



Telford & Wrekin
Co-operative Council

Protect, care and invest
to create a better borough

Discretionary policies

Local Government Pension Scheme Regulations and other related Regulations

Updated April 2022

Discretionary Policies

Introduction

Employers who participate in the Local Government Pension Scheme are required to draw up discretionary policies under the Local Government Pension Scheme Regulations and other related Regulations.

Discretions to be exercised

- i) under the LGPS Regulations 2013 from 1 April 2014 in respect of members of the Career Average Revalued Earnings (CARE) scheme,
- ii) under earlier LGPS Regulations in respect of former employees who were members of the LGPS and who left prior to 1 April 2014,
- iii) under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 and earlier compensation regulations,
- iv) under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011
- v) under the Local Government Pension Scheme Regulations 1997 in respect of local authority councillor members.

This document forms Telford & Wrekin Council's policies on pension and compensation discretions. It should be noted that:

- the policies will confer no contractual rights,
- Telford & Wrekin Council will retain the right to change the policies at any time without prior notice or consultation and
- only the policy which is current at the time a relevant event occurs to an employee / scheme member will be the one applied to that employee / member.

LGPS Regulations 2013

Discretions to be exercised on and after 1 April 2014 in relation to active scheme members and members who cease active membership after 31 March 2014

1. Granting Annual Extra Pension

Whether, at full cost to Telford & Wrekin Council, to grant extra annual pension of up to £7,352 (figure at 1 April 2022¹) to an active scheme member or, within 6 months of leaving, to a member who is dismissed by reason of redundancy or business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency.

Requests for additional pension 'by conversion' from an active Scheme member when employment is terminated on redundancy or efficiency grounds are considered on an individual basis, provided that the award of additional pension would not exceed the statutory limit.

Otherwise, the Council will not make use of this provision.

¹ The figure of £6,500 that applied at April 2014 is increased each April (starting April 2015) under the Pension (Increase) Act 1971 (as if it were a pension with a PI date of 1 April 2013).

2. Shared Cost Additional Pension Contributions Regulations (SCAPC)

Whether, where an active scheme member wishes to purchase extra annual pension of up to £7,352 (figure at 1 April 2022²) by making Additional Pension Contributions (APCs), Telford & Wrekin Council will voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC).

Note: This discretion does not relate to cases where a member has a period of authorised unpaid leave of absence and elects within 30 days of return to work to pay a SCAPC to cover the amount of pension 'lost' during that period of absence. This is because, in most cases, the Council must contribute 2/3 of the costs of the SCAPC under Regulation R 15 (5).

The Council is unlikely to operate a SCAPC Scheme on grounds of the cost to the authority. This acknowledges that there are alternative ways of active members buying additional pension on a voluntary basis.

² The figure of £6,500 that applied at April 2014 is increased each April (starting April 2015) under the Pension (Increase) Act 1971 (as if it were a pension with a PI date of 1 April 2013).

3. Flexible Retirement

Whether to permit flexible retirement for staff aged 55 or over who, with the agreement of Telford & Wrekin Council, reduce their working hours or grade and, if so, as part of the agreement whether, in addition to the benefits the member has accrued prior to 1 April 2008 (which the member must draw if flexible retirement is agreed), to permit the member to choose to draw

all, part or none of the pension benefits they accrued after 31 March 2008 and before 1 April 2014, and / or

all, part or none of the pension benefits they accrued after 31 March 2014, and

whether to waive, in whole or in part, any actuarial reduction which would otherwise be applied to the benefits taken on flexible retirement before Normal Pension Age (NPA).

Applications are considered on an individual basis, following submission of a detailed business case* which:

- in the case of a reduction in hours, demonstrates a saving in full employment costs
- in the case of a transfer to another job pay protection will not apply and there must be a saving over the previous full employment costs within the measures created by the new arrangements
- in exceptional circumstances demonstrates it would enable the retention of specialist or critical skills or support a period of succession planning/training in which case savings may not be realised to fund the release

*The business case will demonstrate how costs will be recovered over a maximum of a three year period, unless exceptional circumstances as noted above apply and will also address the availability of skills, how these might be retained and shared within the authority and the impact on service provision.

Where an application is approved the release of pension benefits accrued prior to 1 April 2008 must be released. However, the business case and cost analysis will determine whether all, part or none of the benefits accrued between 1 April 2008 and 31 March 2014 and also 1 April 2014 onwards are released and whether actuarial reduction will be applied to benefits taken before Normal Pension Age (NPA).

