

Employer Statement – Local Government Pension Scheme Discretions Policy

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3			

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1. Purpose

- 1.1 The purpose of this policy is to set out how the Council will apply the discretions available to it in the application of the Local Government Pension Scheme Regulations.

2. Applicability

- 2.1 This policy applies to all employees who are eligible to become members of the Local Government Pension Scheme, including those employed in maintained schools.
- 2.2 This policy has been the subject of consultation with recognised trade unions and has been ratified by the Council's Corporate Board. The Personnel Committee has approved the LGPS Discretions Policy.

3. Roles and Responsibilities

- 3.1 The Royal Borough of Windsor and Maidenhead is the administering authority for the [Royal County of Berkshire Pension Fund](#).
- 3.2 West Berkshire Council (WBC) is the 'Scheme Employer' for the purpose of this document.
- 3.3 The Chief Executive of WBC has overall responsibility for ensuring that Discretionary Compensation Payments are managed appropriately in accordance with this policy.
- 3.4 Customer Services is responsible for maintaining and updating the policy and ensuring that it is applied consistently and fairly.

4. Policy decisions

- 4.1 Under the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014 the Council, as the Scheme employer, is required to formulate policy with respect to the Regulations set out from section 5 below.
- 4.2 Requests for the Council to make decisions under this policy which will involve financial cost to the Council will be considered and approved on an individual basis by the Personnel Committee.
- 4.3 Where the total cost to the Council of a pensions discretion decision will exceed £10,000, the costs must first be approved by the Executive. Below £10,000, the costs must be approved by the Chief Executive in consultation with the Leader and Shadow Leader of the Council.
- 4.4 Factors to be taken into account when making decisions will include;
- 4.4.1 Overall reasonableness in exercising the discretion;
 - 4.4.2 Real and substantial future benefits to the Council and its tax payers;
 - 4.4.3 Direct financial savings to be incurred;

4.4.4 Employee relations considerations.

COMPULSORY policy in accordance with Regulation 60 of the LGPS Regulations 2013:

5. Regulation 16 – Additional Pension Contributions

- 5.1 The Scheme employer may resolve to fund in whole or in part any arrangement entered into by an active scheme member to pay additional pension contributions by way of regular contributions in accordance with *Regulation 16(2)(e)*, or by way of a lump sum in accordance with *Regulation 16(4)(d)*.
- 5.2 The Scheme employer may enter into an APC contract with a Scheme member who is contributing to the MAIN section of the Scheme in order to purchase additional pension of not more than the additional pension limit (£6,500 from 1st April 2014 subject to annual increase in line with the Pensions (Increase) Act 1971).
- 5.3 The amount of additional contribution to be paid is determined by reference to actuarial guidance issued by the Secretary of State.
- 5.4 ***The policy of WBC is not to fund, in whole or in part, an employee's Additional Pension Contributions.***

6. Regulation 30(6) – Flexible Retirement

- 6.1 An active member who has attained the age of 55 or over and who with the agreement of their employer reduces their working hours or grade of employment may, with the further consent of their employer, elect to receive immediate payment of all or part of the retirement pension to which they would be entitled in respect of that employment as if that member were no longer an employee in local government service on the date of the reduction in hours or grade (adjusted by the amount shown as appropriate in actuarial guidance issued by the Secretary of State – separate policy required under Regulation 30(8)).
- 6.2 As part of the policy making decision the Scheme employer must consider whether, in addition to the benefits the member may have 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 built up after 31 March 2008 and before 1 April 2014 and all, part or none of the pension benefits they built up after 1 April 2014.
- 6.3 Due consideration must be given to the financial implications of allowing an employee to draw all or part of their pension benefits earlier than their normal retirement age.
- 6.4 ***The policy of WBC is to agree to individual applications for flexible retirement where there are no financial costs to the Council and there is no detrimental effect on service delivery.***

7. Regulation 30(8) – Waiving of actuarial reduction

7.1 Where a Scheme employer's policy under regulation 30(6) (flexible retirement) is to consent to the immediate release of benefits in respect of an active member who is aged 55 or over, those benefits must be adjusted by an amount shown as appropriate in actuarial guidance issued by the Secretary of State (commonly referred to as actuarial reduction or early payment reduction).

7.2 A Scheme employer (or former employer as the case may be) may agree to waive in whole or in part and at their own cost, any actuarial reduction that may be required by the Scheme Regulations.

7.3 Due consideration must be given to the financial implications of agreeing to waive in whole or in part any actuarial reduction.

7.4 *The policy of WBC is that a decision to waive any actuarial reduction in the case of flexible retirement will only be considered where there will be a financial or other benefit to the employer.*

8. Regulation 31 – Award of additional pension

8.1 A Scheme employer may resolve to award

- (a) an active member, or
- (b) a member who was an active member but dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency,

additional annual pension of, in total (including any additional pension purchased by the Scheme employer under Regulation 16), not more than the additional pension limit (£6,500 from 1st April 2014 subject to annual increase in line with the Pensions (Increase) Act 1971).

8.2 Any additional pension awarded is payable from the same date as any pension payable under other provisions of the Scheme Regulations from the account to which the additional pension is attached.

8.3 In the case of a member falling within sub-paragraph (b) above, the resolution to award additional pension must be made within 6 months of the date that the member's employment ended.

