

LOCAL GOVERNMENT PENSION SCHEME DISCRETIONS POLICY

1. Purpose of Report

- 1.1 The purpose of this report is to seek Member approval for the Neath Port Talbot County Borough Council Local Government Pension Scheme (LGPS) Employer Discretions Policy (attached).

2. Background Information

- 2.1 Members will be aware that the LGPS in England and Wales was amended from 1st April 2014 so that benefits accruing for service after 31st March 2014 will accrue on a Career Average Re-valued Earnings (CARE) basis, rather than on a final salary basis.
- 2.2 As a result of the changes, the LGPS regulations stipulate that employers are required to have a Discretions Policy in place in relation to mandatory discretions which they have the power to exercise in relation to members of the CARE scheme and on certain other discretions they may exercise if they choose to in relation to members of the LGPS.
- 2.3 The employer must formulate, publish and keep the policy under review.

3. Discretions within LGPS for Decision

- 3.1 The Regulations required that decisions were made in relation to five key mandatory discretions by 30th June 2014, and a report was presented to Members on 7th April 2014 in relation to these decisions, and approved by Members at that committee.
- 3.2 The policy attached at Appendix 1 includes the mandatory discretions (see section 2 Mandatory decisions), as well as a number of other discretions which the Council has the power to exercise.
- 3.3 Unless otherwise stated, where decisions are required in relation to discretions, these will be considered and decided upon by the Council's Pension Panel.

4. Recommendation

- 4.1 It is **RECOMMENDED** that Members approve the Neath Port Talbot County Borough Council Local Government Pension Scheme (LGPS) Employer Discretions Policy (attached).

FOR DECISION

5. Officer Contact

- 5.1 For further information on this report item, please contact either:

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6. Background Papers

Local Government Pension Scheme

7. Wards Affected

All

8. Appendices

Appendix 1 - Local Government Pension Scheme Discretions Policy (Appendix 1).

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

**LOCAL GOVERNMENT PENSION SCHEME
DISCRETIONS**

SCOPE

The policy set out in this document applies to all employees, who are employed under the terms and conditions of Neath Port Talbot County Borough Council who have elected to join the Local Government Pension Scheme

Date of Issue: July 2014

1. Introduction

- 1.1 This document sets out below the discretions to be applied within Neath Port Talbot County Borough Council.
- 1.2 In formulating and reviewing its policy, Neath Port Talbot County Borough Council must have regard to the extent to which the exercise of its discretionary powers could lead to serious loss of confidence in the public service.
- 1.3 Whilst this Policy Statement sets out the general position, the Authority must consider every application on its merit. Where there are extraordinary or justifiable circumstances, a departure from policy may be appropriate.

2. Mandatory Discretions under LGPS 2014

- 2.1 Scheme employers, participating in the LGPS in England and Wales are required to formulate, publish and maintain a written statement of policy on certain discretions set out in the Local Government Pension Scheme Regulations.

2.2 *Funding of Additional Pension*

Employers will determine whether, how much, and in what circumstances to contribute to a Shared Cost Additional Pension Contribution (SCAPC)

Policy

The Council has determined that it will not fund SCAPCs due to the associated increased costs.

2.3 **Flexible Retirement**

Employers will determine whether to permit an application for flexible retirement for an active LPGA member, age 55 or over who, reduce their working hours or grade, and, if so,

- Whether, in addition to the benefits accrued prior to 1 April 2008 (which must be paid), to permit the member to choose to draw:
 - All, part or none of the pension benefits accrued after 31 March 2008 and before 1 April 2014 and/or
 - All, part or none of the pension benefits accrued after 31 March 2014

- whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement

Policy

Please refer to the Council's Flexible Retirement Policy which sets out the Council's policy in relation to flexible retirement.

2.4 *Waiving of actuarial reduction*

Employers will determine whether to waive any actuarial reduction that would be applied to an active LGPS member, age 55 or over who, either voluntary retires or is granted flexible retirement

Policy

The Council will not exercise this discretion other than in exceptional circumstances, and at the approval of the Director of Finance & Corporate Services and Head of Human Resources.

