

LEEDS BECKETT UNIVERSITY

LOCAL GOVERNMENT PENSION SCHEME EMPLOYER DISCRETIONS STATEMENT

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LOCAL GOVERNMENT PENSION SCHEME EMPLOYER DISCRETIONS STATEMENT

POLICY STATEMENT

1. Purpose and Core Principles

1.1 The purpose of this policy is to set out the discretionary rules that must be in place to run alongside the main Local Government Pension Scheme (LGPS) regulations.

2. Scope

2.1 This policy and procedure covers rules that we must have in place to operate our pension schemes fairly and consistently and is applicable to all members of the LGPS.

3. Responsibility

3.1 Human Resources has responsibility for ensuring that this policy and procedure is adhered to and will provide advice and guidance to managers and employees on its application.

3.2 The Board of Governors are the employing authority for all staff in this institution. Salary arrangements are determined by the Vice-Chancellor within a framework set by the Board of Governors. This excludes Senior Postholders whose arrangements are set by the Chair of the Senior Staff Remuneration Committee on behalf of the Board of Governors. All references to the Vice-Chancellor or nominee as having the discretion to make a decision within this policy should be substituted with the Chair of the Senior Staff Remuneration Committee if it is in relation to a Senior Postholder.

4. Review

4.1 This policy and procedure will be monitored and reviewed every three years and/or amended in light of scheme or legislative changes and organisational requirements as appropriate.

LOCAL GOVERNMENT PENSION SCHEME EMPLOYER DISCRETIONS STATEMENT

EMPLOYER DISCRETIONS

1. Introduction

1.1 The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014. The provisions of the new LGPS, together with protections for members' benefits accrued before 1 April 2014, are now contained in the Local Government Pension Scheme Regulations 2013 (the 'LGPS Regulations 2013') and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (the 'LGPS Transitional Regulations 2014').

Therefore, this statement relates to the application of discretions under:

- (a) the LGPS Regulations 2013;
- (b) the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 ('LGPS Transitional Regulations 2014'); and
- (c) the Local Government Pension Scheme Regulations 1997 ('LGPS Regulations 1997') and the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 ('LGPS Benefits Regulations 2007'), which continue to have effect in so far as is necessary under *Regulation 3 (Membership before 1 April 2014) of the LGPS Transitional Regulations 2014*.

1.2 Under *Regulation 60 (statements of policy about exercise of discretionary functions) of the LGPS Regulations 2013* and *paragraph 2(2) of Schedule 2 of the LGPS Transitional Regulations 2014*, we are required to make and publish policy statements on how we will exercise five specific discretions.

2. Scheme Employer Discretions

Specific discretions under the LGPS Regulations 2013 and the LGPS Transitional Regulations 2014

Details of the five discretions available are as follows:

2.1 Shared cost Additional Pension Contributions - Regulation 16 (2)(e) and 16 (4)(d)

We will not normally fund in whole or in part any APCs other than additional maternity, paternity and adoption leave and other authorised absence on no pay when the application is made within 30 days of returning to work. In exceptional circumstances where there is a clear and demonstrable financial or operational advantage for doing so other requests for shared cost APCs will be considered by the Vice-Chancellor or nominee.

Note: the specific provisions of Regulation 16 allow an active member who is paying into the main scheme to enter into an arrangement to pay additional contributions, either by regular contributions (Regulation 16(2)(e)) or by a lump sum payment (Regulation 16(4)(d)). This may be funded in whole or in part by the employer.

The employer does not consider contribution towards additional pension contributions to be an essential part of our reward strategy. However, we will consider applications made under these specific provisions having regard to our pay and reward policies from time to time with reference to the particular circumstances surrounding each case.

It is likely that decisions will be made on the merits of each case having particular regard to factors such as:

- the employer's ability to meet the cost of granting such a request; and/or
- the member's personal circumstances.

2.2 Awarding Additional Pension - Regulation 31

We do not consider there to be a business case for awarding additional pension on the grounds of recruitment or retention and so will not consider such applications. We will not normally fund any additional pension to compensate or reward an employee who is retiring, but in exceptional circumstances where there is a clear financial or operational advantage for doing so, requests will be considered by the Vice-Chancellor or nominee.

Note: Regulation 31 allows employers to grant additional pension up to the maximum allowed by the scheme rules provided that the member is active or is within 6 months of leaving for reasons of redundancy or business efficiency or whose employment was terminated by mutual consent on grounds of business efficiency.

Employers may wish to use this Regulation as an aid to recruitment, an aid to retention or to compensate or reward an employee who is retiring.

Employers should also consider provisions of this Regulation, in particular Regulation 31(4), if they decide to exercise their power under Section 1 (general power of competence) of the Localism Act 2011.

The employer will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to the following:

- the member's personal circumstances;
- the interests of the employer;
- the additional contributions due to the Fund by the employer in respect of the exercise of this discretion;
- any potential benefits or savings to the employer arising from the exercise of this discretion;

- other options that are, from time to time, available under the employer's severance arrangements;
- the funding position of the employer within the Fund;
- the ability of the employer to meet the cost of granting such an award.

2.3 Flexible Retirement - Regulation 30(6)

We have a flexible working policy and where there is a good business case for granting of flexible retirement and it does not adversely affect the service area we would normally consent to immediate access to all or part of a member's benefits. We will not normally agree to flexible retirement unless there has been a 20% reduction in hours or an equivalent reduction in salary or grade and will not waive any reductions that might apply. In exceptional circumstances, where there is a clear financial or operational advantage for doing so, requests to waive the normal rules on a reduction in hours or fund any reductions will be considered by the Vice-Chancellor or nominee.

