from this report.

## 5.5 Human Resources Implications

5.3.1 There are no Human Resources issues arising directly from this report.

## 6 Recommendations

6.1 That Executive recommend to Council:

- (i) that £3.937m be invested to finance the Capital Programme as outlined in paragraph 1.11.
- (ii) that the Capital Programme is re-financed in line with paragraph 1.11.

## 7 Decision Information

<b>Is the decision a Key Decision?</b>  A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/>  <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/>  <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b>  (Only Key Decisions are subject to Call-In)	No
<b>Has the relevant Portfolio Holder been informed</b>	Yes
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Chief Accountant and Section 151 Officer	2458

## Agenda Item 14

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

## Agenda Item 15

By virtue of paragraph(s) 1, 2, 3, 4 of Part 1 of Schedule 12A of the Local Government Act 1972.

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## Agenda Item 16

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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