

Personnel Committee 3rd October 2014

Service: Human Resources

Wards: All

Local Government Pension Scheme 2014 and Policy Statement

1. Purpose of the report

The introduction of the new Local Government Pension Scheme 2014 (LGPS) on 1 April 2014 requires all scheme employers to review their existing discretionary pension policy statements and publish new policy statements effective from 1 April 2014.

This report updates the pension policy statement and makes a recommendation on the new discretion regarding the '85' year rule.

2. Recommendations

That the Personnel Committee approves the Local Government Pension Scheme Regulations 2014 Policy Statement attached at Appendix 1.

3. Report detail

Background

With effect from 1 April 2014 the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 came into force.

Under these Regulations, as with previous Regulations, Scheme employers are required to prepare, maintain and keep under review a statement of policy concerning a number of discretions made available to them throughout the Regulations.

Whilst it is only compulsory that a statement of policy covers regulations:-

- 16(2)(e) and 16(4)(d) (funding of additional pension),
- 30(6) (flexible retirement);
- 30(8) (waiving of actuarial reduction); and
- 31 (award of additional pension)

It is generally recognised that there is considerable value in Scheme employers making statements of policy in respect of other Scheme Regulations where discretion is available to them for ease of administration and consistency of approach even though it is not compulsory to do so. This is the approach Walsall Council has taken.

The Regulations require that in preparing or making revisions to its pension policy statements, the scheme employer must have regard to the extent to which the exercise of any of its policies could lead to a serious loss of confidence in the public service.

The following Regulations are the same and have not changed:-

- Regulations 5 and 6 of the 2006 Regulations
- Part 5 of the policy (was Part 4 of the previous version)
- Regulation B12
- Regulation B30 includes Regulation 31(2) and 31(5)s
- Part 6 of the policy (was Part 5 of the previous version)

The following Regulations are very similar in wording but have different regulation numbers:-

- Regulation 16(2), 16(4) was 25(A)
- Regulation 30(6), TP11 (2) was 18(B)
- Regulation 31 was 13(B)
- Regulation 100(6), 22(8&9) was 83(A) and 15(A)
- Regulation 9(3) was 3B

Regulation 31(7A) of the 1997 Regulations is a published discretion that should have been included in the LGPS Policy dated April 2010 but was unfortunately omitted. The regulation is therefore included in the 2014 LGPS Policy for completeness, although it would be rarely exercised. In any event, releasing benefits from a member's normal retirement date in accordance with this regulation has no financial impact on the Council.

The following is a **new** regulation, and as such the Council needs to form a view on the discretion (or not) that it may apply:-

Discretion to 'switch on' the 85 year rule for 55 to 60 year olds

On 10 March 2014, the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 came into force. This effectively 'switched off' the protections afforded to Scheme members who met the 85 year rule before the age of 60 thereby requiring the Scheme member benefits to be actuarially reduced irrespective of whether or not the member satisfied the conditions of the 85 year rule.

TP Regulation 1(1) (c) of Schedule 2, gives the Council discretion on whether to apply the 85 year rule protections to members who choose to voluntarily draw their benefits on or after the age 55 and before age 60.

The Council needs to decide whether to adopt the discretion around the 85 year rule as there is no longer an automatic entitlement for employees in this aged group for unreduced pension for employees whose length plus age of service is 85 or more.

It is proposed that the Council adopts the following:-

Waiving of actuarial reductions and the application of 85 year rule protections will be considered only where there is a clear financial or operational advantage to the Council in doing so.

4. Financial

Any costs associated with an unreduced pension will need to be met from the individual directorate budget, and a funding source will need to be identified to cover the entirety of the period that will apply prior to any agreement being given.

5. Legal

The Council must ensure that the exercise of the discretion under the new LGPS and Policy is undertaken consistently and the decisions are made fairly and objectively and not in contravention of the Equality Act 2010.

6. Risk Management

Contained within the report.

7. People

Contained within the report.

8. Consultation

Consultation has taken place with Finance, Legal and Corporate Management Team.

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September 2014

Appendix 1 Local Government Pension Scheme Regulations 2014 Policy Statement

Appendix 2 Local Government Pension Scheme Regulations 2010 Policy Statement



Local Government Pension Scheme Policy Statement: 1 April 2014

Policy Statement for all eligible employees

Under the Local Government Pension Scheme Regulations, each scheme employer must publish and keep under review a Statement of Policy to explain how it will apply certain discretions allowed under the Pension Regulations.

This statement is applicable to all employees of Walsall Council who are eligible to be members of the LGPS. Before the exercise of any discretion it will be necessary in each case to consider the full financial cost implications to the Council and the Pension Fund.

Existing policy discretions for employers which are in place under the 2008 and 1995 schemes will remain in force for employees who left the scheme prior to 1st April 2014.

All other past policies and discretions will be revoked following the approval of this policy. The discretions detailed in this policy will apply from 1st April 2014.

Part 1 – Discretions to be applied under the LGPS Regulations 2013 and LGPS (Transitional Provisions and Savings) Regulations 2014 (denoted as ‘TP’ within the policy).

