



**London Borough
of Hounslow**

Pensions Discretions Policy

Transformation & Human Resources

Issued by HR Policy Team
Effective from 15 July 2014

PENSIONS DISCRETIONS POLICY

1. Statement of policy on pension discretions

General principles

- 1.1 The London Borough of Hounslow is a participating employer in the Local Government Pension Scheme (LGPS) and is required to formulate, publish and keep under review a Statement of Policy on certain discretions which they have the power to exercise in relation to members of the LGPS.
- 1.2 The approach to exercising discretion is to allow the Council to make a reasonable decision in individual cases, but, also to be clear as to the factors it will take into account in making the decision.
- 1.3 In formulating and reviewing its policy statement the Council is required to:
 - Have regard to the extent to which the exercise of their discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service, and,
 - Be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable cost.
- 1.4 Where reference is made in this policy to the decision making role of the Lead Member or specific Officer roles, the authority to make these decisions will be for them and their successor roles should there be a change in the future.
- 1.5 Any complaints relating to the Council's decisions in these matters would need to initially to be raised under the Hounslow Pension Scheme's Internal Dispute Resolution Procedure, details of which is available as an appendix to this policy.

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2 Discretions from 1 April 2014 in relation to post 31 March 2014 active members and post 31 March 2013 leavers

2.1 Discretion:

Whether, how much, and in what circumstances to contribute to a shared cost Additional Voluntary Contribution (SCAVC) arrangement entered into on or after 1 April 2014 [*regulation 17 of the LGPS Regulations 2013*] and whether, how much, and in what circumstances to continue to contribute to any shared cost Additional Voluntary Contribution (SCAVC) arrangement that the employer had entered into before 1 April 2014 [*regulation 15(1)(d) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, regulation 25(3) of the LGPS (Administration) Regulations 2008 and regulation 15(3) of the LGPS (Benefits, Membership and Contributions) Regulations 2007*]

Council policy statement:

Where there is a clear and significant financial or operational advantage to be gained by the Council, the Council will consider contributing to a SCAVC entered into on or after 1 April 2014 or whether, how much, and in what circumstances to continue to contribute to any SCAVC arrangement that the employer had entered into before 1 April 2014, and only then with the prior recommendation of the Compensation Panel.

2.2 Discretion:

Whether to grant extra annual pension of up to £6,500¹ to an active Scheme member within six months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency [*regulation 31 of the LGPS Regulations 2013*]

Council policy statement:

Where there is a clear and significant financial or operational advantage to be gained by the Council, the Council will consider awarding additional pension, and only then with the prior recommendation of the Compensation Panel.

2.3 Discretion:

¹ The figure of £6,500 will be 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).

Whether, where an active Scheme member wishes to purchase extra annual pension of up to £6,500² 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) [regulations 16(2)(e) and 16(4)(d) of the LGPS Regulations 2013]

Council policy statement:

Where there is a clear and significant financial or operational advantage to be gained by the Council, the Council will consider voluntarily contributing towards the cost of purchasing extra pension, where an active Scheme member wishes to purchase extra annual pension by making APCs, and only then with the prior recommendation of the Compensation Panel.

2.4 Discretion:

Whether to permit flexible retirement for staff aged 55³ or over who, with agreement of the employer, reduce their working hours or grade [regulation 30(6) of the LGPS Regulations 2013] and, if so, as part of the agreement to permit flexible retirement

- Whether, in addition to the benefits the member has accrued prior to 1 April 2008 (which the member must draw), 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 [regulations 11(2) and 11(3) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]

Council policy statement:

Only where there is a clear operational or financial advantage for the Council will a request for early payment of benefits under flexible retirement rules normally be permitted. This would be for employees aged 55 or over and applicants could incur actuarial reductions on

² The figure of £6,500 will be 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 Age 50 for those LGPS members transferred from the Learning and Skills Council to whom regulation 16A of the LGPS (Benefits, Membership and Contributions) Regulations 2007 applies. Such members only need the employer's permission to reduce their working hours or grade, but, if that permission is given, do not require their employer's permission to draw their benefits (as such members have the automatic right to take the benefits by virtue of regulation 18A of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and regulation 24 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014.

