

## **Policy on Employer Discretions – November 2010**

### **Local Government Pension Regulations 2008 and 2010**

#### **1. Introduction**

The Council, as an employing authority, is required to formulate and publish its policy in accordance with Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2007 (as amended).

#### **2. Scope**

The stated discretions below are applicable to all eligible members of the Local Government Pension Scheme. Mansfield District Council will keep this policy statement under review and will make such revisions as appropriate.

#### **3. Policy on Employer Discretions – Part A**

Regulation 12	Power of an employing Authority to increase total membership of active scheme members
Explanation	An employer may resolve to increase the total membership of an active member. A member's total additional membership under this regulation must not exceed 10 years.
Policy	The Council notes the discretion to increase a scheme member's total membership but has no intention to make use of this discretionary power on the basis of cost.

Regulation 13	Power of an employing Authority to award additional pension
Explanation	An employer may resolve to award a scheme member additional pension of not more than £5,000 per year payable from the same date as his/her pension is payable under any other provisions of the pension regulations. Additional pension may be paid in addition to an increase of total membership awarded under regulation 12.
Policy	The Council notes the new discretion to award additional pension benefits. It has no intention to make use of this discretionary power on the basis of cost.



Regulations 18(1) 18(3)	Flexible Retirement
Explanation	<p>A member who has attained the age of 55 and who, with his/her employer's consent, reduces the hours s/he works, or the grade in which s/he is employed, may make a request in writing to receive all or part of her/his benefits under these Regulations, and the employer may pay those benefits to her/him notwithstanding that s/he has not retired from that employment. If the payment of benefits takes effect before the member's 65<sup>th</sup> birthday, the benefits payable are reduced in accordance with guidance issued by the Government Actuary. The employer may, however, agree to waive, in whole or in part any such reduction. A member who has attained the age of 65 and who, with his/her employer's consent, reduces the hours s/he works, or the grade in which s/he is employed, may make a request to receive all of her/his retirement benefits. In this case retirement benefits are unreduced.</p>
Policy	<p>The Council currently does offer flexible retirement to employees between the ages of 55–64; therefore the discretionary power to waive the actuarial reduction does apply. It is currently applied on a case by case basis, where a business case supports this approach as determined by the Managing Director.</p> <p>This does not preclude members aged 65+ from requesting flexible retirement and receipt of their retirement benefits, or younger employees requesting flexible working but without the payment of their retirement benefits.</p>

Regulations 20 & 31	Ill Health Retirement for Leavers & Deferred Beneficiaries
Explanation	<p>The Council can determine, from a range of three tiers, which ill health tier a leaver falls into.</p> <p>In addition it can determine whether a deferred beneficiary meets permanent ill health criteria.</p>
Policy	<p>The Council will seek a certificate from an independent and approved medical practitioner qualified in Occupational Health (OH) medicine on whether ill health applies and at what tier it applies.</p> <p>Any appeal (See regulation 57 (5) c ) against the level of the award will also need to be referred to different, independent and approved OH medical practitioner.</p>



Regulations 30(2) 30(5)	Choice of Early Payment of Pension
Explanation	With the employer's consent, a member leaving local government employment, aged at least 55, but before normal retirement age, or before age 60, may choose to receive payment of her/his retirement benefits immediately. Her/his pension will be reduced by amounts shown as appropriate by the Government Actuary.
Policy	The Council currently applies the discretion to allow an employee to retire before their normal retirement date. It will be applied on a case by case basis, where a business case supports this approach as determined by the Managing Director.

### **Policy on Employer Discretions – Part B:**

Further Discretions under the Local Government Pension Scheme (Administration) Regulations 2008.

Regulation 22	Absence Contribution Time Limit
Explanation	A member who has been away from work as a result of maternity, paternity or adoption leave, industrial action or unpaid leave of absence has the right to pay voluntary pension contributions to prevent any gap in membership. Their request to do so normally has to be made within 30 days of returning to work (or within 30 days of their last day of service if they don't return). The employer has the discretion to extend the 30 days time limit.
Policy	The Council notes this discretion and will permit an extended period of time as long as it is reasonable, usually within six months of their return to work.

Regulation 16	Membership Aggregation
Explanation	A member who is appointed from another Local Government Pension Scheme (LGPS) employer, either directly or after a break, may opt to aggregate the two periods of membership provided they do so whilst still an active member in the new post and within twelve months of joining. It is worth noting that if the member has more than one former period of deferred membership, it is only the most recent deferred membership period that can be aggregated with her/his current active membership unless earlier periods of deferred membership have already been aggregated with the most recent period of deferred membership.