8.4 *It is the policy of WBC not to use its discretion to award additional pension, except in the circumstances set out in 5.5 below.*

8.5 *Additional pension under regulation 31 may be awarded to an employee who would otherwise be eligible for a lump sum compensation payment under the WBC Discretionary Compensation policy. Where the employee agrees to forgo the lump sum payment (in excess of any statutory redundancy compensation) that would otherwise have been paid, the Council will award additional pension actuarially equivalent in value to the lump sum compensation payment, provided that the additional annual pension would not exceed the statutory limits.*

Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014

9. Schedule 2 – paras 2 and 3

- 9.1 Where a scheme member retires or leaves employment and elects to draw their benefits at or after the age of 55 and before the age of 60 those benefits will be actuarially reduced unless their Scheme employer agrees to meet the full or part cost of those reductions as a result of the member otherwise being protected under the 85 year rule as set out in previous Regulations.
- 9.2 So as to avoid the member suffering the full reduction to their benefits the Scheme employer can 'switch on' the 85 year rule protections thereby allowing the member to receive fully or partly unreduced benefits but subject to the Scheme employer paying a strain (capital) cost to the Pension Fund.
- 9.3 ***It is the policy of WBC to that a decision to 'switch on' the 85-year rule, will only be made where there would be a financial or other benefit to the Council.***

RECOMMENDED policy in accordance with the Local Government Pension Scheme Regulations 2013

10. Regulation 9(1) & (3) – Contributions

- 10.1 Where an active member changes employment or there is a material change which affects the member's pensionable pay during the course of a financial year, the Scheme employer may determine that a contribution rate from a different band (as set out in Regulation 9(2)) should be applied.
- 10.2 Where the Scheme employer makes such a determination it shall inform the member of the revised contribution rate and the date from which it is to be applied.
- 10.3 ***The Council will set employee contribution rates at 1st April each year and will make no changes during the year.***

11. Regulation 17(1) – Additional Voluntary Contributions

- 11.1 An active member may enter into arrangements to pay additional voluntary contributions (AVCs) or to contribute to a shared cost additional voluntary contribution arrangement (SCAVCs) in respect of an employment. The arrangement must be a scheme established between the appropriate administering authority and a body approved for the purposes of the Finance Act 2004, registered in accordance with that Act and administered in accordance with the Pensions Act 2004.
- 11.2 ***It is the policy of WBC not to use its discretion to contribute to shared cost additional voluntary contribution arrangements.***

12. Regulation 22 – Merging of Deferred Member Pension Accounts with Active Member Pension Accounts

- 12.1 A deferred member's pension account is automatically aggregated with their active member's pension account unless the member elects within the first 12 months of the new active member's pension account being opened to retain their deferred member's pension account.
- 12.2 A Scheme employer can, at its discretion, extend the 12 month election period.
- 12.3 ***It is the policy of WBC to allow an active member to elect not to aggregate a deferred member's pension account to an active member's pension account beyond the 12 month deadline only where there is no financial risk to the Council and is of benefit to the member.***

13. Regulation 100(6) – Inward Transfers of Pension Rights

- 13.1 A request from an active member to transfer former pension rights from a previous arrangement into the Local Government Pension Scheme as a result of their employment with a Scheme employer must be made in writing to the administering authority and the Scheme employer before the expiry of the period of 12 months beginning with the date on which the employee first became an active member in an employment (or such longer period as the Scheme employer and administering authority may allow).
- 13.2 ***It is the policy of WBC not to accept transfers in beyond the 12 month deadline.***

14. Regulation 21(5) – Assumed Pensionable Pay

- 14.1 A Scheme employer needs to determine whether or not to include in the calculation of assumed pensionable pay, any 'regular lump sum payment' received by a Scheme member in the 12 months preceding the date that gave rise to the need for an assumed pensionable pay figure to be calculated.
- 14.2 ***It is the policy of WBC to consider whether to include any regular lump sum payment in the assumed pensionable pay calculation in each case at the appropriate time.***

15. Regulation 74 – Applications for Adjudication of Disagreements

- 15.1 Each Scheme employer must appoint a person ("the adjudicator") to consider applications from any person whose rights or liabilities under the Scheme are affected by:
- (a) a decision under regulation 72 (first instance decisions); or
 - (b) any other act or omission by a Scheme employer or administering authority,
- and to make a decision on such applications.
- 15.2 Responsibility for determinations within the Council under this first stage of the Internal Disputes Resolution Procedure (IDRP) rests with "the adjudicator" as named below:

Name	Mr A Walker
Job Title	Head of Finance
Full Address	West Berkshire Council Market Street Newbury Berks RG14 5LD
Telephone	01635 519433
Fax	
Email	awalker@westberks.gov.uk

Adjudicator's signature	
Date	

16. Review

- 16.1 This policy will be reviewed to respond to any changes every year, or when there are changes to the Local Government Pension Scheme or to Council policy.

17. SCHEME EMPLOYER CONFIRMATION

- 17.1 It is understood that the discretions contained within this statement of policy are applicable to all eligible members of the Scheme. The Scheme rules allow for a revised statement to be issued at least one month in advance of the date that any new policy takes effect. The revised statement must be sent to the administering authority and the employer must publish its statement as revised in a place that is accessible to all of its eligible scheme members.

- 17.2 The policies made above:

- 17.2.1 Have regard to the extent to which the exercise of the discretions could lead to a serious loss of confidence in the public service;
- 17.2.2 Will not be used for any ulterior motive;
- 17.2.3 Will be exercised reasonably;
- 17.2.4 Will only be used when there is a real and substantial future benefit to the employer for incurring the extra costs that may arise;
- 17.2.5 Will be duly recorded when applied.

Signed on behalf of the Scheme Employer	
Name in Block Capitals	
Position	

Scheme Employer's Name	
Date	

DRAFT