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benefits paid. Decisions regarding early payment of retirement benefits under the flexible benefits rules are delegated to the Compensation Panel. Where there is no cost to the Council this decision is delegated to the Assistant Director Transformation & HR.

2.5 Discretion:

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)⁴ [*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*]

Council policy statement:

Where there is a clear and significant financial or operational advantage for the Council, taking all issues into account, the Council will consider waiving, in whole or in part, the actuarial reduction on benefits paid in flexible retirement and only with the prior recommendation of the Compensation Panel.

2.6 Discretion:

Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 [paragraph 1(2) & 2(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014].

Council policy statement:

Where there is a clear and significant financial or operational advantage for the Council, taking all issues into account, the Council will consider “switching on” the 85 year rule for members who choose to voluntarily draw their benefits on or after 55 and before age 60, and only with the prior recommendation of the Compensation Panel.

2.7 Discretion:

Whether to waive any actuarial reduction on pre and/or post April 2014 benefits [*regulations 3(1), Schedule 2(1) and 2(2) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 and regulations 30(5) or 30A(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007*]

⁴ NPA means the employee’s individual State pension age at the time the employment is terminated, but, with a minimum of age 65

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Council policy statement:

Where there is a clear and significant financial or operational advantage for the Council, taking all issues into account, the Council will consider waiving, in whole or in part, the actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2014 and only with the prior recommendation of the Compensation panel.

2.8 Discretion:

Whether, with the agreement of the Pension Fund administering authority, to permit a Scheme member to elect to transfer other pension rights into the LGPS if he/she has not made such an election within 12 months of joining the LGPS [*regulation 100(6) of the LGPS Regulations 2013*]

Council policy statement:

The Council will normally only consider extending the time limit of 12 months of joining the LGPS for a Scheme member to elect to transfer other pension rights in to the LGPS if there is clear evidence that they had not been informed of, or could not reasonably have known of the time limit. Decisions on the extension of the time limit are delegated to the Assistant Director Strategic Finance (or the 151 officer) and the Assistant Director Transformation & HR.

2.9 Discretion:

Whether to extend the 12 month time limit within which a Scheme member who has a deferred LGPS benefit in England or Wales following the cessation of employment (or cessation of a concurrent employment) may elect not to have their deferred benefits aggregated with their new LGPS employment (or ongoing concurrent LGPS employment) if the member has not made an election to retain separate benefits within 12 months of commencing membership of the LGPS in the new employment (or within 12 months of ceasing the concurrent membership) [*regulations 22(7) and (8) of the LGPS Regulations 2013*]

Council policy statement:

The Council will normally only consider extending the time limit of 12 months following the cessation of employment (or cessation of a concurrent employment) for a member not to have their deferred benefits aggregated with their new LGPS employment (or ongoing concurrent LGPS employment), if the member has not made an election to retain separate benefits within 12 months of commencing

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membership of the LGPS in the new employment (or within 12 months of ceasing the concurrent membership), if there is clear evidence that they had not been informed of, or could not reasonably have known of the time limit. Decisions on the extension of the time limit are delegated to the Assistant Director Strategic Finance (or the 151 officer) and the Assistant Director Transformation & HR.

2.10 Discretion:

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 Scheme year (1 April to 31 March) *[regulations 9 and 10 of the LGPS Regulations 2013]*

Council policy statement:

On joining the Scheme the Council will allocate an employee the pension contribution band commensurate with his/her annualised first full months contractual pay. This will be reviewed each April and re-banded based on April's basic pay plus the annualised average from the last 3 months additional payments. The contribution band will also be reviewed following any material⁵ change in the member's pensionable pay in the Scheme year (1 April to March 31).

2.11 Discretion

To reduce or suspend the pension paid (abatement) should a retired employee in receipt of a current Hounslow LGPS pension be re-employed by another Scheme Employer at a rate that results in their new pay plus the pre 1 April 2014 element of their pensions being higher than the pay in the job which they retired *[regulations 13 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 & regulations 70(1) & 71(4)(c) of the LGPS (Administration) Regulations 2008]*.

Council policy statement

⁵ A 'material change' is defined by an employee having a change in pay due to a number of factors including:

- Acting up/additional allowances
- Reduction or increase in hours
- Change of post or grade

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Where a pensioner of the Council's pension scheme is re-employed by another LGPS Scheme Employer the Council will abate the pre 1 April elements of their pension.

