

Pensions Policy Statement

1. Introduction

This policy statement will comply with the regulations relating to the Local Government Pension Scheme 2014 (LGPS). It defines the employer's discretions in the regulations and clarifies the Council's approach to different retirement options.

2. Scope

This policy statement applies to all members of staff who are eligible to be members of the local government pension scheme, as defined in the regulations.

Currently these are employees with a contract of employment of over 3 month's duration and who are under 75 years of age.

Employees who are members of the pension scheme are only entitled to receive pension benefits if they have 2 years or more service. Under LGPS 2014 Regulation 18, if an employee leaves within 2 years of the start of their employment, their contributions are repayable unless, in accordance with Regulation 19, that person:

(a) becomes an active member again within one month and one day of ceasing active membership in an employment, or before the date a return of contributions has been issued by the appropriate administering authority, whichever is the later;

(b) left the employment because of—

- (i) an offence of a fraudulent character, or
- (ii) grave misconduct, in connection with the employment;

(c) benefits from a transfer payment to another registered pension scheme or to a qualifying recognised overseas pension scheme;

(d) continues as an active member in another employment held concurrently with the employment in which that person has ceased to be an active member; or

(e) is an active member and dies in service.

3. Objectives

This policy statement clarifies the Council's position on the discretions it can exercise in accordance with the Local Government Pensions Scheme (LGPS) 2014 regulations and guidance on how they apply to different retirement options.

It also provides clear guiding principles to assist decision making given that consideration of an employee's retirement, in a range of circumstances, will be considered on its own merits on a case by case basis.

4. Principles

The Council will treat any individual retirement case and decision on its merits.

Decisions relating to retirement will be made taking into account the business case and business implications, the financial implications, employment law consideration, the regulations and the legality of each case. It may also take into account long term savings, affordability, skills and skills retention and impact on service delivery.

The definition of business efficiency shall include, but not be limited to financial savings and/or quality improvements judged on a case by case basis.

Each decision will be made free from discrimination on the grounds of any protected characteristic - age, disability, gender reassignment, marriage or civil partnership, pregnancy & maternity, race, religion and belief, sex, sexual orientation or any other personal criteria.

The Council's decisions relating to retirement and the release of a pension will be in line with the current pension regulations. These regulations may be updated from time to time and the Council's policy is to default to the regulations if the policy is not explicit on any current or future regulation.

Decisions relating to retirement for any current employee will be based on the regulations in place at the time of the decision and will incorporate any relevant transitional arrangements that are put in place in relation to the pre 2008 scheme and the new look 2008 – 2013 scheme.

Decisions relating to the release of deferred benefits to former employees will refer to the relevant pension policies applicable to their pre 2014 service. In all such cases, the decision as to the release of deferred benefits will be on a case by case basis and will take into account the criteria detailed in these principles. Guidance may be sought from the pension administrators as required.

Compassionate grounds are defined as: situations of severe personal distress resulting from non financial circumstances affecting the individual or close family member (e.g. partner/spouse/child/parent) leading to unavoidable financial hardship.

5. Transitional Arrangements

5.1 Rule of 85 Transitional Protections

The rule of 85 is satisfied if the age at which an employee draws their benefits and scheme memberships in whole years add up to 85 or more. However not all membership may count towards the 85 year rule but generally

- If an employee would not satisfy the 85 year rule by the time they are 65, then all the benefits are reduced if the employee chooses to retire before 65. The reduction will be based on how many years prior to 65 the employee chooses to draw benefits.
- If the employee will be age 60 or over by the 31 March 2016 and they choose to retire before age 65, then, provided they satisfy the 85 year rule when they start to draw a pension, the benefits built up to the 31 March 2016 will not be reduced.
- If the employee will be under age 60 by the 31 March 2016 and choose to retire before age 65, then, provided the employee meets the 85 year rule when pension is started, the benefits built up to the 31 March 2008 will not be reduced.
- If the employee will be age 60 between the 1 April 2016 and the 31 March 2020 and meet the 85 year rule by the 31 March 2020, some or all of the benefits built up between the 1 April 2008 and the 31 March 2020 will not have a full reduction.

If you have the 85 year rule protection this continues to apply from 1 April 2014. The only occasion where this protection does not automatically apply is if you choose to voluntarily draw your pension on or after age 55 and before age 60.

If you choose to voluntarily draw your pension on or after age 55 and before age 60 and you have rule 85 protections, these will not automatically apply. The Council has the discretion to choose to allow the rule of 85 to apply. If the Council does not choose to allow the rule of 85 to apply, benefits will be reduced.

Because of the complexities of the transitional rule of 85 protections any employee considering leaving who believe they have acquired protection under this rule should contact the Pension provider prior to retiring.

