



Mansfield
District Council

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Pensions Discretions Policy

June 17

Mansfield District Council Pension Discretions Policy Statement

1. Introduction

- 1.1 The Council, as an employing authority is required to formulate and publish its policy regarding how it will apply certain pension discretions. This is in accordance with Regulation 60 (5) of the Local Government Pension Scheme (Administration) regulations 2013 (as amended).

2. Scope

- 2.1 The stated discretions contained in this policy statement apply to all eligible members of the Local Government Pension Scheme. The statements have been written to balance financial, business, employee needs and public interest as well as taking account the general principle that no policy statement can unduly fetter the employer's ability to make decisions.
- 2.2 Discretions applied below chief officer level will be determined by the Head of Paid Service. Decisions in respect of discretion applied to Chief Officers will be determined by the Personnel Committee.
- 2.3 The Council will keep this Policy Statement under review and will make such revisions as appropriate.
- 2.4 This Policy Statement supports the Council's Discretionary Compensation Payments on Cessation of Employment.

3. Employer Discretions 2013 and 2014

- 3.1 Table 1a. These are the discretions subject to a written policy under the LGPS Regulations 2013 [prefix R] and the LGPS (transitional Provisions and Savings) Regulations 2014 [prefix TP]

Regulation and Employer Discretion	Recommended Policy Statement
Regulation R16(2)(e) and R16(4)(d) Whether, how much, and in what circumstances to contribute to a	The council will not exercise this discretion.

Regulation and Employer Discretion	Recommended Policy Statement
shared cost Additional Pension Contribution scheme.	
<p>Regulation R30(6) and TP11(2)</p> <p>Whether all or some benefits can be paid if an employee aged 55 reduces their hours or grade and continues to work (flexible retirement).</p>	<p>The Council does currently offer flexible retirement to employees between the ages of 55-64.</p> <p>The flexible retirement policy states: In order to access flexible retirement the employee will be required to reduce the hours of their current job typically by between 30% and 40% OR transfer to another available job which has either at least 30-40% fewer hours or is at a lower grade.</p> <p>The council will consider the exercise of this discretion and the granting of flexible retirement where there is no cost to the Council or if there is an overriding business case and there has been a thorough consideration of the financial impact. Cases will be considered by the Head of Paid Service.</p>
<p>Regulation R30(8)</p> <p>Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement.</p>	<p>The council will not exercise this discretion except where there is an overriding business case and there has been thorough consideration of financial impact. Cases will be considered by the Head of Paid Service or Personnel Committee.</p>
<p>Regulation R30(8)</p> <p>Whether to waive, in whole or in part, actuarial reduction on benefits paid on benefits which a member voluntarily draws before normal pension age.</p>	<p>The council will not exercise this discretion except where there is an overriding business case and there has been thorough consideration of financial impact. Cases will be considered by the Head of Paid Service or Personnel Committee</p>

Regulation and Employer Discretion	Recommended Policy Statement
<p>TP(Schedule 2, para 2(2))</p> <p>Whether to “switch on” the 85 Year Rule for an employee voluntarily drawing benefits on or after age 55 and before age 60.</p>	<p>The council will not exercise this discretion as a general principle.</p> <p>Exceptions to this general statement may be granted where there is an overriding business case and there has been thorough consideration of financial impact as described in the policy relating to the following paragraph 2(3). Cases will be considered by the Head of Paid Service or Personnel Committee</p>
<p>TP(Schedule 2, para 2(3))</p> <p>Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits from pre 1/4/14 membership where the employer has “switched on” the 85 Year Rule for a member voluntarily drawing benefits on or after age 55 and before age 60.</p>	<p>The council will not exercise this discretion except where firstly the “switching on” of the 85 Year Rule (para 2(2) above) does not cause unreasonable or unmanageable operational or financial business impact and then secondly there is truly exceptional personal need for the reduction not to be made (examples might include extreme and proven hardship that may not have been anticipated at the point at which the employee took a decision to opt for “early retirement”).</p> <p>Such requests will be considered on a “case-by-case” basis by the Head of Paid Service or the Personnel Committee.</p>
<p>R31</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 pa).</p>	<p>The council will not exercise this discretion.</p>

3.2 Table 1b. These are the discretions for which a written policy statement is not required but has been produced due to anticipated importance or potential frequency of use. These discretions appear under the LGPS Regulations 2013 [prefix R] and the LGPS (transitional Provisions and Savings) Regulations 2014 [prefix TP]