Policy	The Council requires any request to aggregate LGPS membership to be made within the twelve months time limit.
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Regulation 25	Shared Cost Additional Voluntary Contributions (AVCs)
Explanation	An employer may contribute towards a Shared Cost AVC Scheme i.e: an AVC scheme into which the employer pays contributions as well as the member.
Policy	The Council will not contribute towards a Shared Cost AVC Scheme.

Regulations 47(2), 72, 73, 74 & 76	Forfeiture of Pension Rights
Explanation	If a member leaves as a result of a conviction for an offence in connection with their LGPS employment or as a result of their own criminal, negligent or fraudulent act in connection with that employment, the employer has the discretion to direct that all or part of their LGPS pension rights should be forfeited and/or paid over to the employer or specified dependants of the member.
Policy	Where a member is convicted of an offence in connection with their LGPS employment or as a result of their own criminal, negligent or fraudulent act in connection with that employment, the Council will not require that LGPS pension rights be forfeited in connection with that employment in any way, unless the Council incurred loss as a direct consequence of the member's actions.

Regulation 83	Inward Transfer of Pension Rights
Explanation	A member who has previous pension rights in a different pension scheme may transfer them into the LGPS providing they opt to do so within twelve months of joining it.
Policy	The Council allows members to transfer any pension rights held with a different pension scheme, within twelve months of joining the Council and transfer of pension rights beyond this time frame will be allowed on receipt of estimates and confirmation there is no cost to the Council.

Regulation 57(5) c	Notification of Decisions under Regulation 58 – Internal Disputes Resolution Procedure
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Explanation	The complaints procedure within the LGPS is known as the IDRP – Internal Disputes Resolution Procedure. Determinations under the first stage of the IDRP rests with a “specified person” appointed by the employer.
Policy	The specified officer is: The Monitoring Officer, Head of Legal and Member Services Civic Centre Chesterfield Road South Mansfield Nottinghamshire NG19 7BH

### Policy on Employer Discretions – Part C:

Formulation of policy with regard to Regulation 5 of the Local Government Pension Scheme (Benefits, membership and Contributions) Regulations 2007 (as amended).

Regulation 3	Contribution Rate
Explanation	All existing scheme members make contributions to the LGPS at the appropriate contribution rate, based upon salary bands, from her/his pensionable pay, in each employment in which s/he is an active member. The contribution rate to be applied to pensionable pay in any financial year is the rate determined by the employer to represent the assumed whole-time pensionable pay for the forthcoming year. Where there is a material change to a member's pensionable pay in the course of a financial year, the employer may re-determine the contribution rate to be applied in this case.
Policy	The Council currently does not re-determine the contribution rate in the course of the financial year; the contribution rate will be determined at 1 April annually. No adjustments will be made throughout the year. The contribution rate for part-time employees will be determined based on their whole time equivalent pensionable pay.

Regulation 4(1) b	Definition of pensionable pay
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Explanation	Specify which payments are subject to pension contributions and included in the “final salary” retirement benefit calculations.
Policy	The Council has resolved to consider contractual payments as pensionable, unless the payments are otherwise precluded by LGPS legislation.

Regulation 30	Choice of Early Payment of Pension
Explanation	With the employer’s consent, a member who has left local government employment, aged at least 55, but before normal retirement age, or age 60, may request to receive payment of her/his retirement benefits immediately, sometimes referred to as under “compassionate grounds”. Her/his pension will be reduced by amounts shown as appropriate by the Government Actuary.
Policy	The Council currently applies the discretion to allow a deferred member to receive their benefits, before their normal retirement date or before age 60. Note: this policy discretion also applies to deferred members who left under the Local Government Pension Scheme Regulations 1997 {regulation 31 (2)}

### **Policy on Employer Discretions – Part D:**

Formulation of policy with regard to Regulation 9 of the Local Government Pension Scheme (Transitional Provisions) Regulations 1997

Regulation 9	Women with Membership before 6 April 1988
Explanation	This regulation provides for the employer accepting all married female scheme members have made an election to provide their husbands with a widower’s service for any relevant service.
Policy	The Council has resolved that it should accept that all married female scheme members have made such an election with the proviso that any employee may elect otherwise.

Implementation date:	December 2010
Review date:	As required in line with legislation
Originator:	Mariam Amos – HR
Last amended:	December 2010

