

Report to	North Wales Fire and Rescue Authority	
Date	16 September 2019	
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Subject	Local Government Pension Scheme Discretionary Policy	

PURPOSE OF REPORT

- 1 To confirm to Members the requirement for the Fire and Rescue Authority (the Authority) to make decisions regarding the discretionary elements of the Local Government Pension Scheme (LGPS).
- 2 To seek approval of the resolutions regarding the discretionary elements of the Local Government Pension Scheme.

EXECUTIVE SUMMARY

- 3 The Authority is under a legal duty to prepare and publish a written statement of its decisions relating to the discretionary powers under the regulations applicable to the Local Government Pension Scheme.

RECOMMENDATION

- 4 Members are requested to approve the resolutions applicable to each discretionary element as outlined within Appendix 1, to be incorporated into the Service's LGPS Discretionary Policy.

OBSERVATIONS FROM EXECUTIVE PANEL/AUDIT COMMITTEE

- 5 This report has not previously been considered by Members.

BACKGROUND

- 6 The LGPS regulations provide discretionary powers to member organisations in relation to certain elements of the scheme. Under the Authority's constitution, the decision to use these discretionary powers cannot be delegated and is reserved for the Authority.

The LGPS discretions are set out in Appendix 1 and, subject to approval, will form the policy to be applied by the Service. Appendix 2 lists the main Regulations that apply to the LGPS.

INFORMATION

- 7 Following introduction of a new pension scheme in 2014, the current discretions have been reviewed and are set out in Appendix 1, together with the recommended policy determination.

IMPLICATIONS

Wellbeing Objectives	The Discretionary Policy provides clarity for decision-making on certain pension issues contributing to securing the Authority's financial sustainability.
Budget	Certain decisions can impact the budget in terms of employer superannuation payments and the impact on future actuarial valuations.
Legal	The regulations governing the administration of the Local Government Pension Scheme provide for a number of discretionary powers on the part of the Authority.
Staffing	Potential impact on staffing levels if certain discretions positively influence a member's retirement decision-making process.
Equalities/Human Rights/ Welsh Language	None
Risks	Non-compliance with legislation

APPENDIX 1

No	Regulation	Discretion	Policy
1	Regulations 16(2)(e) and 16(4)(d) Pensions Regulations Funding of Additional Pension Contributions	To fund, in whole or in part, additional pension contributions on behalf of an employee where these are to be paid by regular contributions (Regulation 16(2)(e)) or by lump sum (Regulation 16(4)(d)) (maximum £6,500).	Not to apply this discretion.
2	Regulation 16 (16) Pensions Regulations Election for Shared Cost Additional Pension Contributions (APC)	Whether to extend 30 day deadline for member to elect for a shared cost APC upon return from a period of absence from work with permission with no pensionable pay (other than because of illness or injury, relevant child related leave or reserved force service leave).	Not to apply this discretion.
3	Regulation 17 (1) Shared Cost Additional Voluntary Contributions (AVC)	Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements.	Not to apply this discretion.
4	Regulation 22 (7)(b), Pensions Regulations Transitional Regulations paragraph 10 (6) Aggregation of Benefits: Concurrent Employments	To allow an active member with concurrent employments, who ceases an employment with an entitlement to a deferred pension, a longer period than 12 months in which to elect not to have the benefits in their post 31 March 2014 deferred member's pension account aggregated with the benefits in their active member's pension account. (Pre 1 April 2014 applicable to Transitional Protection regulations).	Not to apply this discretion.
5	Regulation 22 (8)(b), Pensions Regulations Aggregation of Benefits: Deferred Member becoming Active Member	To allow a deferred member who again becomes an active member a longer period than 12 months in which to elect not to have the benefits in their post 31 March 2014 deferred member's pension account aggregated with the benefits in their active member's pension account.	Not to apply this discretion.
6	Regulation 30(6), Pensions Regulations and TP11(2) transitional regulations	Flexible Retirement - to agree to an employee aged 55 or over reducing their hours of work or grade so that they may receive all or some of their retirement pension while still employed.	The discretion may be applied where the Service deems it appropriate to allow flexible retirement and it is cost neutral. This

	Flexible Retirement		discretion does not confer a right to flexible retirement.
7	Regulation 30 (8), Pensions Regulations Waiving of Actuarial Reduction to Pensions	To agree to waive, in whole or in part, any reduction that would otherwise be made on the early payment of a pension to an employee aged 55 who is resigning from their pensionable employment or to the pension paid to an employee allowed to take flexible retirement under Regulation 30(6) of the Pensions Regulations.	To be applied in the following circumstances: (1) There would be no cost to the Service; (2) In cases of exceptional hardship or on exceptional compassionate grounds;
8	Regulation 31, Pensions Regulations Award of Additional Pension	To award additional pension to: (1) an active member; or (2) a former active member who was dismissed by reason of redundancy or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency.	Not to apply this discretion.
9	Regulation 37 (3) and (4) Pensions Regulations Gainful employment	Where a person in receipt of tier 3 ill-health pension has started gainful employment. Whether to recover any overpaid tier 3 pension following commencement of gainful employment.	Review ill-health benefits according to the regulations. Apply this discretion.
10	Regulation 91, Pensions Regulations Forfeiture Certificates	To apply to the Secretary of State for the issue of a forfeiture certificate. Note: A forfeiture certificate may be applied for where a member has been convicted of an offence committed in connection with the member's employment and because of which the member has left that employment. A forfeiture certificate is a certificate, issued by the Secretary of State that the offence was gravely injurious to the State or is liable to lead to serious loss of confidence in the public service.	This discretion will be applied in normal circumstances.

