

Employer Discretions Policy

Table of Contents

1	Introduction
2	Objectives
3	Discretions
4	Forfeiture of Pension
References	The LGPS Regulations 2007 and 2008 – Benefits Membership and Contributions The LGPS Regulations 2013 and 2014 - Transitional Provisions, Savings and amendments
Related Polices	Financial Regulations, Standing Orders, Financial Risk Assessment

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1. Introduction

The Local Government Pension Scheme (LGPS) is a statutory pension scheme so its rules are laid down under Act of Parliament. However, the scheme's regulations do allow an employer some flexibility to enhance members' benefits. These discretions typically involve early access to benefits or improving the benefits received by members.

Boyatt Wood Parish Council (BWPC) must have regard to the extent of the discretionary powers, that they are properly limited to retain confidence in the delivery of public service and be satisfied that it is affordable and reasonable

2. Objectives

To set out the scheme employer's policy in relation to employees on the operation of each of the compulsory discretions (and optional discretions where chosen) available under the LGPS Regulations. It states whether or not discretions will be operated and the circumstances and criteria for applying them, in relation to active and deferred members of the LGPS.

3. Discretions

The discretions are split into two parts – Part A - Mandatory and Part B - Non-Mandatory. All discretions must be kept under review and nothing in this Policy will fetter BWPC's discretion to exercise its powers.

BWPC may consider discretions where there are exceptional circumstances and clear merit, or where the cost is not considered to be significant or material.

BWPC will consider the following non exhaustive list of considerations:

- The provision for all members to be able to access their pension early from age 55 at their own choice,
- Normal pension age increasing.
- The Government's aim for people to take responsibility for financing their retirement plans. BWPC is unable to offer financial advice and employees are advised to seek their own financial advice.
- The impact on the Council's wider financial position, including all costs associated with the request.
- Supporting the Council's Mission, Vision and Values.

3.1. Part A - Mandatory Discretions

The following discretions apply to members

Discretion	Description	Policy Decision
Power to award additional pension Regulation 31	Whether, at the full cost to the Scheme employer, to grant extra annual pension of up to £8,344 (from 1 April 2024) to an active member or within 6 months of leaving to a member whose employment was	BWPC will not award additional pension

	terminated on the grounds of redundancy or business efficiency [regulation 31 of the LGPS Regulations 2013]	
Shared cost additional pension contributions LGPS Regulations 2013 16(2e) and 16 (4d)	Whether, how much, and in what circumstances to contribute to a Shared Cost Additional Pension Contributions (APC) scheme. Note: This does not include instances where the employee is paying for <i>lost</i> pension via an APC where the election was made in the first 30 days (or longer if the employer allows) – in this circumstance the employer <i>must</i> pay two-thirds of the cost of such purchase.	BWPC will not contribute towards APC Scheme due to the financial burden.
Flexible retirement Regulation 30 (6)) & TP11(2) & R30(8)	Whether to allow flexible retirement for staff aged 55 or over who, with the agreement of the Scheme employer, reduce their working hours or grade [regulation 30(6) of the LGPS Regulations 2013] and, if so, as part of the agreement to allow flexible retirement: <ul style="list-style-type: none"> • Whether, in addition to the benefits the member has built up prior to 1 April 2008 (which the member must draw), to allow the member to choose to draw: <ol style="list-style-type: none"> I. All, part or none of the pension benefits they built up after 31 March 2008 and before 1 April 2014, and / or II. All, part or none of the pension benefits they built up after 31 March 2014 [regulations 11(2) and 11(3) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 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 	<p>i) Whether to allow flexible retirement</p> <p>ii) Whether to allow the member to choose to take</p> <ol style="list-style-type: none"> a. part or none of the pension benefits they built up after 31 March 2008 and before 1 April 2014, and / or b. all, part or none of the pension benefits they built up after 31 March 2014. <p>iii) Whether to waive, in whole or in part, any actuarial reductions which would otherwise be applied to the benefits taken on flexible</p>