5.2 The Underpin

Statutory Underpin applies to:

- Those who were age 55 or over at 1st April 2012 and who are members of the 2014 scheme; and
- have not had a disqualifying break since 1st April 2012; and
- have not already drawn benefits under the 2014 scheme; and

- who are active members of the 2014 scheme and entitled to take their benefits, including early retirement, from age 55

In these cases employees will have a specific protection applied known as the 'underpin'. As some of these employee will have an increase in their state pension age, calculations will be completed on retirement at age 65 to ensure they will get pension at least equal to that they would have received in the 2008 LGPS. Employees who believe they have protection in relation to underpin should contact the Pension provider, prior to retiring.

6. Discretions

Within the regulations there are a number of discretionary statements that require the Council to explicitly state their position. The discretions detailed below relate to the current LGPS 2014 regulations and guidance. They also reflect discretions approved by the Council for the previous pension scheme policies. These should be read alongside the principles in section 4 and the retirement options in section 7.

Regulation 9, Contributions

The Council will apply the nationally determined employee contribution rates and bands. These are subject to an annual review and may be varied.

The Council will pay the rate of contributions determined in the regulations for employees whose pay is reduced through ill health or during authorised unpaid leave, including child related leave.

Where an employee has variable pensionable pay throughout the year, the Council will determine the contribution rate based on the total pensionable pay of the previous year and guidance from the relevant line manager and will annually review the contribution rate to ensure the correct rate is being applied.

Where an employee changes their employment within the Council and there is a material change to their pensionable pay during a year (working hours and / or grade), the Council will change the employee's contribution rate when the material change takes effect.

The Council will write to all employees notifying them of their individual contribution rate prior to the LGPS 2014 effective date (1st April 2014) and thereafter when any changes are planned.

Regulation 74(1), Appointment of Adjudicator

The Council will designate its City Solicitor, as its adjudicator for appeals against pension decisions. The Council reserves the right to nominate another Director or Senior Manager to act as adjudicator to cover for absence and to ensure fair consideration of any appeal.

Regulation 22 (7b&8b) Aggregation of benefits

Employees can transfer any previous benefits into the LGPS provided they express an interest within 12 months of starting the new period of membership. The Council has the discretion to extend this period beyond 12 months.

The Council will not normally allow an extension except where the employee believed they had made a request but the administrators to the pension scheme are unable to find any paperwork relating to the request. The decision whether to extend this period will be made on a case by case basis by the Chief Executive and Town Clerk.

Regulations 16 (2)e and (4)d, Additional Pension Contributions

The Council will not adopt the discretion to fund whole or in part the additional pension contributions whether paid as a regular contribution or a lump sum.

Regulation 31, Award of Additional Pension.

The Council has discretion to award additional pension (up to the additional pension limit defined in the regulations) to employees in the pension scheme or staff who are dismissed on grounds of redundancy, business efficiency or terminated on the grounds of mutual concerns on the grounds of efficiency.

The Council will only exercise this discretion in exceptional circumstances and only at the discretion of Chief Executive and Town Clerk. Examples of exceptional circumstances could be in relation to experience, loyalty or exceptional compassionate grounds to agree the termination of employment.

Regulation 91(1), Forfeiture of pension rights after convictions for employment related offences.

The Council will adopt the discretion to apply to the Secretary of State for a forfeiture certification if any employee who is a member of the pension scheme is convicted of a relevant offence committed during their employment and for which they left their employment.

This discretion will be exercised in line with regulations. In such circumstances, the Council will adopt those discretions detailed in regulation 91(7), 93(1), 93(2) to mitigate any loss subject to the protection of guaranteed minimum pension rights detailed on regulation 95.

7. Retirement

Retirement at Normal Pension Age.

The LGPS 2014 defines the normal pension age for each member as equal to their state pension age. At the employees normal pension age their pension benefits are paid unreduced and will be based on their Career Average Re-valued contributions in their pension account for service after 01/04/2014.

The accrual rate for contributions after this date is 1/49th of pensionable pay and the Council will pay employee contributions and the employer contributions to the pension scheme administrations in line with the regulations and triennial reviews.

All pensions contributions paid into the local government pension scheme before 01/04/2014 are fully protected in line with the transitional arrangements.

Late Retirements

Employees who are members of the pension scheme and who work beyond their normal pension age will receive enhanced benefits in line with the Government's Actuaries Department guidance and the regulations.

The Restriction of Public Sector Exit Payments Regulations 2020

In line with the above regulations which came into force in November 2020, all exit payments will be limited to a total combined cost of £95,000. Exit payments will include:

- Redundancy payments (including statutory redundancy payments),
- Severance payments,
- Pension strain costs
- and other payments made as a consequence of termination of employment.

The cap applies to all exit payments that arise within a 28 day period and the regulations cover the process to follow if an individual has multiple exits from public sector employment within 28 days.