Note: this provision in the Regulations allows the employer to consent for a member who has attained the age of 55 to draw all or part of their retirement benefits (both pension and lump sum) whilst continuing in employment and Fund membership provided that:

- *there has been a reduction in hours, or*
- *a reduction in grade.*

Employers can choose to waive any reductions that apply under Regulation 30(8).

The employer will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the operating requirements of the employing department
- the employer's ability to meet the cost of granting such a request
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place from time to time can be made
- the member's personal circumstances.

2.4 Waiving actuarial reductions - Regulation 30(8)

We will not normally waive any reductions in respect of pre or post 1 April 2014 benefits on compassionate grounds unless there are exceptional domestic reasons which affect the ability of the member to continue with their present working arrangements and/or reasons of ill-health, which do not meet the current criteria for ill-health retirement, and there are demonstrable financial or operation reasons for ending the employment. Due regard will be made to the cost and it will be subject to approval of the Vice-Chancellor or nominee.

In other circumstances we will only normally waive any reductions to post 1 April 2014 benefits where there are demonstrable financial or operational reasons for doing so and these will normally be linked to a severance scheme or management of change process. Any other exceptional reasons for waiving reductions will be subject to the approval of the Vice-Chancellor or nominee.

Note: the employer may waive the actuarial reductions applied to a member's benefits, unless 85 year rule protections exist, employers can waive:

- *all of the reductions in respect of pre 1 April 2014 benefits but only on compassionate grounds (paragraph 2 of Schedule 2 of the LGPS Transitional Regulations 2014);*
- *all or some of the actuarial reduction in respect of post 1 April 2014 on any grounds.*

Where 85 year rule protections exist and the member has full or tapered protection the employer can waive all of the reductions but only on compassionate grounds for the service up to the date the 85 year rule protection ends (31 March 2016 (full) or 31 March 2020 (tapered)).

The employer will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the employer's ability to meet the cost of granting such a request;
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place from time to time can be made;
- the member's personal circumstances.

Applications for the payment of unreduced benefits for service before 1 April 2014 on the grounds of compassion will be granted if:

- in the employer's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and;
- the employer can meet the cost of granting such a request.

2.5 Switching on the 85 rule – Regulation 1(1)(c) of the LGPS Transitional Regulations 2014

We will not normally switch on the 85 year rule. In exceptional circumstances where there is a clear and demonstrable financial or operational advantage for doing so, requests will be considered by the Vice-Chancellor or nominee.

Note: The employer can decide to “switch on” the 85 year rule to allow members to receive benefits either unreduced or with a smaller reduction to their 85 year rule date. The employer will be responsible for meeting any strain costs relating to benefits being paid

before age 60. If the employer does not “switch on” the 85 year rule the member’s benefits will be reduced to age 60 or the date they meet the 85 year rule if later.

The employer will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the employer's ability to meet the cost of granting such a request;
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place from time to time can be made;
- the member's personal circumstances.

Further discretions under the LGPS Regulations 1997 and the LGPS Benefits Regulations 2007

There are also two other discretions for employers but these relate specifically to members who left before 1 April 2014.

Whilst the *LGPS Regulations 2013* repeals the *LGPS Regulations 1997 and the LGPS Benefits Regulations 2007* (in so far as they had not already been repealed), *Regulation 3(1) of the LGPS Regulations 2013* allows for the *LGPS Regulations 1997 and the LGPS Benefits Regulations 2007* to still have effect in so far as they relate to certain member benefits before 1 April 2014. As such, the other discretions still available for certain members only, are as follows:

2.6 Early Payment of Deferred Pensions for members who left before 1st April 2014 - Regulation 30(2) and 30(5) of the LGPS Benefits Regulations 2007 & Regulation 31(2) and Regulation 31(5) of the LGPS Regulations 1997

We will not waive any reduction to benefits for members that left the scheme before 1 April 2014. The only exception to this is if they elected to cease active membership of the scheme but are still in our employment. In these circumstances the considerations under 2.4 above would apply.

Note: This Regulation allows employers to enable members who left the scheme before 1 April 2014, and who are over the age of 55, to take their benefits early. Under Regulation 30(5) employers can waive any reduction to benefits paid under that Regulation on compassionate grounds.

The employer will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the employer's ability to meet the cost of granting such a request

- the member's personal circumstances.

Applications for the payment of unreduced benefits on the grounds of compassion will be granted if:

- in the employer's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and
- the employer can meet the cost of granting such a request.

N.B. Deferred members who left the Scheme before 1 April 2008 can still make application for the early payment of their deferred benefits after age 50 under LGPS rules. However, under HMRC rules such payments would be classed as 'un-authorised' and would be subject to a punitive tax charge.

2.7 Early Payment of Deferred Pensions for members who left before 1st April 2014 and have ceased to be entitled to a tier 3 ill health benefit - Regulation 30A(3) and 30A(5) of the LGPS Benefits Regulations 2007.

We will not waive any reduction to benefits in these circumstances.

This regulation allows employers to enable members who have ceased to be entitled to a tier 3 ill health benefit, and who are over the age of 55, to take their benefits early. Under sub paragraph 5 of Regulation 30A employers can waive any reduction to benefits paid under that Regulation on compassionate grounds.

The employer will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the employer's ability to meet the cost of granting such a request
- the member's personal circumstances.

Applications for the payment of unreduced benefits on the grounds of compassion will be granted if:

- in the employer's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and
- the employer can meet the cost of granting such a request.