

## YATTON PARISH COUNCIL

### Finance, Personnel & Administration Committee, 23 November 2009: Reports

#### Agenda item 7: retirement provision for employees of Yatton Parish Council

##### Report of the Clerk

1. All employers with five or more employees are required by law to offer their employees (with some exceptions) access to some form of pension scheme. This includes Yatton Parish Council which has seven employees (all employees count whether full-time or part-time). Yatton Parish Council does not currently offer its employees access to a pension scheme. This means that the Parish Council must take some action to avoid being in breach of the law.

2. The minimum requirement is to offer employees access to a 'stakeholder pension scheme', which is a low-cost scheme providing basic benefits. A costlier alternative is a 'personal pension plan'. Employees make regular contributions into such a scheme. However NALC's advice is that parish councils cannot make employers' contributions to a stakeholder scheme or personal pension plan. The Parish Council could satisfy its legal requirements by offering employees access to a stakeholder pension scheme but it could not contribute to such a scheme.

3. Parish councils which wish to make employers' contributions must join the Local Government Pension Scheme (LGPS). Alternatively parish councils may pay a statutory gratuity when an employee leaves (see below for more on gratuities). For this reason the NALC/SLCC model contract provides alternatives, either that an employee is eligible to join the LGPS or that the council may pay a statutory gratuity. Because Yatton Parish Council has not designated any of its employees as eligible to join the LGPS all its employees have contracts which state that the Council may pay a statutory gratuity. However a gratuity is not a pension scheme so this is not enough to satisfy the legal requirements.

4. The LGPS is the public sector pension scheme for most local government employees other than teachers, firefighters and police officers. Most local government employees (and councillors on principal councils) are entitled to join the LGPS if they so wish. However employees of parish councils (and a few other bodies) are entitled to join the LGPS only if their employer 'designates' them. A parish council can designate an individual employee, a group of employees or all its employees.

5. A statutory gratuity may not exceed the amount laid down in Regulations. For employees who earn more than the 'lower earnings limit' for national insurance purposes (£95 per week, £4,940 per year) the maximum gratuity is:

$$3.75\% \times \text{number of year's service} \times \underline{\text{lower earnings limit}}$$

This is not likely to be a very large amount. By contrast the LGPS pays out benefits based on the employee's actual final salary.

6. The LGPS requires contributions from both employee and employer. The employee's contribution ranges from 5.5% to 6.5% of salary depending on (full-time equivalent) salary. The employer's contribution is set by the local pension fund administrator having regard to an actuarial valuation of the fund. The current employer's contribution to the Avon Pension Fund is 14%. For both employer and employee this is mitigated by a reduction in national insurance contributions, 1.6% for employees and 3.7% for employers.

7. It follows that if the Parish Council designates an employee it has to budget for a net increase of 10.3% of that employee's salary in staff costs.

8. The LGPS, like most public sector schemes, is a 'final salary' scheme. Broadly speaking it pays a yearly pension of

$$1/60 \times \text{length of membership} \times \text{final salary}$$

with an option of commuting up to 25% of the yearly pension to a tax-free lump sum.

It also provides a death-in-service benefit (life insurance) of three times actual salary (regardless of length of service). The LGPS is generally regarded as a good pension scheme.

9. Both the National Association of Local Councils and the Society of Local Council Clerks consider that it is best practice for parish councils to offer all their employees membership of the LGPS. Part of the National Agreement between NALC and SLCC reads;

'As part of the National Agreement all local council employees should ideally be able to participate in the LGPS. This is a contributory scheme, full details of which are available in the booklet by each County Council. Employees may contract out of the scheme if they so choose. [Next sentence omitted as it refers to repealed legislation.] Both the National Association and the Society strongly recommend that councils adopt the LGPS; but where the Council is unable to support membership of the scheme the council is recommended to put in place arrangements to provide a gratuity at the end of the Clerk's service. Councils and Clerks

are reminded that it is illegal to discriminate in the provision of pension arrangements for employees and should therefore seek advice from NALC and SLCC on the legal requirements relating to the provision of gratuities.'

