

Reviewed and published April 2019

Local Government Pension Scheme - Employer Discretions Policy

The Local Government Pension Scheme regulations require employers who participate in the Local Government Pension Scheme (LGPS) to draw up and publish a discretions policy and to keep it under review.

Discretions are powers that enable employers to choose how to apply the scheme in respect of certain provisions. Discretions only apply at the time of application and are subject to change.

When the Council sets and reviews these employer discretions, consideration is given to:

- Cost – discretionary powers come with a cost attached - policies mustn't lead to a loss of confidence in public services, therefore have to be affordable
- Basis on which decisions are made – policies should not be so rigid or restrictive as to prevent flexibility where a possibly unanticipated situation requires it
- Equality – criteria that do not discriminate and where decisions are objectively justified

The Council has limited resources and needs to maintain a balanced budget. Any exercise of discretion and must be contained within existing service budgets, therefore discretions are only exercised in exceptional circumstances.

There are many employer discretions in the current Scheme regulations and several more still existing from previous Schemes; however only a relatively small number of employer discretions have to be published.

The **LGPS Employer Discretions Policy** is therefore the Council's written policy statement detailing all mandatory employer discretions, plus a number of non-mandatory employer discretions the LGPS recommend employers also publish. These are summarised in the Overview table on page 2.

Some of these discretions are also referred to in relevant HR policies, for example the Flexible Retirement and Managing Redundancy policies.

Northamptonshire Pension Fund Board publish the Administering Authority discretions on their website at <http://pensions.northamptonshire.gov.uk/>.

Overview

| | Scheme | (must be published) Mandatory discretions relating to... | (recommended for publication) Non-mandatory discretions relating to... | |
|----------|--|--|--|--|
| A | <u>2014 Scheme Regulations</u> ¹ For active members and members who ceased active membership after 31 March 2014 (excluding councillor members) | Exercised on/after 01.04.14 (as at 14 May 2018) | <ol style="list-style-type: none"> Granting additional pension Shared Cost Additional Pension Contributions Flexible retirement 85 year rule Actuarial reduction Variable APC employer contributions | <ol style="list-style-type: none"> Shared Cost AVCs Transferring in non-LGPS pension rights Joining LGPS membership Determining contribution band Regular lump sum payments Pensionable Pay Deferred benefits |
| B | <u>2008 Scheme Regulations</u> For members who ceased active membership between 1 April 2008 and 31 March 2014 (excluding councillor members) | | <ol style="list-style-type: none"> Actuarial reduction 85 year rule | n/a |
| C | <u>LGPS Regulations 1997</u> For active councillor members, deferred councillor members who ceased active membership on/after 1 April 1998 AND any other members who ceased active membership between 1 April 1998 and 31 March 2008. | | <ol style="list-style-type: none"> Deferred benefits 85 year rule Actuarial reduction | n/a |
| D | <u>LGPS Regulations 1995</u> For members who ceased active membership before 1 April 1998 | | n/a | <ol style="list-style-type: none"> Employer consent retirement |
| E | Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 | <ol style="list-style-type: none"> Redundancy payments Lump sum compensation | | |
| F | Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2000 | <ol style="list-style-type: none"> Abatement during re-employment Reduction following cessation of re-employment Apportionment of survivor benefit Effects of remarriage, new civil partnership or co-habitation on survivor's compensation payments | | |
| G | Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 | <ol style="list-style-type: none"> Whether to pay injury allowances | | |

¹ Effective from 1 April 2014, as at 14 May 2018

2014 Scheme Regulations

The policy in respect of each employer discretion is set out below. However, the council may give further consideration, where there are exceptional circumstances and clear merit and/or where the cost is not considered to be significant or material.