Regulation and Employer Discretion	Recommended Policy Statement
<p>TP12(6) Whether to use a certificate produced by an independent registered medical practitioner under the 2008 scheme for the purposes of making an ill health determination under the 2014 scheme.</p>	<p>The council will apply this discretion to allow the use of a certificate produced by an independent registered medical practitioner under the 2008 scheme for the purposes of making an ill health determination under the 2014 scheme. The Council will also require the medical report to support the certification or otherwise.</p> <p>Any Appeal (Regulation 57(5)c) against the level of award will need to be referred to a different , independent an approved OH practioner.</p>
<p>R37(3) & (4) Determine whether a person in receipt of Tier 3 ill-health pension has started gainful employment (that is likely to endure for at least 12 months).</p>	<p>The decision to determine whether or not gainful employment has commenced will be made by the Head of Paid Service.</p>
<p>R37(3) Determine whether to recover any overpaid Tier 3 pension following commencement of gainful employment.</p>	<p>The council will make such recovery unless there are compelling business reasons not to do so. This will be determined by the Head of Paid Service.</p>
<p>R93(2) Whether to recover from the Pension Fund any monetary obligation or, if less, the value of the value of the member's benefits (other than benefits from transferred-in pension rights or Additional Pension Contributions or Additional Voluntary Contributions) where the obligation was incurred as a result of a grave misconduct or a criminal, negligent or fraudulent act or omission in connection with the employment and</p>	<p>The council will make such recovery unless there are compelling business reasons not . This will be determined by the Head of Paid Service.</p>

Regulation and Employer Discretion	Recommended Policy Statement
as a result of which the person has left employment.	
Equality Act (Age Exceptions for Pension Schemes) Order 2010 Schedule 1(2) Although not a direct result of new pension regulations, indirectly the scheme changes introduce through a different legislative route, an opportunity for additional pension to be awarded at employer cost but funded through payments forgone by the employee.	The council will support employee requests (prior to their employment ceasing) to ask that non-statutory compensatory payments due to them under the terms of their dismissal (retirement) be withheld and that the council in such circumstances will elect to make a payment to the Administering Authority to purchase additional pension through the Additional Pension Contribution scheme to this same value.

3.3 Tables 2 and 3 below relate to discretions exercised under existing regulations

Table 2. These are the discretions subject to a written policy under the LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended) [prefix B].

Regulation and Employer Discretion	Recommended Policy Statement
B30(2) Whether to grant application for early payment of deferred benefits on or after age 55 and before age 60.	The council will not exercise this discretion except where there has been thorough consideration of financial impact and that the detriment suffered by the council will not have an unreasonable adverse effect on budgets particularly those relating to current staffing. No case will be considered where the employee had been dismissed by the council for conduct reasons. Cases will be considered by the Head of Paid Service or the Personnel Committee.
B30(5) Whether to waive, on compassionate grounds, the actuarial reduction	The council will not exercise this discretion except where the criteria in the statement relating to Regulation B30(2) above are met and then that truly exceptional

Regulation and Employer Discretion	Recommended Policy Statement
applied to deferred benefits paid early under B30.	personal need can be demonstrated in order to release deferred benefits (examples might include extreme and proven hardship). Cases will be considered by the Head of Paid Service or the Personnel Committee.
B30A(3) Whether to grant an application for early payment of a suspended tier 3 ill health pension on or after age 55 and before age 60.	The council will not exercise this discretion except where there has been thorough consideration of financial impact and that the detriment suffered by the council will not have an unreasonable adverse effect on budgets particularly those relating to current staffing. Cases will be considered by the Head of paid Service or the Personnel Committee
B30A(5) Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A	The council will not exercise this discretion except where the criteria in the statement relating to Regulation B30A(3) above are met and then that truly exceptional personal need can be demonstrated in order to release deferred benefits (examples might include extreme and proven hardship). Cases will be considered by the Head of Paid Service or the Personnel Committee.

Table 3. These are the discretions subject to a written policy under the LGPS Regulations 1997. [Prefix R]

Regulation and Employer Discretion	Recommended Policy Statement
R31(2) Whether to grant application from a post-31 March 1998/ pre-1 April 2008 leaver or from a councillor for early payment of benefits on or after age 50/ 55 and before age 60.	The council will not exercise this discretion except where there has been thorough consideration of financial impact and that the detriment suffered by the council will not have an unreasonable adverse effect on budgets particularly those relating to current staffing. No case will be

	considered where the employee had been dismissed by the council for conduct reasons. Cases will be considered by the Head of Paid Service.
R31(5) Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post-31 March 1998/ pre-1 April 2008 leaver or councillor leaver.	The council will not exercise this discretion except where the criteria in the statement relating to Regulation B31(2) above are met and then that truly exceptional personal need can be demonstrated in order to release deferred benefits (examples might include extreme and proven hardship). Cases will be considered by the Head of Paid Service.
R31(7A) Councillor opts out and pre-1 April employee opts out only to get benefits paid from normal retirement date if employer agrees.	The council will accept such requests subject there being no cost to the council arising. Should there be a cost to the council then permission would not be granted other than in cases of truly exceptional personal need that can be demonstrated (examples might include extreme and proven hardship). Cases will be considered by the Head of Paid Service.