The exit payment cap will not apply to:

- Payments related to death in service or ill health retirement,
- Flexible retirements

Regulation 30(8), Retirement below normal pension age

The LGPS 2014 permits current employees to choose to take their retirement pensions from age 55. This election is without employers consent and therefore is subject to an actuarial reduction. In such cases of voluntary retirement between the ages of 55 to 60, the Rule of 85 protections do not generally apply however, the Council has discretion to waive the actuarial reduction applied to benefits paid early.

A deferred member may also elect to take their retirement pensions from age 55 and this will be subject to an actuarial reduction. In such cases of voluntary retirement between the ages of 55 to 60, the Rule of 85 protections do not generally apply however, the Council has discretion to waive the actuarial reduction applied to benefits paid early.

The Council will use these discretions where an employee has requested early payment of benefits on or after age 55 and before 60 on a case by case basis in accordance with the principles set out in section 4 however in line with the above regulations, these must not exceed the £95,000 exit payment cap.

The decision to waive the actuarial reduction applied to benefits paid early can only be made by the Chief Executive and Town Clerk.

Regulation 30(7), Retirement on Grounds of Redundancy.

Where an employee aged 55 or over is dismissed on the grounds of redundancy, they are entitled to receive immediate payment of their pension and it is not subject to an actuarial adjustment. The actuarial strain continues to be taken by the Council.

If the employee has been paying additional pension contributions, those additional pension contributions are subject to actuarial reduction in line with the regulation 30(7a) and any further guidance.

In the event where an employees redundancy and pension strain combined cost exceed the £95,000 exit cap, the employees enhanced redundancy payment will be reduced to ensure that both payments combined do not exceed the £95,000 exit payment cap.

Regulation 30(7), Retirement on the Grounds of Business Efficiency – Employer Consent

Where an employee aged 55 or over is dismissed or their employment terminated by mutual consent on the ground of business efficiency (employers consent), they may be entitled to receive immediate payment of their pension and it is not subject to an actuarial adjustment. The actuarial strain continues to be taken by the Council.

If the employee has been paying additional pension contributions, those additional pension contributions are subject to actuarial reduction in line with the regulation 30(7a) and any further guidance.

In the event where an employees retirement is on the grounds of business efficiency, the combined cost of any severance payment and pension strain cannot exceed the £95,000 exit cap, the employees severance payment will be reduced to ensure that both payments combined do not exceed the £95,000 exit payment cap.

Regulation 30(6&8) 32(4), Flexible Retirement

The Council will adopt this discretion and may give consent to flexible retirement and the release of pension benefits.

The payment of flexible retirement pension scheme benefits will become payable on the date of the reduction in hours &/or grade in line with Regulation 32 (4).

The Council will consider applications under this Regulation and decisions will be made on the merits of each case having particular regard to:-

- the operating requirements of the employing department
- the Council's ability to meet the cost of granting such a request

- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place for time for time can be made
- the members personal circumstances
- whether to permit the member to choose to draw all, part of none of the pension benefits they have built up after 1 April 2008

Regulations 35,36,37,38,39, Ill Health Retirement

The Council will approve the release of pension benefits on the termination of employment when an employee meets the following two conditions:

- That the member is, as a result of ill health or infirmity of mind or body, permanently incapable of discharging efficiently the duties of the employment the member was engaged in, and,
- The member, as a result of ill health or infirmity of mind and body is not immediately capable of undertaking gainful employment.

Ill Health retirement benefits are based upon one of three tiers. The tier an employee retires under will determine whether benefits are enhanced and by how much. The tiers are as follows:

Tier 1 No prospect of other gainful employment at any age before normal retirement age.

Tier 2 No prospect of other gainful employment now or any time in the next 3 years; but there IS good prospect before normal retirement age..

Tier 3 Good prospect of other gainful employment straight away or any time in the next 3 years. The pension is paid for a maximum of 3 years but may stop earlier following the 18 month review or taking up gainful employment.

The Council will investigate whether the reasons for retirement is on ill health grounds as laid out in the LGPS regulations and obtain a certified opinion from a registered independent medical practitioner. The decision as to which if any award will be made will be made by the Chief Executive and Town Clerk.

Former employees who are deferred members of the pension scheme may request a release of their pension on ill-health grounds at any age. The Council will investigate whether the reasons for retirement is on ill health grounds as laid out in the LGPS regulations and obtain a certified opinion from a registered independent medical practitioner. The decision as to which if any award will be made will be made by the Chief Executive and Town Clerk.

8. More information and Links to Other Policies and Guidance.

<http://www.lgpsregs.org/index.php/regs-legislation/timeline-regulations-2014>

<http://www.lgps2014.org/>

<http://www.lgps2014.org/content/frequently-asked-questions-0>

March 2014

Revised May 2014

Revised June 2015 (adoption of flexible retirement discretion)

Reviewed April 2018 – no changes necessary.

Reviewed January 2020 (updated to include partial flexible retirement)

Revised October 2020 (in line with new exit cap regulations)