2.5 *Award of Additional Pension*

Employers will determine whether to grant extra annual pension of up to £6,500* to an active LGPS member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency.

* Figure at 1 April 2014. This figure will be increase each April (starting April 2015) under the Pension (Increase) Act 1971 (as if it were a pension with a Pension Increase date of 1 April 2013)

Policy

The Council will not exercise this discretion in all but very exceptional circumstances, and at the approval of the Director of Finance & Corporate Services and Head of Human Resources.

2.6 *Switch back on the 85 year rule*

Employers will determine whether to switch back on the 85 year rule for members voluntarily retiring on or after age 55 and before age 60 before 2020.

Policy

The Council will consider each case on its own merits with full business cases to be approved by the Director of Finance & Corporate Services and Head of Human Resources.

3. Optional Discretions under LGPS 2014

3.1 There are a number of other discretions which Scheme employers may exercise under the LGPS Regulations 2013, where a written policy is not required; however, it is appropriate that these are listed to ensure clarity on the employer's stance on these matters.

3.2 *Funding of Additional Voluntary Contributions*

Employers will determine whether, how much, and in what circumstances to contribute to a Shared Cost Additional Voluntary Contribution (SCAVC)

Policy

The Council has determined that it will not fund SCAVCs due to the associated increased costs.

3.3 Permit a late transfer in of previous pension rights

Employers, with the agreement of the City and County of Swansea Pension Fund, will determine whether to permit a Scheme member to elect to transfer other pension rights into the LGPS if the member has not made an election within 12 months of joining the Scheme.

Policy

Extensions only to be allowed in exceptional circumstances and where the delay was outside of the member's control.

3.4 Permit a late election to retain separate LGPS benefits

Employers will determine whether to permit an extension to the 12 month time limit within which a Scheme member may elect not to aggregate a previous deferred benefit with their new LGPS employment (or ongoing concurrent LGPS employment).

Policy

Extensions only to be allowed in exceptional circumstances and where the delay was outside of the member's control.

3.5 Allocation of pension contribution band

Employers will determine how the pension contribution band to which an employee is to be allocated on joining the Scheme and at each subsequent April will be decided and the circumstances in which the contribution band will be reviewed in the course of a Scheme year

Policy

All fixed, regular payments which are considered pensionable are taken into account. Regular reassessments and re-bandings will take place to take into account, for example, pay awards, increments and promotions.

3.6 Calculation of assumed pensionable pay

Employers will determine whether to include the amount of any 'regular lump sum payment', received by the member in the 12 months preceding the commencement of a period of absence or the date at which ill health retirement or death occurred, in the calculation for assumed pensionable pay. A 'regular lump sum payment' is a payment for which the member's employer determines there is a reasonable expectation that such a payment would be paid on a regular basis.

Policy

Generally a lump sum payment made in the previous 12 months will not be considered a "regular lump sum", however each case will be considered on its merits.

4. Summary of the discretions to be exercised on and after 1 April 2014 in relation to scheme members (excluding councillor members) who ceased active membership between 1 April 2008 and 31 March 2014

4.1 Scheme employers are required to prepare, publish and review a written policy in relation to:

4.2 **Early payment of deferred pension benefits**

Employers will determine whether to grant applications for the early payment of deferred pension benefits on or after age 55 and before age 60

Policy

The Council will consider each case on its own merits, provided there are no additional associated costs to the Council.

4.3 Waive actuarial reduction on compassionate grounds

Employers will determine whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits or suspended tier 3 ill health pensions which are paid before age 65

Policy

The Council will consider each case on its own merits with full business cases to be approved by the Director of Finance & Corporate Services and Head of Human Resources.

4.4 Early payment of suspended tier 3 ill health pension

Employers will determine whether to grant applications for the early payment of a suspended tier 3 ill health pension on or after age 55 and before age 60

Policy

The Council will determine eligibility in accordance with the LGPS regulations and medical advice. The Council will consider each case on its own merits with full business cases to be approved by the Director of Finance & Corporate Services and Head of Human Resources.

