



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

Local Government Pension Scheme Discretions

Version	Date	Action
1		New Document
2	December 2019	Review
3	June 2021	Review & Include new discretions

1. Introduction

- 1.1 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
- 1.2 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.
- 1.3 Requests in relation to pension discretions should be directed to the Council's Pension Panel unless otherwise stated within the discretions policy.

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 SCAPC's 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 & Organisational Development.

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 & Organisational Development.

2.6 *Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1st April 2014 and post 31st March 2014 membership). TP3(1), TPSch 2, para 2(1), B30(5) & B30A(5)*

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 & Organisational Development.

- a) On compassionate grounds (pre 1st April 2014 membership) and in whole or in part on any grounds (post 31st March 2014 membership) if the member was not in the Scheme before 1st October 2016.

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 & Organisational Development.

- b) on compassionate grounds (pre 1 April 2014 membership) and / or, in whole or in part on any grounds (post 31 March 2014 membership) if the member was in the Scheme before 1 October 2006, will not be 60 by 31 March 2016 and will not attain 60 between 1 April 2016 and 31 March 2020 inclusive,

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 & Organisational Development.

- c) on compassionate grounds (pre 1 April 2016 membership) and / or, in whole or in part on any grounds (post 31 March 2016 membership) if the member was in the Scheme before 1 October 2006 and will be 60 by 31 March 2016,

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 & Organisational Development.

- d) on compassionate grounds (pre 1 April 2020 membership) and / or, in whole or in part on any grounds (post 31 March 2020 membership) if the member was in the Scheme before 1 October 2006, will not be 60 by 31 March 2016 and will attain 60 between 1 April 2016 and 31 March 2020 inclusive.

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 & Organisational Development.

2.7 *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.

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 & Organisational Development.

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

Neath Port Talbot CBC will exercise the discretion to allow LGPS scheme members to contribute to a shared cost salary sacrifice additional voluntary contribution scheme. The Council will not contribute to the shared voluntary contributions.

3.3 *Employers will determine to extend the time limit for a member to elect to purchase additional pension by way of a shared cost additional pension contribution (SCAPC) upon return from a period of absence?*

Employers will determine whether to extend the 30 day deadline for member to elect for a SCAPC upon return from a period of absence from work with permission with no pensionable pay

(otherwise than because of illness or injury, relevant child-related leave or reserve forces service leave)

Policy

Extensions only to be allowed in exceptional circumstances and where the delay was outside of the member's control. Requests must normally be received within 6 months from the period of absence.

3.4 *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.

3.5 *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.

3.6 *Whether to extend the 12 month time limit for a member to elect to aggregate Pre 1 April 2014 deferred benefits*

Employers will determine whether to extend the 12 month time limit within which a member (who has not elected to be treated as a member who, in the same employment, was contributing to the Scheme on both 31st March 2014 and 1 April 2014) who has a deferred LGPS benefit in England or Wales following the cessation of employment **before** 1 April 2014, to elect to aggregate their deferred benefits with their new LGPS

employment that commenced on or after 14 May 2018, to purchase earned pension.

Policy

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

3.7 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 in-year and at every April reassessments and re-bandings will take place to take into account, for example, pay awards, increments and promotions.

3.8 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.

3.9 Whether, Subject to qualification, to substitute a higher level of pensionable pay when calculating assumed pensionable pay (APP).

When a member is:

- On reduced contractual pay or no pay due to sickness or injury, or
- Absent during ordinary maternity, paternity or adoption leave, or paid shared parental leave, or during paid additional maternity or adoption leave, or
- Absent on reserve forces service leave, or
- Retires with a Tier 1 or Tier 2 ill health pension, or
- Dies in service

If, in the scheme employers opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments) in the 3 months (or Pensionable Pay (APP), is material lower than the level of pensionable pay the member would normally have received, decide whether to substitute a higher level of pensionable pay received by the member in the previous 12 months.

Policy

The Council will consider each case on its own 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 Whether to 'switch on' the 85 year rule upon the voluntary early payment of deferred benefits?

Whether, as the 85 year rule does not automatically fully apply to members who would otherwise be subject to it and who choose to voluntarily draw their deferred benefits (on or after 14 May 2018) on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members.

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 & Organisational Development.

4.3 Whether to 'switch on' the 85 year rule upon the voluntary early payment of a suspended tier 3 ill health pension?

Whether, as the 85 year rule does not automatically fully apply to members who would otherwise be subject to it and who choose to voluntarily draw their suspended tier 3 ill health pension (on or after 14 May 2018) on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members

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 & Organisational Development.

4.4 *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.

4.5 *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 & Organisational Development.

4.6 Whether to “switch on” the 85-year rule for a member voluntarily drawing benefits on or after age 55 and before age 60. TPSch 2, para 1(2) & 1(1)(c)

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 & Organisational Development.

- 4.7 Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 (member). B30(5), TPSch 2, para 2(1)

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 & Organisational Development.

- 4.8 Whether to “switch on” the 85 year rule for a pensioner member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60. TPSch 2, para 1(2) & 1(1)(c)

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 & Organisational Development.

- 4.9 Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A (pensioner member with deferred benefits). B30A(5), TPSch 2, para 2(1)

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 & Organisational Development.

4.10 *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 & Organisational Development.

4.11 *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**

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

5.1 *Whether to 'switch on' the 85 year rule upon the voluntary early payment of deferred benefits*

Whether, as the 85 year rule does not automatically fully apply to members who would otherwise be subject to it and who choose to voluntarily draw their deferred benefits (on or after 14 May 2018) on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members.