	<p>Age (NPA) [regulation 3(5) of the LGPS Transitional Provisions, Savings and Amendment) Regulations 2014, regulation 18(3) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and regulations 30(6) and 30(8) of the LGPS Regulations 2013].</p>	<p>retirement before Normal Pension Age.</p> <p>BWPC will not normally exercise these discretions except where there is a clear financial or operational advantage to the Council</p>
<p>‘Switch on’ the 85-year rule</p> <p>a) for a member voluntarily drawing benefits on or after age 55 and before age 60.</p> <p>Paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014</p> <p>b) for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60</p> <p>c) upon the voluntary early payment of a suspended tier 3 ill health pension</p> <p>Paragraph 1(1)(c) & 1(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014</p> <p>d) upon the voluntary early payment of deferred benefits</p> <p>Paragraph 1 (1) (f) & 1 (2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) regulations 2014</p>	<p>The 85-year rule does not automatically fully apply to members who would have had the protection under old regulations, and who choose to voluntarily draw their benefits on or after age 55 and before age 60. An employer can decide to switch the 85-year rule back on in full for such members.</p> <p>Where the employer does not choose to “switch on” the rule, then:</p> <p>a) If the member has already met the 85 year rule, the member’s benefits are to be reduced in accordance with actuarial guidance issued by the Secretary of State (with the benefits from any pre 1 April 2008 membership for members who will not be 60 or more on 31 March 2016, and benefits from any pre 1 April 2016 membership for members who will be 60 or more on 31 March 2016, which would not normally have been subject to an actuarial reduction nonetheless being subject to a reduction calculated by reference to the period between the date the benefits are drawn and age 60) [paragraphs 1(2) and 1(4) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014], or</p> <p>b) If the member has not already met the 85 year rule, the member’s benefits are to be reduced in accordance with actuarial guidance issued by the Secretary of State (with the</p>	<p>To be eligible, the employee’s LGPS Service (all service) and their age must equal 85 years or more, and they must have joined the pension scheme before 1st October 2006.</p> <p>Employees can make a request, however BWPC will not normally exercise this discretion except where there is a clear financial or operational advantage to the Council</p>

	<p>reduction on that part of the member's benefits subject to the 85 year rule being calculated by reference to the period between the date the benefits are drawn and age 60, or the date of attaining the 85 year rule, whichever is the later), and</p> <p>c) The Scheme employer can exercise a discretion to waive any actuarial reductions (including where an actuarial reduction may still be applied to a member's benefits after 'switching back on' the 85-year rule in full) (at cost to the Scheme employer, via an employer strain charge).</p>	
<p>Waive in whole or in part any actuarial reductions on benefits which a member voluntarily draws before normal pension age (other than on the grounds of flexible retirement). Regulation 30(8), TP3(1), TPSch 2, para 2(1), B30(5) and B30A(5)</p> <p>To waive upon the voluntary early payment of deferred benefits any actuarial reduction on compassionate grounds? Regulation 30(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014</p>	<p>Employers can agree to waive any actuarial reductions due in the case of employees retiring any time after age 55. For active members voluntarily retiring on or after age 55 and before Normal Pension Age (NPA), who elect under regulation 30(5) of the LGPS Regulations 2013 to immediately draw benefits, and for 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 NPA.</p> <p>A member with a deferred benefit who left the scheme voluntarily between 1 April 2008 – 31 March 2014 may now claim their benefits from age 55 without their employer's consent. However, these benefits will be reduced for early payment.</p> <p>An employer can consent to waiving any reductions, on compassionate grounds, that would normally be applied to deferred benefits which are paid before age 65</p>	<p>BWPC will not exercise this discretion</p> <p>BWPC will not normally exercise these discretions except where there is a clear financial or operational advantage to the Council</p>

<p>To waive upon the voluntary early payment of a suspended tier 3 ill health pension, any actuarial reduction on compassionate grounds? Regulation 30A(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014</p> <p>On compassionate grounds, to waive any actuarial reduction that would normally be applied to benefits Regulation 31(5) of the LGPS Regulations 1997 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014</p>	<p>A member with a suspended tier 3 ill health pension and who left the scheme between 1 April 2008 – 31 March 2014 may now claim for their pension to be brought back into payment from age 55 without their employer’s consent. However, these benefits will be reduced for early payment.</p> <p>An employer can consent to waiving any reductions, on compassionate grounds, that would normally be applied to deferred benefits which are paid before age 65.</p> <p>Whether to waive any actuarial reduction on compassionate grounds which would normally be applied to benefits which are paid before age 65.</p> <p>NOTE: The strain cost of any such retirements needs to be met by the employer and paid into the Pension Fund at the appropriate time.</p>	<p>BWPC will not normally exercise these discretions except where there is a clear financial or operational advantage to the Council</p> <p>BWPC will not exercise this discretion due to the financial burden.</p>
<p>To grant applications for the early payment of pension benefits on or after age 50 and before age 55 Regulation 31(2) of the LGPS Regulations 1997</p> <p>To grant applications for the early payment of deferred pension benefits on or after age 50 and before normal retirement date (NRD)</p>	<p>A member with a deferred benefit who left the scheme between 1 April 1998 – 31 March 2008 can claim their benefits from age 50 with their employer’s consent.</p> <p>However, these benefits may be reduced for early payment and/or be subject to an unauthorised payment charge under the Finance Act 2004.</p> <p>Whether to grant early payment of a deferred benefit on compassionate grounds, on or after age 50 and before NRD.</p> <p>If granted, these benefits may be reduced for early payment and/or be</p>	<p>BWPC will not exercise this discretion</p> <p>BWPC will not exercise this discretion</p>