4.5 Grant extra membership

Employers will determine, within 6 months of the date of termination, whether to grant extra membership to a Scheme member whose employment was terminated before 1 April 2014 on the grounds of redundancy or business efficiency

Policy

The Council has determined that this discretion will not be exercised.

5. Summary of the discretions to be exercised on and after 1 April 2014 in relation to active councillor members, councillor members who ceased active membership on or after 1 April 1998 and any other scheme members who ceased active membership between 1 April 1998 and 31 March 2008

5.1 Scheme employers are required to prepare and keep under review a written policy in relation to:

5.2 Early payment of pension benefits

Employers will determine whether to grant applications for the early payment of pension benefits on or after age 50 and before age 60

Policy

The Council will consider each case on its own merits, provided there are no additional associated costs to the Council.

5.3 Waive actuarial reduction on compassionate grounds

Employers will determine whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to benefits which are paid before age 65

Policy

The Authority will consider the merits of each application submitted.

6. Summary of the discretions to be exercised on and after 1 April 2014 in relation to scheme members who ceased active membership before 1 April 1998

6.1 Scheme employers are recommended to formulate, publish and keep under review a statement of policy in relation to:

6.2 Early payment of deferred pension benefits

Employers will determine whether to grant applications for the early payment of deferred benefits on or after age 50 and before age 65 on compassionate grounds

Policy

The Council will consider each case on its own merits with full business cases to be approved by the Director of Finance & Corporate Services and Head of Human Resources.

7. **Summary of the discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006**

7.1 Scheme employers are required to formulate, publish and keep under review a statement of policy on two discretions under the above regulations and must be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

7.2 Calculation of Redundancy Payment

Employers will determine whether to base a redundancy payment on an employee's actual week' pay where it exceeds the statutory weeks' pay limit

Policy

Refer to the current Management of Change in Partnership Policy and the Authority's current ER/VR/CR Scheme.

7.3 Make a termination payment

Employers will determine whether to make a termination payment (inclusive of any redundancy payment) of up to a maximum of 104 weeks' pay.

A termination payment cannot be made if an employer makes an award of augmented membership (2007 regulations) or additional pension (2013 regulations)

Policy

Refer to the current Management of Change in Partnership Policy and the Authority's current ER/VR/CR Scheme.

8. **Summary of the discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000**

8.1 Although the 2000 Compensation Regulations have been revoked, they still apply to any Compensatory Added Years previously awarded by a Scheme employer before 1 April 2007.

8.2 Scheme employers, who made awards of Compensatory Added Years are required to formulate, publish and keep under review a statement of policy under the above regulations and must be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

8.3 Abatement of annual compensatory added years' payment

Employers will determine how a person's annual compensatory added years' payment is to be abated during, and following the cessation of, any period of re-employment by an employer who offers LGPS membership.

Policy

The Council resolves to reduce or suspend the member's annual compensatory added years payment during any period of re-employment in local government in accordance with the regulations.

Each case will be considered on its own merits with due regard to the reduction.

8.4 Apportionment of annual compensatory added years

Employers will determine how any surviving spouse's or civil partner's annual compensatory added years is to be apportioned where the deceased is survived by more than one spouse or civil partner

Policy

The Council will consider each case on its own merits.

8.5 Suspension of spouse's annual compensatory added years

Employers will determine whether the annual compensatory added years, paid to a spouse of a person who ceased employment before 1 April 1998, will continue to be paid if they remarry, enter into a civil partnership or cohabit after 1 April 1998

Policy

The Council will consider each case on its own merits.

9 Miscellaneous

- 9.1 Any change to the discretions exercised under the LGPS Regulations can take immediate effect from the date the changes to the policies are agreed
- 9.2 Any change to the discretions exercised under the Discretionary Compensation Regulations 2000, the Discretionary Compensation Regulations 2006 or the Injury Allowances Regulations 2011 cannot take effect until one month after the date the statement of the amended policy is published
- 9.3 A copy of the discretionary policy should be sent to the City and County of Swansea Pension Fund.
- 9.4 A copy of any revised policy should also be sent to the City and County of Swansea Pension Fund within one month of its revision.