3 Discretions for Scheme members who ceased active membership on or after 1 April 2008 and before 1 April 2014

3.1 Discretion

To reduce or suspend the pension paid (abatement) should a retired employee in receipt of a current Hounslow LGPS pension be re-employed by another Scheme Employer at a rate that results in their new pay plus their pensions being higher than the pay in the job which they retired [*regulations 13 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, regulations 70(1), & 71(4)(c) of the LGPS (Administration) Regulations 2008 & regulation 12 of the LGPS (Benefits, Membership and Contributions) Regulations 2007*].

Council policy statement

Where a pensioner of the Council's pension scheme is re-employed by another LGPS Scheme Employer the Council will abate their pension.

3.2 Discretion:

Whether to grant applications for the early payment of deferred pension benefits on or after age 55 and before age 60 [regulation 30(2) of the LGPS (Benefits, Membership and Contributions) Regulations 2007]

Council policy statement:

Only where there is no financial, or operational disadvantage to the Council, or where unforeseen circumstances might result in the employee suffering personal hardship, and taking all other factors into account, will a request for early payment of deferred benefits normally be accepted (other than on the grounds of permanent ill-health or compassion), with the approval of the Compensation Panel. Where there is no cost to the Council this decision is delegated to the Assistant Director Transformation & HR.

3.3 Discretion:

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

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[regulation 30(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007]

Council policy statement:

Only where unforeseen circumstances will result in severe and lasting personal hardship, and taking into account the financial impact on the Council, will a request on compassionate grounds to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65 be accepted. This discretion will be only be exercised with the prior recommendation of the Compensation Panel.

3.4 Discretion:

Whether to grant applications for the early payment of a suspended tier 3 ill health pension on or after age 55 and before age 60 *[regulation 30A(3) of the LGPS (Benefits, Membership and Contributions) Regulations 2007]*

Council policy statement:

Only where there is no financial, or operational disadvantage to the Council, or where unforeseen circumstances might result in the employee suffering personal hardship, and taking all other factors into account, will a request for early payment of suspended tier 3 health benefits normally be accepted (other than on the grounds of permanent ill-health or compassion), with the approval of the Compensation Panel. Where there is no cost to the Council this decision is delegated to the Assistant Director Transformation & HR.

3.5 Discretion:

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 paid before age 65 *[regulation 30A(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007]*

Council policy statement:

Only where unforeseen circumstances will result in severe and lasting personal hardship, and taking into account the financial impact on the Council, will a request on compassionate grounds to waive any actuarial reduction that would normally be applied to a suspended tier 3 ill health pension benefits which are paid before age 65 be accepted. This discretion will be only be exercised with the prior recommendation of the Compensation Panel.

3.6 Discretion:

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Whether, within 6 months of the date of termination, to augment membership (by up to 10 years) in the pension scheme to a Scheme member whose employment was terminated before 1 April 2014 on the grounds of redundancy or business efficiency [regulation 12 of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and regulation 3(10) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]⁶

Council policy statement:

Where there is a clear and significant financial or operational advantage to be gained by the Council, the Council will consider awarding extra membership in the pension scheme, and only then with the prior recommendation of the Compensation Panel.

4 Discretions for Scheme members who ceased active membership between 1 April 1998 and 31 March 2008

4.1 Discretion:

Whether to grant applications for an early payment of pension benefits on or after age 50⁷ and before age 60 [*regulation 31(2) of the LGPS Regulations 1997*]

Council policy statement:

Only where there is no financial, or operational disadvantage to the Council, or where unforeseen circumstances might result in the employee suffering personal hardship, and taking all other factors into account, will a request for early payment of deferred benefits normally be accepted (other than on the grounds of permanent ill-health or compassion), with the approval of the Compensation Panel. Where there is no cost to the Council this decision is delegated to the Assistant Director Transformation & HR.

4.2 Discretion:

Whether, on compassionate grounds, to waive the actuarial reduction that would normally be applied to benefits which are paid before age 65 [*regulation 31(5) of the LGPS Regulations 1997*]

⁶ This is a time limited discretion which expires on 30 September 2014 for those whose employment is terminated on 31 March 2014.