| Employer Discretion | | Regulation | NCC policy |
|-----------------------------|--|--|---|
| Granting additional pension | Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,822 p.a - figure at 1 April 2018) | R31 | The Council do not make such voluntary contributions. |
| Shared cost APCs | Whether, where an active Scheme member wishes to purchase extra annual pension of up to £6,822 (figure at 1 April 2018) by making Additional Pension Contributions (APCs), to (voluntarily) contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC) | R16(2)(e) & R16(4)(d) | The Council do not make such voluntary contributions. |
| | Whether to extend 30 day deadline for member to elect for a shared cost APC upon return from a period of absence from work with permission with no pensionable pay (otherwise than because of illness or injury, relevant child-related leave or reserve forces service leave) | R16(16) | The Council will only extend the 30 day deadline in specific circumstances (e.g. purchasing additional annual leave) and on a case-by-case basis where there are considered to be reasonable grounds for allowing a member to have more time to make an election. |
| Flexible retirement | Whether all or some benefits can be paid if an active member aged 55 or over and with at least 2 years qualifying service reduces their hours or grade (flexible retirement) | R30(6) & TP11(2) | The Council will consider flexible retirement requests on a case by case basis, only in circumstances where the Council invites employees to make an application due to workforce transition requirements. No uninvited applications from employees will be considered. |
| | Whether to waive, in whole or in part, actuarial reduction to benefits paid on flexible retirement | R30(8) | The Council will consider each case on its merits. |
| 85 year rule | Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of flexible retirement). | TPSch 2, para, 1(2) & 1(1)(c) | The Council will not "switch on" the 85 year rule. |

| | Employer Discretion | Regulation | NCC policy |
|---|--|---|--|
| Waive actuarial reduction | <p>Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1/4/14 and post 31/3/14 membership) on:</p> <p>a) compassionate grounds (pre 1/4/14 membership) and in whole or in part on any grounds (post 31/3/14 membership) if the member was not in the Scheme before 1/10/06,</p> <p>b) compassionate grounds (pre 1/4/14 membership) and in whole or in part on any grounds (post 31/3/14 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will not attain 60 between 1/4/16 and 31/3/20</p> <p>c) compassionate grounds (pre 1/4/16 membership) and in whole or in part on any grounds (post 31/3/16 membership) if the member was in the Scheme before 1/10/06 and will be 60 by 31/3/16</p> <p>d) compassionate grounds (pre 1/4/20 membership) and in whole or in part on any grounds (post 31/3/20 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will attain 60 between 1/4/16 and 31/3/20</p> | TP3(1), TPSch 2 para 2(1), B30(5) & B30A(5) | <p>The Council will consider waiving on a case by case basis any actuarial reduction for active members who wish to retire from age 55 onwards on compassionate grounds.</p> <p>The Council will not waive any actuarial reduction for deferred members on compassionate grounds.</p> <p>The Pension Policy defines compassionate grounds.</p> |
| | <p>Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31/3/14 membership)</p> | R30(8) | The Council will not waive any actuarial reduction. |
| Variable APC employer contributions | Whether, how much, and in what circumstances to contribute to a share cost APC scheme | R16(2)(e) & R16(4)(d) | The Council do not make such voluntary contributions. |
| Shared cost AVCs | Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements. | R17(1) & definition of SCAVC in RSch 1 | The Council do not contribute to any shared cost AVC. |
| Transferring in non LGPS pension rights | Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS | R100(6) | The Council do not extend the normal time limits, except in exceptional circumstances where it may be reasonable, e.g. where an election was made in time, but not received by the Pension Fund (evidence form posted) |

| | Employer Discretion | Regulation | NCC policy |
|----------------------------|---|-------------------|--|
| Joining LGPS membership | Whether to extend the 12 month option period for a member to elect that post 31 March 2014 deferred benefits should not be aggregated with a new employment | R22(8)(b) | The Council do not extend the normal time limits, except in exceptional circumstances where it may be reasonable, e.g. where an election was made in time, but not received by the Pension Fund (evidence form posted) |
| | Whether to extend the 12 month option period for a member to elect that post 31 March 2014 deferred benefits should not be aggregated with an ongoing concurrent employment | R22(7)(b) | The Council do not extend the normal time limits, except in exceptional circumstances where it may be reasonable, e.g. where an election was made in time, but not received by the Pension Fund (evidence form posted) |
| Employee contribution rate | How the pension contribution band to which an employee is to be allocated on joining the Scheme, and at each subsequent April, will be determined and the circumstances in which the employer will, in addition to the review each April, review the pension contribution band to which an employee has been allocated following a material change which affects the member's pensionable pay in the course of a Scheme year (1 April to 31 March) | R9(1) & R9(3) | The Council's Pensions policy explains how employee's contribution bands are assessed. |
| Regular lump sum payments | In determining Assumed Pensionable Pay, whether a lump sum payment made in the previous 12 months is a "regular lump sum" | R21(5) | The Council does not include any "regular lump sum" to determine Assumed Pensionable Pay for periods of absence, except when determining calculations for ill health retirement or death in service when the Council will consider each case on its merits. In such cases, the primary criteria will be whether it could reasonably be expected that the member would have been likely to receive that regular payment for the foreseeable future. |
| Pensionable Pay | Where in the Employer's opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments) in the 3 months (or 12 weeks if not paid monthly) preceding the commencement of Assumed Pensionable Pay (AP)), is materially lower than the level of pensionable pay the member would have normally received, decide whether to substitute a higher level of pensionable pay having had regard to the level of pensionable pay received by the member in the previous 12 months. | R21(5A) & R21(5B) | Where pensionable pay in the 3 month period prior to commencement of APP is materially lower than the level of pay that would normally have been received, the Council will not normally substitute this with a higher level of pensionable pay, except when determining calculations for ill health retirement or death in service when the Council will consider each case on its merits. |

