



The Local Government Pension Scheme Regulations Discretionary Decisions Policy

Document date: September 2024



Together, pursuing life in all its fullness

Version	Date	Author	Changes
V1	June 2021	Camillia Salter, Head of HR	Initial Issue. Policy consulted with Trade Unions. Ratified by JCC – June 2021.
V1.1	June 2022	Camillia Salter, Head of HR	Update of Registered Office. Ratified by JCC – July 2022
V1.2	September 2024	Claire Freeman	Reviewed, no changes needed

Review frequency	2 years
Review date	September 2026
Ratified by	Trust Leadership Team
Date of ratification	16 th September 2024
Lead/owner	Head of People
Target audience	Staff
Document reference	POL-HR19

The electronic version is the definitive version of this document.

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Under Regulation 60 of the Local Government Pension Scheme (LGPS) Regulations 2013 (the “**2013 Regulations**”) and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (the “**Transitional Regulations**”), which were effective from 1 April 2014, each employer must formulate, keep under review and publish their policies on certain discretions contained within the LGPS Regulations. This document serves that purpose.

There are also some residual discretions which employers may be required to exercise under the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 where they had staff who were in the scheme and who left between 1 April 2008 and 31 March 2014. Employers participating in the LGPS are required to prepare and publish a written statement on how they will exercise the various discretions. This document also serves that purpose.

This Statement is applicable to all employees of the Diocese of Coventry Multi Academy Trust (the Trust) who are eligible to be members of the LGPS and, where applicable, deferred or pensioner members.

These policy decisions will be kept under review. The Trust will make such revisions as are appropriate following a change in its policy and will conduct a full review of this policy on a triennial basis.

1. Regulation 30(5) 2013 Regulations – Member’s Request for Early Payment of Benefits.

Explanation

A member who has not attained normal pension age but who has attained the age of 55 and who leaves or has left local government employment can elect to receive early payment of their retirement benefits.

The pension benefits must be reduced in accordance with guidance provided by the Government Actuary’s Department. A scheme employer can agree to waive this reduction in whole or in part.

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The Trust will consider all of the relevant circumstances before deciding whether to waive any actuarial reduction, including the benefits and costs to the Trust and the benefits to the employee.

2. Schedule 2 Transitional Regulations – Application of the Rule of 85 and Waiver of Actuarial Reduction on Compassionate Grounds.

Explanation

An employer can choose whether to allow certain employees who were LGPS members of the 1998 Scheme and who satisfy the rule of 85 (where their age added to their years of pensionable service are equal to or more than 85) to take unreduced benefits from the 2014 Scheme where the employee is between 55 and 60.

The following people are eligible for Rule of 85 protection:

- A member who will be aged 60 or more on 31st March 2016 and who was a member of the 1998 Scheme before 1st October 2006, has protection for service up to 1st April 2016 or the date on the day after the day on which the member leaves local government employment (whichever is earlier);
- A member who will reach or has reached the age of 60 on or after 1st April 2016 and before 1st April 2020, but who was a member of the 1998 Scheme before 1st October 2006, has protection for service up to 1st April 2008.

An employer can also choose to waive any actuarial reduction for an employee who is eligible for Rule of 85 that applies where an employee requests to receive their benefits early.

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Before deciding whether to allow an employee to take unreduced benefits, each specific case will be considered on the grounds of efficiency of the service, having fully considered service delivery and financial costs. This discretion is likely to be used in rare and exceptional circumstances.

The Trust will also consider all of the relevant circumstances before deciding whether to waive any actuarial reduction, including the benefits and costs to the Trust and the benefits to the employee.

3. Regulation 31 2013 Regulations - Award of Additional Pension of an Active Member

Explanation

An employer may resolve to award a member additional pension of not more than £6,500 per year (as at 1st April 2014 and subject to annual increases) to an active member of the LGPS or a member who is dismissed by reason of redundancy or business efficiency or whose employment terminates by mutual consent on grounds of business efficiency. In the latter case, an employer may make decisions on awarding additional pension for up to six months after termination of employment.

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The Trust will consider all of the relevant circumstances before deciding whether to grant any additional pension, including the benefits and costs to the Trust and the benefits to the employee.

4. Regulation 16(2)(e) & Regulation 16(4)(d) 2013 Regulations - Additional Pension Contribution (APC)

Explanation

Additional pension contributions can be made by active members to purchase additional benefits in the LGPS. Under Regulation 16(2)(e) the employer has a discretion to fund additional regular contributions and under Regulation 16(4)(d) to fund additional lump sum contributions. The amount of additional pension that can be purchased is limited to £6,500. This limit is subject to annual increases.

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The Trust will consider all of the relevant circumstances before deciding whether and what to contribute, including the benefits and costs to the Trust and the benefits to the employee.

