

TAMESIDE MBC

EMPLOYER DISCRETIONS (LGPS) STATEMENT OF POLICY

This policy statement will comply with the regulations relating to the Local Government Pension Scheme (LGPS) that came into effect from 1 April 2014 and the options for Early Retirement.

It defines the employer's discretions in the regulations and clarifies the Council's approach to different retirement options.

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.

The policy reflects changes following the introduction of the new Career Average Revalued Earnings Pension Scheme (CARE). This policy does not confer contractual rights and the Council retains the right to review and amend it at any time. The terms of this Policy Statement reflect the Regulations at the time of writing. The statement will be updated in the event of future changes.

Section 1 <ul style="list-style-type: none"> • LGPS Regulations 2013 [SI 2013/2356] [R] • LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] [TP] • LGPS (Administration) Regulations 2008 [SI 2008/239] [A] • LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended) [SI 2007/1166] [B] • LGPS (Transitional Provisions) Regulations 2008 [SI 2008/238] [T] • LGPS Regulations 1997 (as amended) [SI 1997/1612] [L] 		Discretionary policies from 1 April 2014 in relation to post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)		
Discretion	Regulation	Exercised	Employer Policy Decision	
Whether, how much, and in what circumstances to contribute to a shared cost APC scheme.	R16(2)(e)* & R16(4)(d)*	Employer	The Council will not exercise this discretion.	

Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)	R30(6)* TP11(2)	&Employer	<p>The Council will consider applications for Flexible Retirement on a case by case basis, giving due regard to the needs of the business and the financial implications to the Council. There will need to be a demonstrable benefit to the Council to take full account of any extra cost.</p> <p>Requests will only be considered if the employee is over the age of 55 and is making a permanent reduction in <u>pay</u> by at least 40%.</p> <p>Approval of applications will provide release of all pension benefits accrued up to the date of retirement. The employee cannot increase their level of pay for the duration of their flexible retirement (with the exception of T&C's changes i.e. pay award).</p>
Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement.	R30(8)*	Employer (or Admin. Authority where Employer has become defunct)	The Council will not exercise this discretion.
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)	R30(8)*	Employer (or Admin. Authority where Employer has become defunct)	The Council will not exercise this discretion, except where there is a clear financial or operational advantage to the Council in doing so and at the approval of the Executive Director with pension decision responsibility for the Council.
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) *	Employer (or Admin. Authority where Employer has become defunct)	The Council will not exercise this discretion, except where there is a clear financial or operational advantage to the Council in doing so and at the approval of the Executive Director with pension decision responsibility for the Council.

<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)</p> <ul style="list-style-type: none"> a) on 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, b) on 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 c) on 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 d) on 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), TP Sch 2, para 2(1), B30(5) and B30A(5)*</p>	<p>Employer (or Admin. Authority where Employer has become defunct)</p>	<p>The Council will not exercise this discretion, except where there is a clear financial or operational advantage to the Council in doing so and at the approval of the Executive Director with pension decision responsibility for the Council.</p>
<p>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 £6,500 p.a. on 1 April 2014 - this figure is inflation proofed annually).</p>	<p>R31*</p>	<p>Employer</p>	<p>The Council will not exercise this discretion.</p>

Section 2 <ul style="list-style-type: none"> • LGPS (Administration) Regulations 2008 [SI 2008/239] [A] • LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended) [SI 2007/1166] [B] • LGPS (Transitional Provisions) Regulations 2008 [SI 2008/238] [T] • LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] [TP] • LGPS Regulations 2013 [SI 2013/2356] [R] • LGPS 1997 (as amended) [1997/1612] [L] 		Discretionary policies in relation to scheme members (excluding councillor members) who ceased active membership on or after 1 April 2008 and before 1 April 2014	
Discretion	Regulation	Exercised by	Employer Policy Decision
Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.	TPSch 2, para 1(2) & 1(1)(c)	Employer (or Admin. Authority where Employer has become defunct)	The Council will not exercise this discretion.
Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 (member).	B30(5), TPSch 2, para 2(1) *	Employer (or Admin. Authority where Employer has become defunct)	The Council will not exercise this discretion.
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, para 1(2) & 1(1)(c)	Employer (or Admin. Authority where Employer has become defunct)	The Council will not exercise this discretion.
Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A (pensioner member with deferred benefits).	B30A(5), TPSch 2, para 2(1)*	Employer (or Admin. Authority where Employer has become defunct)	The Council will not exercise this discretion.

Section 3 <ul style="list-style-type: none"> • LGPS Regulations 1997 [SI 1997/1612] • The Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [SI 2008/238] [prefix T] • The Local Government Pension Scheme (Administration) Regulations 2008 [SI 2008/239] [prefix A] • LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] [TP] • The Local Government Pension Scheme Regulations 2013 [SI 2013/2356] [prefix R] 		Discretionary policies in relation to: <ul style="list-style-type: none"> • active welsh councillor members, and • councillor members who ceased active membership on or after 1 April 1998, and • any other scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008 	
Discretion	Regulation	Exercised by	Employer Policy Decision
Grant application for early payment of deferred benefits on or after age 50 and before age 55. See note below.	31(2)*	Employer	Such applications will only be considered where there is no direct cost to the Council.
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) and R60	Employer (or Admin. Authority where Employer has become defunct)	The Council will not exercise this discretion.
Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early.	31(5)* & TPSch 2, para 2(1)	Employer (or Admin. Authority where Employer has become defunct)	The Council will not exercise this discretion.

*These are matters about which the regulations require there must be a written policy.

Note: benefits paid on or after age 50 and before age 55 are subject to an unauthorised payments charge and, where applicable, an unauthorised payments surcharge under the Finance Act 2006. Also, any part of the benefits which had accrued after 5 April 2006 would generate a scheme sanction charge.