| Employer Discretion | | Regulation | NCC policy |
|---------------------|--|------------|--|
| Deferred benefits | Whether to extend the 12 month option period for a member (who did not become a member of the 2014 Scheme by virtue of TP5(1)) to elect that pre 1 April 2014 deferred benefits should be aggregated with a new employment | TP10(6) | The Council do not extend the normal time limits, except in exceptional circumstances where it may be reasonable, e.g. where an election was made in time, but not received by the Pension Fund (evidence form posted) |

2008 Scheme Regulations

The policy in respect of each employer discretion is set out below, however, the council may give further consideration where there are exceptional circumstances and clear merit, or where the cost is not considered to be significant or material.

| Employer Discretion | | Regulation | NCC policy |
|---------------------|---|-----------------------------|---|
| Waive reduction | Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 and B30A | B30A(5), TPSch 2, para 2(1) | The Council will not waive any actuarial reduction for deferred members on compassionate grounds. |
| 85 year rule | Whether to switch on the 85 year rule for a pensioner member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60 | TPSch 2, para1(2) & 1(1)C) | The Council will not "switch on" the 85 year rule. |

1997 Scheme Regulations

The policy in respect of each employer discretion is set out below, however, the council may give further consideration where there are exceptional circumstances and clear merit, or where the cost is not considered to be significant or material.

| Employer Discretion | | Regulation | NCC policy |
|-----------------------------|--|-----------------------------------|--|
| Employer consent retirement | Grant an application for early payment of deferred benefits on or after age 50 and before age 55. | 31(2) | The Council do not allow any applications |
| 85 year rule | Whether to switch on the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60. | TPSch 2,para 1(2) & 1(1)(f) & R60 | The Council will not "switch on" the 85 year rule. |
| Waive reduction | Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early | 31(5) | The Council will not waive any actuarial reduction on deferred benefits. |

1995 Scheme Regulations

The policy in respect of each employer discretion is set out below, however, the council may give further consideration where there are exceptional circumstances and clear merit, or where the cost is not considered to be significant or material.

| Employer Discretion | | Regulation | NCC policy |
|-----------------------------|---|------------|--|
| Employer consent retirement | Whether to grant an application for early payment of deferred benefits on or after age 50 on compassionate grounds. | D11(2)c | The Council will not allow any applications. |

Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)

| Employer Discretion | | Regulation | NCC policy |
|-------------------------------------|--|------------|---|
| Redundancy Pay on actual weeks' pay | To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks' pay limit. | 5 | The Council will base redundancy payments on an actual weeks pay where this exceeds the statutory weeks' pay cap. |
| Lump sum compensation | To award lump sum compensation of up to 104 weeks' pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment. | 6 | The Council will factor by 1.5 each weeks pay. |

Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended)

These Regulations still apply to any Compensatory Added Years previously awarded before 1 April 2007.