5. Regulation 30(6) and Regulation 30(8) 2013 Regulations - Flexible Retirement

Explanation

Under Regulation 30(6) of the 2013 Regulations, a member who is aged 55 or over and with their employer's consent reduces their hours and/or grade can then, but only with the agreement of their employer, make a written application to the administering authority (Warwickshire Pension Fund or West Midlands Pension Fund) for payment of all or part of their accrued benefits without having retired from that employment.

If payment of benefits occurs before normal retirement age the benefits will be actuarially reduced in accordance with guidance issued by the Government Actuary's Department.

Under Regulation 30(8) of the 2013 Regulations, the employer has a discretion to waive the actuarial reduction in whole or in part. If the employer chooses to do so, then it may be liable to pay a strain cost to the Fund.

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Before deciding whether to grant flexible retirement, each specific case will be judged equally and fairly on its own merits, having fully considered service delivery and financial costs. The Trust will consider all of the relevant circumstances when deciding whether to waive any actuarial reduction, including the benefits and costs to the Trust and the benefits to the employee. However, the Trust will normally only approve the payment of benefits where there is no additional cost to the Trust.

6. Regulation 17(1) 2013 Regulations - Shared Cost AVC

Explanation

Employers may resolve to establish and maintain a Shared Cost Additional Voluntary Contribution Scheme (SCAVC). The employer has the discretion to decide whether, how much, and in what circumstances to contribute to a SCAVC.

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The Trust will consider all of the relevant circumstances before deciding whether and what to contribute, including the benefits and costs to the Trust and the benefits to the employee.

7. Regulation 16(16) 2013 Regulations - Optional contributions during absence

Explanation

Employing authorities have the discretion to extend the period where a member can make a written request to make contributions during a period of absence in which contributions do not automatically have to be made beyond 30 days beginning with the day on which the person

returns to work. These contributions will cover a period of absence where pension contributions would otherwise not have been made.

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The Trust will consider all of the relevant circumstances before deciding whether to extend the period of 30 days, including whether the circumstances resulting in a member being unable to make a request within the 30 day deadline were beyond the member's control.

8. Regulation 22(7) 2013 Regulations - Re-employed and Re-joining Deferred Members

Explanation

Where a deferred member becomes an active member again, before becoming entitled to the immediate payment of retirement benefits in respect of former membership(s), the benefits in the deferred pension account must be aggregated with those in the ongoing active member's pension account, and if there is more than one such account, the one chosen by the member. However, a member can make an election to retain their deferred pension account and keep this separate. An election must be made in writing to the member's appropriate administering authority (Warwickshire Pension Fund or West Midlands Pension Fund) before the expiry of the period of 12 months, beginning with the date that the employee again became an active member (or any such longer period as the employer may allow).

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The Trust will consider all of the relevant circumstances before deciding whether to extend the period of 12 months, including whether the circumstances resulting in the member not making an election within the 12 month deadline were beyond the member's control.

9. Regulation 100(6) 2013 Regulations - Inward Transfers of Pension Rights

Explanation

A person who becomes an active member who has relevant pension rights may request the appropriate Administering Authority to accept a transfer value for some or all of their former rights. An election must be made in writing before the expiry of the period of 12 months beginning with the date that they became an active member (or any such longer period as his employer may allow).

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The Trust will consider all of the relevant circumstances before deciding whether to extend the period of 12 months, including whether the reason why the member did not make a request within the 12-month deadline was beyond the member's control.

10. Regulation 9 (3) 2013 Regulations - Contributions Payable by Active Members

Explanation

Employing Authorities must review the contribution band to which they assign members each April. Where there is a change in employment, or a material change which affects a member's pensionable pay in the course of a financial year, the employer may determine that a contribution rate from a different band should be applied.

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An employee's contribution percentage will be determined each pay period (e.g. each month's pay) based on the following:

- a) The pensionable pay to be paid in the pay period will be multiplied by 12 to give an annual equivalent and the contribution rate for that pay period determined according to the relevant tables.
- b) Any lump sums or retrospective arrears payments covering more than one pay period would be excluded from the calculation.

Employees will be notified of their pension contribution percentage on their payslip each month.

Details of the contribution rates can be found by following the link: **Error! Hyperlink reference not valid.** <https://www.lgpsmember.org/your-pension/the-essentials/your-contributions/your-contributions/>

Members of the pension scheme have the right to appeal the pension banding decision within 6 months of the change of contribution rate; in the first instance they should contact the Trust HR Department so that the matter can be reconsidered.

If they are still dissatisfied with this decision, they can make a written application to the Head of HR at the Trust, to give a decision under the Internal Dispute Resolution Procedure.