Employees granted flexible retirement will be required to enter into a contractual agreement which means that they cannot subsequently be appointed to posts that would result in either an increase in hours or being paid at a higher grade within a 12 month period unless there are exceptional circumstances which justify the appointment.

4. Switching on the 85 year rule

Whether, as the 85 year rule does not (other than on flexible retirement – see 3 above) automatically apply to members who would otherwise be subject to it and who choose to voluntarily draw their benefits on or after age 55 and before age 60, to apply the 85 year rule to such voluntary retirements

If the rule is switched on then the Council would be responsible for meeting any remaining strain on the Fund arising from benefits before age 60.

This could be used as a mechanism to encourage members to retire early to help to achieve a balanced age profile within the workforce or to avoid possible redundancies later (which have greater associated costs).

Applications for the '85 Year Rule to be switched on will be considered on an individual basis, following submission of a detailed business case (directly related to the post being vacated) which sets out the financial costs, seeking to recover the cost of strain through a saving in full employment costs which is achieved within a maximum 3 year period.

5. Early Retirement and Actuarial Reduction

For:

- i) active members voluntarily retiring on or after age 55 and before Normal Pension Age who elect under regulation 30(5) of the LGPS Regulations 2013 to immediately draw benefits, and
- ii) deferred members and suspended Tier 3 ill health pensioners who elect under regulation 30(5) of the LGPS Regulations 2013 to draw benefits (other than on ill health grounds) on or after age 55 and before Normal Pension Age

Group 4 members – who were not members of the LGPS before 1 October 2006 - whether to:

- waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits, if any, accrued before 1 April 2014, and/or
- waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2014

Group 1 members – who were members of the LGPS before 1 October 2006 and were 60 or more on 31 March 2016 whether to:

- waive on compassionate grounds any actuarial reduction that would otherwise be applied to benefits accrued before 1 April 2016, and / or
- waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2016

Group 3 members – who were members of the LGPS before 1 October 2006 and were not 60 or more on 31 March 2016 and did not attain age 60 between 1 April 2016 and 31 March 2020, whether to:

- waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April 2014, and / or
- waive in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2014

Group 2 Members - who were members of the LGPS before 1 October 2006 and were not 60 or more on 31 March 2016 but did attain age 60 between 1 April 2016 and 31 March 2020 , whether to:

- waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April 2020, and / or
- waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2020

Applications are considered on an individual basis following the submission of a detailed business case which sets out the justification for waiving the actuarial reduction in whole or in part where it is in the Council's financial or operational interests to do so or there are strong compelling compassionate reasons for doing so e.g. where evidence shows that long-term care is being given to a dependent relative (solely dependent on the employee) and that this is likely to continue for many years. The cost of pension strain will be given significant relevance in reaching a decision.

6. Contribution bandings

How the pension contribution band/rate to which an employee is to be allocated will be determined on joining the Scheme and at each subsequent April, and the circumstances in which the employer will, in addition to the review each April, review the pension contribution band/rate to which an employee has been allocated consequent upon a material change which affects the member's pensionable pay in the course of a Scheme year (1 April to 31 March).

The Council is required to reassess the appropriate band and rate each April. In addition, it has the discretion to review the frequency of reassessment when pensionable pay changes and reband at that point. The re-banding process is carried out on an annual basis with effect from April 2018. In addition, rebanding will take place following any contractual changes such as an increase or decrease in hours, a move to another job or the award of a temporary change in pay such as through an honorarium. There may be other occasions when it is appropriate to review the banding and as such any changes will be authorised by the Human Resources Manager.

Elements included in the calculations:

- Annual salary and Non-variable pensionable pay elements (e.g. allowances) for the year commencing on 1st April, plus
- Variable pensionable pay elements paid during the previous year ending on 31st March (e.g. honoraria payments, non-contractual overtime and additional hours paid to part-timers)

Employees who work under a Variable Hours Contract and Casual Employees are allocated to a band based on the payments they have received during the previous 12 month period. Where employees have less than 12 months service in post their earnings should continue to be factored up to give an equivalent annual pay figure which then determines a banding rate.

Where salary sacrifice reduces the pensionable pay, bands will be applied on the reduced salary with effect from 1st April 2021.