Section 4 <ul style="list-style-type: none"> • LGPS Regulation 1995 [SI 1995/1019] • The Local Government Pension Scheme (Transitional Provisions) Regulations 1997 [SI 1997/1613] [prefix TL] • The Local Government Pension Scheme Regulations 1997 {SI 1997/1612} (as amended) [prefix L] • The Local Government Pension Scheme (Administration) Regulations 2008 [SI 2008/239] [prefix A] • LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] [TP] • The Local Government Pension Scheme Regulations 2013 [SI 2013/2356] [prefix R] 		Discretionary policies in relation to: <ul style="list-style-type: none"> • active welsh councillor members, and • councillor members who ceased active membership on or after 1 April 1998, and • any other scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008 	
Discretion	Regulation	Exercised by	Employer Policy Decision
<p>Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds.</p> <p>Although the common provisions of the 1997 Transitional provisions regulations do not specify regulation D11(2)(c), there intention was that it should apply to this regulation.</p>	<p>TP3 (5A) (vi), TL4 & L106(1) & D11(2)(c)</p>	<p>Employer</p>	<p>The Council will not exercise this discretion, except where there is a clear financial or operational advantage to the Council in doing so and at the approval of the Executive Director with pension decision responsibility for the Council.</p>

Section 5 <ul style="list-style-type: none"> • The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended) [SI 2006/2914] 		Discretionary policies in relation to employees of an employing authority that is defined under regulation 2 of The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)	
Discretion	Regulation	Exercised by	Employer Policy Decision
<p>To base redundancy payments on an actual week's pay where this exceeds the statutory week's pay limit.</p>	<p>5</p>	<p>Employer</p>	<p>The Council will not exercise this discretion.</p>

To award lump sum compensation of up to 104 week's pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment.	6	Employer	The Council will not exercise this discretion.
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Section 6 • The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended) [SI 2000/1410]		Discretion policies in relation to employees of an employing authority that is defined under regulation 2 of The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)	
Discretion	Regulation	Exercised by	Employer Policy Decision
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)	Employer	The Council's Policy Decision is not to set up a Discretionary Compensation Scheme at this time.
How it will decide to whom any children's annual compensatory added years payments are to be paid where children's pensions are not payable under the LGPS (because the employee had not joined the LGPS) and, in such a case, how the annual added years will be apportioned amongst the eligible children.	25(2)	Employer	The Council's Policy Decision is not to set up a Discretionary Compensation Scheme at this time.
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 disapplied i.e. whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid.	21(7)	Employer	The Council's Policy Decision is not to set up a Discretionary Compensation Scheme at this time.

<p>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.</p>	21(5)	Employer	<p>The Council's Policy Decision is not to set up a Discretionary Compensation Scheme at this time.</p>
<p>Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partners annual CAY payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or cohabitation lasts, should be disapplied i.e. whether the spouses' or civil partners' annual CAY payments should continue to be paid to both of them.</p>	21(7)	Employer	<p>The Council's Policy Decision is not to set up a Discretionary Compensation Scheme at this time.</p>
<p>To what extent to reduce or suspend the member's annual compensatory added year's payment during any period of re-employment in local government.</p>	17	Employer	<p>The Council's Policy Decision is not to set up a Discretionary Compensation Scheme at this time.</p>
<p>How to reduce the member's annual compensatory added year's payment following the cessation of a period of re-employment in local government.</p>	19	Employer	<p>The Council's Policy Decision is not to set up a Discretionary Compensation Scheme at this time.</p>

Section 7 • The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 [SI 2011/2954]		Discretion policies each employing authority may apply in the exercise of its discretionary powers to make any award in respect of leavers, deaths and reductions in pay that occurred post 15 January 2012	
Discretion	Regulation	Exercised by	Employer Policy Decision
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)	Employer	The Council's Policy Decision is not to set up an Injury Allowance Scheme at this time.
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) & 8	Employer	The Council's Policy Decision is not to set up an Injury Allowance Scheme at this time.
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)	Employer	The Council's Policy Decision is not to set up an Injury Allowance Scheme at this time.
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)	Employer	The Council's Policy Decision is not to set up an Injury Allowance Scheme at this time.
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) & 8	Employer	The Council's Policy Decision is not to set up an Injury Allowance Scheme at this time.
Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity).	4(2)	Employer	The Council's Policy Decision is not to set up an Injury Allowance Scheme at this time.

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)	Employer	The Council's Policy Decision is not to set up an Injury Allowance Scheme at this time.
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)	Employer	The Council's Policy Decision is not to set up an Injury Allowance Scheme at this time.
Determine amount of any injury allowance to be paid under regulation 6(1) (payment of injury allowance following the cessation of employment).	6(1)	Employer	The Council's Policy Decision is not to set up an Injury Allowance Scheme at this time.
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)	Employer	The Council's Policy Decision is not to set up an Injury Allowance Scheme at this time.
Whether to grant an injury allowance to the spouse, civil partner, cohabiting partner (the requirement to nominate a cohabiting partner has ceased entirely under these regulations due to the outcome of the Elmes v Essex high court judgement) 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)	Employer	The Council's Policy Decision is not to set up an Injury Allowance Scheme at this time.

<p>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 co-habiting partner has ceased due to the outcome of the Elmes v Essex high court judgement) or dependent of an employee 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).</p>	<p>7(2) & 8</p>	<p>Employer</p>	<p>The Council's Policy Decision is not to set up an Injury Allowance Scheme at this time.</p>
<p>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).</p>	<p>7(3)</p>	<p>Employer</p>	<p>The Council's Policy Decision is not to set up an Injury Allowance Scheme at this time.</p>