3.4 Table 4. The table shows other existing discretions for which there is already a written policy through existing earlier Regulations. Discretions applied under the Local Government (Early Termination Of Employment) (Discretionary Compensation) (England And Wales) Regulations 2006 are shown as prefix ET, those that are applied under the LGPS Regulations 2013 as prefix R

Regulation and Employer Discretion	Policy Statement
ET7 Calculation of a week's pay for the purpose of redundancy payments. Whether to pay a lump sum compensation payment (of up to 104 weeks' pay)	Redundancy payments will be calculated on the employee's actual gross week's pay. The Council does not pay a lump sum compensation payment.
ET8	The Council no longer has discretion to waive

Regulation and Employer Discretion	Policy Statement
Whether to allow a “contribution holiday” for scheme members reaching 40 years’ service.	or reduce contributions of employees who have completed 40 years’ membership of the Scheme. No repayment of waived contribution will be required from current or ex-employees in cases where payment “holidays” were granted.
R100 (Previously included under LGPS (Administration) Regulations 2008) Whether to allow an employee to elect to transfer other employment pension benefits into the LGPS after the 12-month “decision window” period has elapsed.	The council will not extend the 12-month time limit within which notice must be given requesting a transfer in of previous pension benefits to the Local Government Pension Scheme.
R9(1) R9(3) (Previously included under LGPS (Benefits, Membership and Contributions) Regulations 2007) Determination of rate of employees’ contributions	<p>The following pay elements will be included for the purpose of defining pensionable pay:</p> <ul style="list-style-type: none"> • Basic pay • Protected pay • Contractual stand-by • Personal (historic) allowances e.g. Tool Allowances • Special refuse service payments including Bank holiday/ Summer Service • Honoraria (for “acting up” to more senior duties) • Contractual overtime • Fees (Fees, as defined within the new LGPS Regulations, will be treated separately to other employments for which pension contributions are made. The assessment of bandings to be applied to fee payments will be based on the actual fees paid.) <p>The following pay elements will <i>not</i> be included for the purpose of defining pensionable pay:</p> <ul style="list-style-type: none"> • Emergency call-out allowance • Non-contractual overtime • Honoraria (additional hours payments) • Travel and subsistence allowance

Regulation and Employer Discretion	Policy Statement
	<ul style="list-style-type: none"> • First Aid Allowance • Pay in lieu of holiday • Compensatory payments • Redundancy payments • Strike deduction • Relocation and other re-imbursements <p>Assessment of Pension Banding: The effective date and method of calculation to be applied for assessment of pension bands will be determined as follows:</p> <ul style="list-style-type: none"> • Placement within pension bandings for employees new to the organisation will be based on their pensionable earnings on the date of their employment. • Placement for employees taking on <i>additional</i> and separate new employment with the Council will be based on their pensionable earnings for that additional job on the date of their employment to the new job. • For existing employees: <ul style="list-style-type: none"> ○ Placement within pension bandings will be based on their pensionable earnings at the 1st April each year. ○ Assessment will take account of any incremental pay progressions within a pay band that apply from that date. ○ Annual “cost of living” pay awards will only be taken into account for the coming year where the award for that year has been announced prior to 1st April. ○ Changes in personal pay during a year including occurrences such as promotion (to a new post), re-grading (of existing post), downward pay grade changes, addition or removal of pensionable allowances and honoraria payments will not be taken into account until re-assessment of all employees at the next 1st April.

Regulation and Employer Discretion	Policy Statement
	<p>Assessment of <i>expected</i> pensionable earnings for the coming year will be applied at 1st April each year. This will be based on expected contractual pensionable earnings from 1st April together with an estimate of non-regular pensionable pay anticipated for the coming year, based on actual non-contractual pensionable earnings in the previous year.</p> <p>There may be exceptional circumstances where the Council may change pension bandings during a financial year e.g. if there are significant changes to the pay and grading structure resulting in pay changes across the workforce.</p>

3.5 For discretions available under LGPS Regulations not covered in the above tables (discretions not requiring mandatory policy) the default position of the council is that each case is considered on its own merit by the Head of Paid Service for determination and that decisions to positively apply any discretion are only made following thorough consideration of financial impact and evidence that there is an overriding business need to support such a decision.

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