7. Other discretions under the 2014 Regulations which do not require a written policy.

All other discretions under the Local Government Pensions Scheme Regulations 2013 and 2014 will be considered on an individual basis, taking into account all relevant circumstances, with decisions being made on a workable, affordable and reasonable basis having regard to any foreseeable costs arising from the decision

Earlier LGPS Regulations

Discretions to be exercised re former employees who were members of the LGPS and who left prior to 1 April 2014

1. In relation to scheme members who ceased active membership between 1 April 2008 and 31 March 2014:

1. Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.

2. Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to any suspended Tier 3 ill health pension benefits which are brought back into payment before age 65

Applications regarding release on compassionate grounds will be considered on an individual basis following submission of a detailed business case which sets out the justification for waiving the actuarial reduction in whole or in part on compassionate grounds. Release should only be agreed on strong compassionate grounds e.g. where evidence shows that long-term care is being given to a dependent relative (solely dependent on the employee) and that this is likely to continue for many years. The cost of pension strain will be given significant relevance in reaching a decision.

2. In relation to scheme members who ceased active membership between 1 April 1998 and 31 March 2008:

1. Whether to grant applications for the early payment of pension benefits on or after age 50 and before age 55 (on grounds other than permanent ill health).

Where a former scheme member who left the scheme between 1 April 1998 and 31 March 2008 (or a local authority councillor member who left the scheme on or after 1 April 1998) requests early release of deferred benefits on or after age 50 and before age 55 (on grounds other than permanent ill health), approval will only be given on compassionate grounds. Each case will be considered on its merits and will be subject to the approval of the Human Resources Manager Subject to 2 below, the benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations.

2. Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.

Each case will be considered on its merits and will be subject to the approval of the Human Resources Manager.

3. In relation to scheme members who ceased active membership before 1 April 1998:

Whether to grant applications for the early payment of deferred pension benefits on or after age 50 and before age 65 on compassionate grounds.

Each case will be considered on its merits and will be subject to the approval of the Human Resources Manager.

Early Termination

Discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006

Whether to base a redundancy payment on an employee's actual weeks' pay where this exceeds the statutory week's pay limit.

Any redundancy payment will be calculated on an employee's actual week's pay and not limited to the statutory weeks' pay limit where pay exceeds that limit.

Continuous local government service, as defined under the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999, will be taken into account in the calculation of redundancy payments.

Whether to make a termination payment (inclusive of any redundancy payment) of up to a maximum of 104 weeks' pay to employees whose employment is terminated on the grounds of redundancy or efficiency of the service.

Redundant staff will receive a termination payment (to incorporate redundancy pay) calculated using the statutory redundancy payment formula but based on actual pay, enhanced by a multiplier of 1.5 times statutory entitlement.

In cases of efficiency termination or the ending of joint appointments, individual decisions will be made, following submission of a detailed business case, and that no more than 45 weeks be paid, subject to this not being greater than any equivalent redundancy payment.

Injury Allowances

Discretions to be exercised under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011

Whether to award an injury allowance in respect of an employee who sustains an injury or contracts a disease as a result of anything he / she was required to do in performing the duties of their job and in consequence of which he / she suffers a reduction remuneration, or ceases to be employed as a result of an incapacity which is likely to be permanent and which was caused by the injury or disease, or dies leaving a surviving spouse, civil partner or dependant.

The Council considers claims in exceptional circumstances only, treating each case on an individual basis, taking into account all circumstances including any contributory negligence by the employee, in determining the amount of any award to be made. Any award made will be reviewed on a regular basis, to determine whether there has been a material change in the degree of incapacity or the person's financial situation, and at the individuals' normal retirement age.

Each decision will be made by the Human Resources Manager under delegated authority, following consideration of a detailed report which includes documentary evidence and an opinion from an Independent Registered Medical Practitioner. Each decision will be made on the basis that it is affordable and having regard to the foreseeable costs. Rights of appeal will be in accordance with any statutory legislation at the point that a claim is made.

How to calculate an injury allowance award in respect of an employee who sustains an injury or contracts a disease as a result of anything he / she was required to do in performing the duties of their job and in consequence of which he / she suffers a reduction remuneration

How to calculate an injury allowance award in respect of an employee who sustains an injury or contracts a disease as a result of anything he / she was required to do in performing the duties of their job and who ceases to be employed as a result of an incapacity which is likely to be permanent and which was caused by the injury or disease.

How to calculate an injury allowance or lump sum award for a surviving spouse, civil partner, nominated cohabiting partner or dependant of an employee who sustains an injury or contracts a disease as a result of anything he / she was required to do in performing the duties of their job and as a result of which he / she dies.

Each case will be treated on an individual basis.