10. Finally from April 2012 the Government are planning to introduce 'Personal Accounts' which are effectively a default contributory pension scheme. This follows from Government concern about the number of employees with no, or inadequate, provision for retirement. As from April 2016 (on current plans) every employer which does not offer a 'suitable' alternative pension scheme (such as the LGPS) must enrol every employee in the Personal Account scheme unless an employee opts out. Employers will contribute 4% and employees 3% of salary. It follows that the Parish Council will probably have to make some budgetary provision for pension contributions at some stage whether or not it joins the LGPS. Note that the Conservatives have said they will review the Personal Accounts scheme if they take power next year and also that the timescale for auto-enrolment may slip further. Most advisers consider that the suggested level of contributions will not of themselves achieve adequate provision for retirement.

11. The following town and parish councils in North Somerset are members of Avon Pension Fund: Backwell, Clevedon, Long Ashton, Nailsea, Portishead & North Weston and Weston-super-Mare.

12. If members are minded to allow staff to join the LGPS the simplest way is probably to designate all future employees as eligible, so that all future employees will have the same contract. However since all current employees have contracts providing for the payment of a gratuity it would be a variation of their contract to make them eligible for the LGPS and that variation would have to be agreed with each employee individually. Some current employees may not wish to pay an employee's contribution and might wish to retain their expectation of a gratuity (a gratuity cannot be paid to anyone who is eligible to join the LGPS, whether or not they actually join). If members are minded to allow staff to join the LGPS they could designate each current employee subject to that employee's written agreement.

13. I can make sure that employees get information on the LGPS; it might be possible to arrange for someone working for Avon Pension Fund to do a brief presentation to all employees. However I am aware some staff have concerns so it would be helpful if before making a final decision some members were willing to come and talk to staff (Tuesday morning is best).

14. If members are not minded to allow staff to join the LGPS I will report to a future meeting on possible stakeholder pension schemes.

15. I end with a brief note on gratuities. A gratuity can be paid to any employee (but not an employee eligible for the LGPS) who leaves after at least five years'

service, or to an employee with at least one year's service who retires at normal retirement age or who retires early on ill-health grounds. Although the payment of a gratuity is technically discretionary (in order that retirement gratuities can be paid tax-free) the Parish Council must not (as mentioned above) discriminate between employees in the payment of gratuities. It follows that the Council should have a gratuities policy which gives employees an expectation of the maximum gratuity if their service is satisfactory. The Council should regard the withholding of a gratuity as a disciplinary sanction and should, unless the circumstances are exceptional, follow its Disciplinary Procedure before withholding a gratuity.

## **Agenda item 8: registration of the Council's land**

### **Report of the Clerk**

1. The Land Registry (the government department responsible for registering land ownership in England and Wales) is encouraging parish councils to register their land. There is no legal requirement to register existing unregistered land but registration has the following advantages:

- It produces a single easy-to-read title document setting out all the conditions and restrictions of existing title deeds.
- It produces a clear map showing the extent of the registered land.
- Existing title deeds (apart from leases) generally become of no value other than historic interest and do not need secure storage.
- It makes it easier to prove title in the event that the landowner wishes to sell (and also .
- Provided the landowner's address is kept up to date it makes it much more difficult for anyone to claim 'squatter's rights'.

2. The Parish Council owns six pieces of unregistered land, all of which are freehold:

- Hangstones pavilion and field
- Rock Road field (part of which is subject to a lease to Yatton Junior Football Club)
- Glebelands, including the car park, and the village green
- The Burial Ground
- Barberry Farm play area
- The Rock Road War Memorial

The Parish Council also occupies the Mendip Road allotments but is unable to register title because its lease expired in 1936. I propose to discuss with North Somerset Council (the landowner) how this could be made more regular.

3. Provided that the deeds are clear there should be no need to instruct a solicitor; all that is necessary is to send the deeds to the Land Registry with a covering form and the fee. The fee is £40 for each piece of land whose value does not exceed £50,000. It seems to me that the only piece of land whose value might exceed £50,000 is Hangstones. Based on the rateable value of the pavilion the value of the land and buildings appears to me to be somewhere below £200,000, the fee for which would be £150. The Land Registry do not require a professional valuation in order to ascertain the fee but I will check that they are happy for me to use rateable value in calculating the fee.. This would give a total cost of £350.

4. I RECOMMEND that the Committee authorises me to withdraw the Council's title deeds from safe custody and proceed with registration.