<p>on compassionate grounds Regulation D11(2)(c) of the LGPS Regulations 1995</p>	<p>subject to an unauthorised payment charge under the Finance Act 2004.</p>	
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3.2 Part B – Non-Mandatory Discretions

There is no requirement to have a policy in respect of non-mandatory discretions. However, there are some non-mandatory discretions where it is recommended for Scheme employers to have a written policy so that both members and the Pension Fund administering authority can be clear on the employer’s policy on these matters.

Discretion	Description	Policy Decision
<p>Shared Cost Additional Voluntary Contribution Arrangement (SCAVC) Regulation 17 LGPS Regulation 2013 and Regulation 15(2A) of the LGPS (Transitional Provisions and Amendment) Regulations 2014</p>	<p>An employer can choose to pay for or contribute towards a member’s Additional Voluntary Contribution through a shared cost arrangement (SCAVC). To determine how much will be allowed to be contributed and define in what circumstances contribution to a SCAVC arrangement will be allowed.</p>	<p>BWPC will not exercise this discretion.</p>
<p>Extend the time limit for member to elect for a Shared Cost Additional Pension Contribution Regulation 16(16) LGPS Regulations 2013</p>	<p>Whether to extend the 30 day deadline for a member to elect to purchase additional pension by way of a Shared Cost Additional Pension Contribution (SCAPC) upon return from a period of unpaid absence (other than because of illness or injury, relevant child-related leave or reserve forces service leave).</p>	<p>BWPC will not exercise this discretion</p>
<p>Transfer of pension rights Regulation 100(6)</p>	<p>An employer can decide to extend the 12-month time limit for a member to elect to transfer pension rights from another registered pension scheme into the LGPS, if an election has not been made within 12 months of joining the LGPS in that employment.</p>	<p>BWPC will not exercise this discretion except where there is a clear financial or operational advantage to the Council</p>
<p>Membership Aggregation Regulation 22 (7)(b),(8)(b)</p>	<p>Whether to extend the 12 month option period for a member to elect to join deferred benefits to their current employment/membership. The election to keep separate pension benefits must be made within 12 months of becoming an active</p>	<p>BWPC will not exercise this discretion except where there is a clear financial or operational advantage to the Council</p>

	member, who must be active at the date of election.	
How an employee's contribution band will be initially determined and thereafter reviewed Regulation 9 and R10	Employers must decide how the pension contribution band to which an employee is to be allocated on joining the Scheme will be determined and reviewed at each subsequent April.	The tiered contribution rate for each employee will be based on the pensionable pay elements.
Whether to include a regular lump sum payment when calculating assumed pensionable pay (APP) Regulation 21(4)(a)(iv), 21(4)(b)(iv) and 21(5)	When calculating assumed pensionable pay, employers can decide to include the amount of any 'regular lump sum payment' received by the member in the 12 months preceding the date the absence began or the ill health retirement or death occurred.	BWPC will consider each request on its own merits, including any compelling grounds having regard to the financial and service delivery implications

3.3 Discretions relating to compensation

For all discretions relating to compensation, BWPC will defer to the administering Councils Policy.

4. Forfeiture of Pension

There have been a couple of cases where former LGPS members have been convicted of employment-related offences. Employers can forfeit a member's LGPS pension rights under Regulation 91(1) of the LGPS 2013 Regulations if the reason they ceased employment related to work related offences.

If the circumstances meet the criteria to apply for a Forfeiture Certificate, BWPC will apply to the Secretary of State who may issue a Forfeiture Certificate.