| Employer Discretion | | Regulation | NCC policy |
|--------------------------------|---|------------|---|
| Abatement during re-employment | Whether and to what extent to reduce or suspend the member's annual compensatory added years payment during any period of re-employment in local government | 17 | <p>The appropriate reduction referred to in Regulation 17(1) shall be the lower of:</p> <p>(i) the annual compensation and associated pensions increases thereon, and</p> <p>(ii) the amount by which the aggregate of:</p> <p>a. the annual rate of pay in the new employment,</p> <p>b. the annual compensation and associated pensions increases thereon, and</p> <p>c. the annual pension and associated pensions increases thereon,</p> <p>exceeds the annual rate of pay at the termination date of the employment that gave rise to the award of compensation, with official increases (i.e. with the appropriate pensions increase factor applied).</p> |

| Employer Discretion | | Regulation | NCC policy |
|---|---|-------------------|--|
| Reduction following cessation of re-employment | How to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment in local government | 19 | The appropriate reduction referred to in Regulation 19 (1) shall be determined in the same manner as would previously have been the case under Regulation 16 of the Local Government (Discretionary Payments) Regulations 1996. |
| Apportionment of survivor benefit | How to apportion any surviving spouses' or civil partner's annual compensatory added years payment where the deceased person is survived by more than one spouse or civil partner | 21(4) | The Council will apportion any surviving spouses' annual compensatory added years' payment equally between spouses. |
| Effects of remarriage, new civil partnership or co-habitation on survivor's compensation payments | Whether, in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal pension suspension rules should be dis-applied i.e. whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid | 21(7) | In a case where a person ceased employment before 1st April 1998 with an award of annual compensation, died, and their surviving spouse or civil partner had not, as at 1 April 1998, entered into a subsequent marriage, civil partnership or period of cohabitation the Council will determine that paragraph (5), (6), (6A) or (6B) of Regulation 21 of The Local Government (Early Termination of Employment) (Discretionary Compensation)(England and Wales) Regulations 2000, as appropriate, shall not apply. I.e. their surviving spouses or civil partner's compensation will continue during any subsequent remarriage or if they cohabit or enter into a new civil partnership. |
| | If, under the preceding decision, the authority's policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual compensatory added years payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation | 21(5) | Not applicable as 21(7) applies. |

Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011

The policy in respect of each employer discretion is set out below, however, the council may give further consideration where there are exceptional circumstances and clear merit, or where the cost is not considered to be significant or material.

| | Employer Discretion | Regulation | NCC policy |
|-------------------|--|-------------------|--|
| Injury allowances | Whether to grant an injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job. | 3(1) | The Council does not grant any injury allowance. |
| | Amount of injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job. | 3(4) and 8 | Not applicable as 3(1) applies |
| | Determine whether person continues to be entitled to an injury allowance awarded under regulation 3(1) (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job). | 3(2) | Not applicable as 3(1) applies |
| | Whether to grant an injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job. | 4(1) | The Council does not grant any injury allowance. |
| | Amount of injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job. | 4(3) and 8 | Not applicable as 4(1) applies |
| | Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity) | 4(2) | Not applicable as 4(1) applies |
| | Whether to suspend or discontinue injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity) if person secures paid employment for not less than 30 hours per week for a period of not less than 12 months. | 4(5) | Not applicable as 4(1) applies |
| | Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a regulation 3 payment (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job) was being made at date of cessation of employment but regulation 4 (loss of employment through permanent incapacity) does not apply. | 6(1) | The Council does not grant any injury allowance. |
| | Determine amount of any injury allowance to be paid under regulation 6(1) (payment of injury allowance following the cessation of employment) | 6(1) | Not applicable as 6(1) applies |
| | Determine whether and when to cease payment of an injury allowance payable under regulation 6(1) (payment of injury allowance following the cessation of employment) | 6(2) | Not applicable as 6(1) applies |
| | Whether to grant an injury allowance to the spouse, civil partner, co-habiting partner or dependent of an employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job | 7(1) | The Council does not grant any injury allowance. |

| Employer Discretion | | Regulation | NCC policy |
|----------------------------|--|-------------------|--------------------------------|
| | Determine amount of any injury allowance to be paid to the spouse, civil partner, nominated co-habiting partner (for awards made on or after 1 April 2008 the requirement to nominate a cohabiting partner has ceased) or dependent under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job) | 7(2) and 8 | Not applicable as 7(1) applies |
| | Determine whether and when to cease payment of an injury allowance payable under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job) | 7(3) | Not applicable as 7(1) applies |