

Local Pension Board

11 March 2021

**LGPS Administering Authority
Discretions**



Report of Paul Darby, Corporate Director of Resources (Interim)

Purpose of the Report

- 1 To advise the Board of the choices available to the Administering Authority under the regulations governing the Local Government Pension Scheme (LGPS), and how these are being exercised within the Pension Fund.

Recommendation(s)

- 2 The Board is asked to note this report and provide any comments on the way the Council exercises its discretions under the LGPS.

Background

- 3 Under the regulations governing the LGPS administering authorities and participating employers have a number of separate choices in relation to benefits or options that can be made available to scheme members under those regulations. These are usually referred to as administering authority discretions and employer discretions. The two appendices to this report set out the main administering authority discretions (Appendix A) and the employer discretions that fall to the administering authority where the Employer has become defunct (Appendix B), along with some of the rationale behind those policy decisions.
- 4 Participating employers within the Pension Fund are able to choose how to exercise their employer discretions under the LGPS regulations. Most employers choose to exercise their discretions in a similar way to the Council, especially in those areas that can incur a cost the employer such as the early release of unreduced pension benefits and the awarding of additional pension.
- 5 Also set out (Appendix C) are the mandatory written statements the administering authority must publish.

Author(s)

Paul Cooper

Tel: 03000 269798

Appendix A: Administering Authority Discretions

Discretion	Regulation	Council's policy	Rationale / comment
Whether to require a satisfactory medical before agreeing to an application to pay an Additional Pension Contribution / Shared Cost Additional Pension Contribution	R16(10)	A medical will not be required in respect of applications to pay Shared Cost Additional Pension Contributions following authorised unpaid leave of absence. For any other Shared Cost Additional Pension Contribution applications or for any application to pay (member only) Additional Pension Contributions, a letter from the individual's GP will be required stating they are in reasonably good health for their age. This letter will not be required if the additional contributions are being paid as a one-off lump sum.	Pension bought through paying Additional Pension Contributions is normally paid for over a number of years. If contributions are not continued for the full contract only a pro-rated amount of pension is credited except in cases of ill-health retirement or death in service. Requiring a medical protects the Pension Fund / pension fund employers from having to meet the extra cost in cases where an individual takes out a contract already aware of their poor state of health. Medicals are not required in respect of shared cost additional pension contributions as these are by their nature small amounts which relate to authorised unpaid leave of absence.

Discretion	Regulation	Council's policy	Rationale / comment
Whether to require any strain on Fund costs to be paid "up front" by employing authority following payment of benefits under R30(6) (flexible retirement), R30(7) (redundancy / business efficiency), or the waiver (in whole or in part) under R30(8) of any actuarial reduction that would otherwise have been applied to benefits which a member voluntarily draws before normal pension age or to benefits drawn on flexible retirement	R68(2)	Employers will be required to pay these strain costs either as a one-off lump sum due from the individual's retirement date or in five annual instalments with the first instalment due on the individual's retirement date. Where payment by instalments is selected an interest element will be added to each payment.	Few (if any) employers choose the five instalment approach to making early retirement strain costs. This is presumably owing to the interest rate applied, which was set some years ago and was intended to reflect the return on investment the Pension Fund could expect – it equates to 8% a year compound interest.
Whether to require any strain on Fund costs to be paid "up front" by employing authority following flexible retirement under R30(6) or waiver of actuarial reduction under TPSch 2, para 2(1) or release of benefits before age 60 under B30 of B30A	TPSch 2, para 2(3)	Employers will be required to pay these strain costs either as a one-off lump sum due from the individual's retirement date or in five annual instalments with the first instalment due on the individual's retirement date. Where payment by instalments is selected an interest element will be added to each payment.	