⁷ Except in the case of LGPS members who are former members of the Metropolitan Civil Staffs Superannuation Scheme and who are covered by regulation 144A of, and Schedule 7 to, the LGPS Regulations 1997, or former NHS Scheme members who are covered by regulation 23 of the LGPS (Transitional Provisions) Regulations 1997, benefits paid on or after age 50 and before age 55 will be subject to an unauthorised payments charge under the Finance Act 2004 and, where applicable, an unauthorised payments surcharge under the Act, and a Scheme sanction charge on any benefits built up after 5 April 2006.

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Council policy statement:

Only where unforeseen circumstances will result in severe and lasting personal hardship, and taking into account the financial impact on the Council, will a request on compassionate grounds to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65 be accepted. This discretion will be only be exercised with the prior recommendation of the Compensation Panel.

5 Discretions for Scheme members who ceased active membership before 1 April 1998

5.1 Discretion:

Whether to grant applications for an early payment of pension benefits on or after age 50⁸ and before age 60 on compassionate grounds [*regulation D11 (2) (c) of the LGPS Regulations 1995*]

Council policy statement:

Only where there is no financial, or operational disadvantage to the Council, or where unforeseen circumstances might result in the employee suffering personal hardship, and taking all other factors into account, will a request for early payment of deferred benefits normally be accepted (other than on the grounds of permanent ill-health or compassion), with the approval of the Compensation Panel. Where there is no cost to the Council this decision is delegated to the Assistant Director Transformation & HR.

⁸ Except in the case of former NHS Scheme members who are covered by regulation 23 of the LGPS (Transitional Provisions) 1997, benefits paid on or after age 50 and before age 55 will be subject to an unauthorised payments charge under the Finance Act 2004 and, where applicable, an unauthorised payments surcharge under the Act, but, there would be no Scheme sanction charge

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1. The London Borough of Hounslow Internal Dispute Resolution Procedure

- 1.1 If a member is not satisfied with any decision made in relation to the Local Government Pension Scheme, they have the right to ask for that decision to be looked at again under a formal complaint procedure. The complaint procedure's official name is the "internal dispute resolution procedure".

The formal complaint procedure has two stages. Many complaints are resolved at the first stage. Any complaint made should be treated seriously, and considered thoroughly and fairly.

A member may ask someone to take their complaint forward on their behalf. This could be, for instance, a trade union official, welfare officer, a spouse or partner, or a friend.

No charge is made at any stage for investigating a complaint under the internal dispute resolution procedure. But expenses that a member will have to meet are their own (and/or their representative's) time, stationery and postage.

1.2 First stage

If a member needs to make a formal complaint, it should be in writing, normally within 6 months of the day when they told of the decision they want to complain about, to:

Miss Sarah Millson
Capita Employee Benefits,
Millbank House,
171-185 Ewell Rd,
Surbiton KT6 6AP

The complaint will be considered carefully by the adjudicator who is required to give a decision in writing. If the adjudicator finds in favour of the member, the body that made the original decision about which the member made the complaint will be required to reconsider their decision.

1.3 Second Stage

The member can ask the pension scheme administering authority to take a fresh look at your complaint in any of the following circumstances:

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- they are not satisfied with the adjudicator's first-stage decision,
- they have not received a decision or an interim letter from the adjudicator, and it is 3 months since they lodged their complaint,
- it is one month after the date by which the adjudicator told them (in an interim letter) that they would give them a decision, and they have still not received that decision.

This review would be undertaken by a person not involved in the first stage decision. The member will need to send their complaint in writing to the pension scheme administering authority:

- within 6 months of the date of the adjudicator's decision, or
- within 9 months from the date they submitted their complaint if the adjudicator has not given them a decision within 3 months of the date they originally submitted their complaint, or
- if the adjudicator gives them an interim decision but not a final decision, within 7 months of the date the adjudicator had promised to give them a final decision.

- 1.4 The administering authority will consider the complaint and give their decision in writing. If the member is are still unhappy following the administering authority's second stage decision, they can take their case to the Pensions Ombudsman provided they do so within 3 years from the date of the original decision (or lack of a decision) about which they had complained.

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