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 & Organisational Development.

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 55.

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 & Organisational Development.

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 spouses 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.

9 *Determinations in relation to spouses, civil partners and children*

9.1 *Whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid following remarriage, commencement of a new civil partnership or cohabitation?*

If the spouse or civil partner of a person who ceased employment before 1 April 1998 remarries, enters into a civil partnership or cohabits after 1 April 1998, the normal annual compensation suspension rules will be disapplied i.e. the spouse's civil partner's annual compensatory added years will continue to be paid.

Policy

The Council will consider each case on its own merits.

9.2 *Whether the spouse's or civil partner's annual compensatory added years payments should be reinstated following the cessation of a remarriage, a new civil partnership or cohabitation?*

If, under the preceding decisions, the employer's policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual compensatory added years payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation.

Policy

The Council will consider each case on its own merits.

9.3 *Whether to suspend the payment of annual compensatory added years where the spouse or civil partner remarries or*

cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partner's annual CAY payment?

Whether in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is normally entitled to a spouse's or civil partner's annual CAY payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or cohabitation lasts, should be disapplied i.e. whether the spouse's or civil partner's annual CAY payments should continue to be paid to both of them.

Policy

The Council will consider each case on its own merits.

- 9.4 Whether and to what extent to reduce or suspend the member's annual compensatory added year's payment during any period of re-employment within local government.

Policy

The Council will consider each case on its own merits.

- 9.5 How to reduce the member's annual compensatory added year's payment following the cessation of a period of re-employment in local government.

Policy

The Council will consider each case on its own merits.

- 9.6 *How to decide to whom any children's annual compensatory added years payments are to be paid (and apportioned) where children's pensions are not payable under LGPS?***

If compensatory added years were awarded to an employee who was not in the LGPS (because the employee had not joined or had opted out of the LGPS) the employer will decide to whom any children's annual compensatory added years payments are to be paid and, in such a case, how the annual added years will be apportioned amongst the eligible children cohabitation.

Policy

The Council will consider each case on its own merits.

10. **Summary of the discretions to be exercised under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011**

Under regulation 14(1) of the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 employers (LGPS employers), other than admission bodies, must formulate, publish and keep under review a policy on the following mandatory discretions:

10.1 *Whether to pay an injury award and in what circumstances?*

Whether to make an injury award to those who sustain an injury or contract a disease as a result of anything they were required to do in performing the duties of their job and in consequence of which they:

- Suffer a reduction in remuneration, or
- Cease to be employed as a result of an incapacity which is likely to be permanent and which was caused by the injury or disease, or
- Die leaving a surviving spouse, civil partner or cohabiting partner.

Policy

There will be no injury award payments.

10.2 *How to determine the amount of injury award and for how long it will be paid?*

How it will determine the amount of injury allowance to be paid and for how long to continue payment.

Policy

In line with 10.1 There will be no injury award payments.

- 10.3 To determine whether a person continues to be entitled to an injury allowance under regulation 3(1) (Reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carry out duties of the job).

Policy

In line with 10.1 There will be no injury award payments.

- 10.4 Whether to grant an injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job.

Policy

In line with 10.1 There will be no injury award payments.

- 10.5 Amount of injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining and injury or contracting a disease in the course of carrying out the duties of the job.

Policy

In line with 10.1 There will be no injury award payments.

- 10.6 Determine whether a person continues to be entitled to an injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity).

Policy

In line with 10.1 There will be no injury award payments.

- 10.7 Whether to suspend or discontinue injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity). If person secures paid employment for not less than 30 hours per week for a period of not less than 12-months.

Policy

In line with 10.1 There will be no injury award payments.

- 10.8 Whether to grant an injury allowance following cessation of employment with entitlements to immediate LGPS pension where a regulation 3 payment (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job) was being made at date of cessation of employment but regulation 4 (loss of employment through permanent incapacity) does not apply.

Policy

In line with 10.1 There will be no injury award payments.

- 10.9 Determine amount of any injury allowance to be paid under regulation 6(1) (payment of injury allowance following the cessation of employment).

Policy

In line with 10.1 There will be no injury award payments.

- 10.10 Determine whether and when to cease payment of an injury allowance payable under regulation 6(1) (payment of injury allowance following the cessation of employment).

Policy

In line with 10.1 There will be no injury award payments.

10.11 Whether to grant an injury allowance to the spouse, civil partner, cohabiting partner (the requirement to nominate a cohabiting partner has ceased entirely under these regulations due to the outcome of the Elmes v Essex high court judgement) or dependent of an employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.

Policy

In line with 10.1 There will be no injury award payments.

10.12 To determine an amount of any injury to be paid to the spouse, civil partner, nominated cohabiting partner (for awards made on or after the 1st April 2008 the requirement to nominate a cohabiting partner has ceased due to the outcome of the Elmes v Essex high court judgement) or dependent of an employee under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).

Policy

In line with 10.1 There will be no injury award payments.

10.13 To determine whether and when to cease payment of any injury allowance payable under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).

Policy

In line with 10.1 There will be no injury award payments.

11 Miscellaneous

11.1 Any change to the discretions exercised under the LGPS Regulations can take immediate effect from the date the changes to the policies are agreed

11.2 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

11.3 A copy of the discretionary policy should be sent to the City and County of Swansea Pension Fund.

11.4 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.