Discretion	Regulation	Council's policy	Rationale / comment
Decide to whom death grant is paid	TP17(5) to (8) & R40(2), R43(2) & R46(2)	Discretion to be exercised by the Pensions Manager on behalf of the Corporate Director of Resources under delegated powers to make payments in accordance with any nominations received or to anyone who would appear to be the beneficiary.	This is a practical approach, to delegate authority to officers to ensure the payment of death grants can be processed promptly.
Whether to pay death grant due to personal representatives or anyone appearing to be beneficially entitled to the estate without need for grant of probate / letters of administration where payment is less than amount specified in s6 of the Administration of Estates (Small Payments) Act 1965		The Pensions Manager on behalf of the Corporate Director of Resources will make payments under the small payments legislation under delegated powers.	
Allow transfer of pension rights into the Fund	R100(7)	To allow transfers of pension rights into the Fund (provided the time limits set out in the regulations have been adhered to)	Allows scheme members the option to transfer-in pension rights from other schemes. Relies on factors (currently provided by the Government Actuary's Department) ensuring the liabilities transferred in appropriately match the assets transferred in.
Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	R100(6)	To allow the 12 month time-limit for transfers-in to be extended, provided the relevant scheme employer has agreed to the extension	Makes accepting late transfers-in an issue for the scheme employer (as they will pick up any additional defined benefit pension risk if the transfer proceeds).

Discretion	Regulation	Council's policy	Rationale / comment
Decide to treat child as being in continuous education or vocational training despite a break	RSch 1 & TP17(9)	Exercise discretion to ignore breaks in education or vocational education if the break does not exceed one year	This allows for those receiving a child's pension because they are under age 23 and in full-time education or vocational training to continue to receive a child's pension after a break in education / vocational training of up to a year (although payment does not continue during that break). Note a scheduled school / college / university holiday does not constitute a break for these purposes.
Decide policy on abatement of pensions in payment following re-employment	TP3(13) & A70(1) & A71(4)(c)	Abatement of pensions will not apply with the exception of the abatement of old 'added years' pensions as required under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 and 2006	In line with many other administering authorities, the Council does not apply 'abatement'. It was always difficult to administer and enforce, as well as being a concept which is difficult to reconcile with the relaxation of HMRC's restrictions (from April 2006) around drawing a pension and continuing to work, and with general modern employment practices.

Appendix B: Discretions Where Employer Has Become Defunct

Discretion and regulation	Council's policy	Rationale / comment
<p>Whether all or some pension benefits can be paid if an member aged 55 or over reduces their hours/grade and continues to work ("flexible retirement"), and whether to waive some or all of any actuarial reduction that applies on flexible retirement. [R30(6) & R30(8)], and;</p> <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. [TP3(1), TPSch 2, para 2(1), B30(5) & B30A(5) & 31(5) & TP3(5A)(vi), TL4, L106(1) & D11(2)(c)]</p>	<p>The Council will consider applications for "flexible retirement" on an individual basis. Decisions will be made on the merits of each case, considered in line with Council's own policy and in consideration of any cost. Where a cost occurs cases would normally be refused except in exceptional circumstances.</p> <p>The Council will only consider waiving actuarial reductions where it is in the Pension Fund / Council's financial interests to do so.</p>	<p>Very unlikely to be of financial interest to award additional pension, 'switch on' the rule of 85, waive actuarial reductions or pay for some or part of a scheme member's additional pension purchase when not required to do so.</p>

<p>Whether to allow the rule of 85 to be “switched on” for members who would normally meet the rule but who will not if they draw the benefits age 55-59 [TPSch2, para 1(2), & 1(1)(c) & 1(1)(f), & R60]</p>	<p>The Council will only consider exercising this discretion where it is in the Pension Fund / Council’s financial interests to do so.</p>	<p>Very unlikely to be of financial interest to award additional pension, ‘switch on’ the rule of 85, waive actuarial reductions or pay for some or part of a scheme member’s additional pension purchase when not required to do so.</p>
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Appendix C: Mandatory Written Policies of Admin Authority

Policy	Description
Governance Compliance Statement [R55]	Governance Compliance Statement must state whether the admin authority delegates their function or part of their function in relation to maintaining a pension fund to a committee, a sub-committee or an officer of the admin authority and, if they do so delegate, state: - the frequency of any committee or sub-committee meetings, - the terms, structure and operational procedures appertaining to the delegation, and - whether representatives of employing authorities or members are included and, if so, whether they have voting rights. The policy must also state: - the extent to which a delegation, or the absence of a delegation, complies with Sec of State guidance and, to the extent it does not so comply, state the reasons for not complying, and - the terms, structure and operational procedures appertaining to the local Pensions Board.
Funding Strategy Statement [R58]	Mandatory written policy Decide on Funding Strategy for inclusion in funding strategy statement.
Communication Policy [R61]	Communication policy must set out the policy on provision of information and publicity to, and communicating with, members, representatives of members, prospective members and Scheme employers; the format, frequency and method of communications; and the promotion of the Scheme to prospective members and their employers.