11. Regulation 91 2013 Regulations - Forfeiture of Pension Rights

Explanation

If a member is convicted of a relevant offence committed in connection with their employment the former Scheme employer may apply to the Secretary of State for a forfeiture certificate. A forfeiture certificate certifies that the offence was 'gravely injurious to the state' or is liable to lead to a 'serious loss of confidence in the public service'. Under Regulation 91(4), where a forfeiture certificate has been issued the former Scheme employer may direct that any or all of the member's rights under the 2013 Regulations are forfeited.

Where a forfeiture certificate has been issued and a direction has not been made under Regulation 91(4), the former Scheme employer may give an interim payments direction to the appropriate Administering Authority. This is a direction to make interim payments to any person who appears to the former Scheme employer to be a person who would be entitled to receive payment of a benefit under the Scheme had a forfeiture direction not been given.

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The Trust will consider all of the relevant circumstances before deciding to apply any of these provisions, including the background to the situation and the Trust's legal and regulatory obligations.

12. Regulation 74 2013 Regulations - The Internal Dispute Resolution Procedure

Explanation

An Internal Dispute Resolution Procedure applies to active members of the LGPS and to others such as deferred and pensioner members, whose position may be affected by decisions taken by their former employer or LGPS Administering Authority.

Responsibility for the majority of determinations under the first stage of the procedure rests with a specified person appointed by the employer known as the Adjudicator. The Administering Authority must make any first instance decision concerning: a person's previous service or employment; the crediting of additional pension; and the amount of any benefit, or return of contributions, that a person is or may become entitled to. The Adjudicator must decide any question concerning any other matter relating to the person's rights or liabilities.

The employer must specify the job title and address of the Adjudicator to whom applications should be directed.

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The Adjudicator is:

Head of HR
The Diocese of Coventry Multi Academy Trust
c/o St James CofE Academy
Barbridge Road
Bulkington, Bedworth
CV12 9PF

13. Monitoring and Review

The Trust will review the outcomes of this policy to check that the proper procedures have been followed and to identify any points that can be learned from those cases and implement any necessary changes.

The procedure will be monitored to ensure consistency of application and adherence to equalities legislation, to ensure that the policy operates in accordance with the duties to promote equality, to eliminate discrimination and to promote good relations between staff with protected characteristics as required under the Equality Act 2010.

When carrying out any reviews or monitoring, the Trust will ensure that individuals' personal data is handled in accordance with UK GDPR and the Data Protection 2018. Records will be treated as confidential.

This policy will be reviewed every two years in consultation with recognised Trade Unions.

Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 – in respect of staff who left the LGPS between 31 March 2014 and 1 April 2008

<p>Regulation 12: Power to increase membership Employers have a discretion whether to increase the membership of a redundant member (up to 10 years pensionable service) in the 6 months after termination (this discretion is only exercisable up to 30 September 2014 because it only applies to employees who left on or before 31 March 2014).</p>	<p>The Trust will consider all the relevant circumstances before deciding whether to exercise its discretion, including the benefits and costs to the Trust and the benefits to the employee.</p>
<p>Regulation 30(2): Early Payment of Benefits on retirement for those aged 55 and over Whether to allow early payment of benefits at/after age 55 and before 60 for former members</p>	<p>The Trust will consider all of the relevant circumstances in deciding whether to consent to early release of pension benefits but will generally only do so on grounds of severe financial hardship or on compassionate grounds or business need and will not usually consent where there is a significant cost to the Trust.</p>
<p>Regulation 30(5): Waiver of actuarial reduction on compassionate grounds Employers have a discretion whether to waive the actuarial reduction which would otherwise apply where a former member who is 55-60 receives early payment of their pension on retirement.</p>	<p>The Trust will consider all of the relevant circumstances before deciding whether to waive any actuarial reduction, including the benefits and costs to the Trust and the benefits to the employee.</p>
<p>Regulation 30A(3): Early Payment of Benefits for former member aged 55 and over who has had Tier 3 ill-health retirement benefits suspended Whether to allow early payment of benefits at/after age 55 and before 60 for a former member who has had Tier 3 ill health retirement benefits suspended.</p>	<p>The Trust will consider all of the relevant circumstances in deciding whether to consent to early release of pension benefits but will generally only do so on grounds of severe financial hardship or on compassionate grounds or business need and will not usually consent where there is a significant cost to the Trust.</p>
<p>Regulation 30A(5): Waiver of actuarial reduction on compassionate grounds Employers have a discretion whether to waive the actuarial reduction which would otherwise apply where a former member who is 55-60 receives early payment of their pension on retirement under Regulation 30A following suspension of a Tier 3 ill health retirement pension.</p>	<p>The Trust will consider all the circumstances before deciding whether to waive any actuarial reduction, including the benefits and costs to the Trust and the benefits to the employee.</p>