11	<p>Regulation 93, Pensions Regulations</p> <p>Recovery of Money Owed as a result of Misconduct</p>	<p>To recover money owing to the former employer where a person has left employment as a result of grave misconduct or of a criminal, negligent or fraudulent act or omission in relation to that employment and owes money to the employer arising out of such that misconduct, act or omission.</p> <p>Note: If there is a dispute about the amount owed the Service may only recover the money from the employee's pension benefits under a court order or the award of an arbitrator.</p>	<p>Apply this discretion</p>
12	<p>Regulation 100, Pensions Regulations</p> <p>Inward Transfer of Pension Rights</p>	<p>To allow a person more than 12 months beginning with the date when they first became an active member in an employment to request the acceptance of a transfer value for certain accrued pension rights.</p>	<p>Apply this discretion subject to the following: (1) the scheme member has requested that investigations commence within the twelve month time limit, or (2) if there is reason to believe that the individual would not have known of the need to request an investigation into potential transfer in or previous pension rights within the twelve month time limit, and the HR &/or pension files support this. Only in exceptional circumstances will a longer period be allowed so long as there is no known reason or prospect of the employee having access to their pension rights within the next 12 months.</p>
13	<p>Schedule 2, Transitional Regulations paragraph 1 (2) and 1 (1c)</p>	<p>Whether to 'switch on' the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of flexible retirement).</p>	<p>This discretion will be applied subject to the following:</p>

	<p>85 year rule</p> <p>TPSch 2, para 1(2) & 1(1)(f) & R60</p>	<p>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.</p> <p>Whether to 'switch on' the 85 year rule for a councillor member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60.</p>	<p>The 85 year rule will only be switched on before the age of 60 if there is no additional cost to the Service.</p>
14	<p>Schedule 2, Transitional Regulations paragraph 1 (2) and 2 (2)</p> <p>Early Payment of Pension in cases of Members with Transitional Protection</p>	<p>To agree to that the transitional protections set out in Paragraph 1 (3) of Schedule 2 to the Transitional Regulations should apply. This affects members with transitional protection who choose to retire between the ages of 55 and 60. The transitional protections offer complete or partial protection from actuarial reductions depending on the circumstances.</p>	<p>Not to apply this discretion.</p>
15	<p>B30 (5) Transitional Regulations paragraph 2 (1) B30A(5)</p> <p>Waiver of Actuarial Reductions</p> <p>31 (5) and Transitional Regulations paragraph 2 (1)</p>	<p>Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 (member).</p> <p>Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A (pensioner member with deferred benefits).</p> <p>Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early (councillors).</p>	<p>This discretion will be applied in all cases retrospectively reported to the Fire and Rescue Authority.</p>
16	<p>Schedule 2, Transitional Regulations paragraph 2 (3)</p> <p>Waiver of Actuarial Reductions to pension in cases of Members with Transitional Protection</p>	<p>Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits from pre 1 April 2014 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>This discretion will be applied in all cases retrospectively reported to the Fire and Rescue Authority.</p>

17	Schedule 2, Transitional Regulations paragraph 10 (6) Extend 12 month option period	Whether to extend the 12 month option period for a member (who did not become a member of the 2014 Scheme by virtue of regulation 5 (1) to elect that pre 1 April 2014 deferred benefits should be aggregated with a new employment.	This discretion will be applied in all cases retrospectively reported to the Fire and Rescue Authority.
No	Regulation	Discretion	Policy
18	Transitional Regulations paragraph 4 Regulation 31 (2), Benefit Regulations Early payment of deferred benefits	Policy in relation to scheme members who ceased active membership on or after 01/04/1998 and before 01/04/2008. Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds. Grant application for early payment of deferred benefits on or after age 50 and before age 55.	This discretion will be applied in all cases retrospectively reported to the Fire and Rescue Authority.

In the table above:

- (1) "The Scheme" or "the Pension Scheme" means the LGPS and "the Fund" or "the Pension Fund" means the fund maintained under the LGPS;
- (2) "Member" means a member of the LGPS;
- (3) "Active member" means a member in employment and paying, or treated as paying, contributions to the LGPS, or absent from employment for a reason mentioned in Regulation 11 of the Pensions Regulations.
- (4) References to a member with transitional protection are those who have statutory transitional protection under the Transitional Regulations, wholly or partly, from changes that would otherwise be made to their pension entitlements and/or from actuarial reductions that would otherwise be applied to their pension benefits as a result of the coming into force of the Pensions Regulations on 1 April 2014.
- (5) References to a member meeting "the 85 year rule" are those members whose age in whole years when added to the member's total membership in whole years is 85 years or more and who joined the scheme before 1 October 2006.

APPENDIX 2

The Regulations that apply to the LGPS are:

- The Local Government Pension Scheme Regulations 2013 (these are referred to as the "Pensions Regulations");
- The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (referred to as the "Transitional Regulations");
- The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 applied to the LGPS before 1 April 2014, are preserved in part on a transitional basis by the Transitional Regulations and are referred to as the "Benefits Regulations";
- The Local Government Pension Scheme (**Administration**) Regulations 2008 and are referred to as the "Benefits Regulations";
- The Local Government Pension Scheme (**Transitional Provisions**) Regulations 2008;
- The Local Government Pension Scheme Regulations 1997 (as amended, referred to as the "Benefits Regulations").