<u>Regulation 16(2)e & Reg 16(4)d:</u> Where an active Scheme member wishes to purchase extra annual pension of up to £6,500* (figure at 1 April 2014) by making Additional Pension Contributions (APCs), the employer can choose to contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC).	<u>Council Policy</u> The Council has <u>NOT</u> adopted this discretion.
<u>Regulation 30(6) and TP11(2):</u> Whether to permit flexible retirement for staff aged 55 or over who, with the agreement of the employer, reduce their working hours or grade in order to release some or all of their retirement benefits.	<u>Council Policy</u> The Council will consider employee requests to take flexible retirement on a case by case basis after taking into factors such as service delivery and any costs that may apply.

<p><u>Regulation 30(8):</u> Whether to waive any actuarial reductions that would otherwise apply under Regulation 30(5) and Regulation 30(6) for active members, deferred members and suspended tier 3 ill health pensioners who elect to receive early payment of benefits prior to normal pension age.</p>	<p><u>Council Policy</u> Waiving of actuarial reductions and the application of 85 year rule protections will be considered only where there is a clear financial or operational advantage in doing so. A request for early unreduced payment of benefits on compassionate grounds would be considered only where the former member is prevented from full-time working due to the need to provide long-term care for a dependant.</p>
<p><u>TP Regulation 1(1)(c) of Schedule 2:</u> Whether, to apply the 85 year rule protections to members who choose to voluntarily draw their benefits on or after age 55 and before age 60, [under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014].</p>	<p><u>Council Policy</u> Waiving of actuarial reductions and the application of 85 year rule protections will be considered only where there is a clear financial or operational advantage to the Council in doing so.</p>
<p><u>Regulation 31:</u> Whether to grant extra annual pension of up to £6,500 to an active Scheme member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency.</p>	<p><u>Council Policy</u> The Council has <u>NOT</u> adopted this discretion.</p>
<p><u>Regulation 22(8 & 9):</u> Whether to extend the 12-month period in which a member can elect to retain separate benefits for previous pensionable service.</p>	<p><u>Council Policy</u> The Council will consider applications under this Regulation but only when it can be demonstrated that the delay is because of an administration issue and not as a result of the scheme member's failure to make an election within the 12 month timescale.</p>
<p><u>Regulation 9(3):</u> Determining the rate of employees' contributions</p>	<p><u>Council Policy</u> The Council will review the contribution rate bands at six monthly intervals. Account will be taken when determining the rate of any impending pay award.</p>
<p><u>Regulation 100(6):</u> Whether to extend the 12-month period from joining the scheme in which to allow a transfer-in of previous non-local government pension rights.</p>	<p><u>Council Policy</u> The Council will consider applications under this Regulation but only when it can be demonstrated that the delay is because of an administration issue and not as a result of the scheme member's failure to make an election within the 12 month timescale.</p>

Part 2 – Discretions to be applied under the LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended)

<p><u>Regulation B12:</u> Power of employing authority to increase total membership of members leaving prior to 1st April 2014 on redundancy or business efficiency grounds by up to 10 years.</p> <p>This resolution must be made within 6 months of leaving and will therefore be obsolete after 30th September 2014.</p>	<p><u>Council Policy</u> The Council has <u>NOT</u> adopted this discretion.</p>
<p><u>Regulation B30(2) and 30(5):</u> Whether to grant application for early payment of deferred benefits on or after age 55 and before age 60; and whether to waive on compassionate grounds the actuarial reduction applied to such benefits paid under regulation B30.</p>	<p><u>Council Policy</u> The Council has adopted this regulation to be used in exceptional circumstances only.</p> <p>The criteria for exceptional circumstances are defined in the detailed guidelines.</p> <p>The Council will consider each specific case which will be judged equally and fairly on its own merits having fully considered the reasons for early payment and any associated financial costs.</p>
<p><u>Regulation B30A(3) and 30A(5):</u> Whether to grant application for early payment of suspended tier 3 ill health pension on or after age 55 and before age 60; and whether to waive on compassionate grounds the actuarial reduction applied to such benefits paid under regulation B30A.</p>	<p><u>Council Policy</u> The Council has adopted this regulation to be used in exceptional circumstances only.</p> <p>The criteria for exceptional circumstances are defined in the detailed guidelines.</p> <p>The Council will consider each specific case which will be judged equally and fairly on its own merits having fully considered the reasons for early payment and any associated financial costs.</p>

Part 3 – Discretions to be applied under the LGPS Regulations 1997

<p><u>Regulation 31(2) and 31(5):</u> Whether to grant application for a leaver between 31 March 1998 and 31 March 2008, or from a Councillor for early payment of benefits on or after age 50/55 and before age 60; and whether to waive on compassionate grounds the actuarial reduction applied to such benefits paid under regulation 31.</p>	<p><u>Council Policy</u> The Council has adopted this regulation to be used in exceptional circumstances only. The criteria for exceptional circumstances are defined in the detailed guidelines.</p> <p>The Council will consider each specific case which will be judged equally and fairly on its own merits having fully considered the reasons for early payment and any associated financial</p>
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	costs.
<u>Regulation 31(7A):</u> Whether to grant employer consent for a scheme member to access their retirement benefits from their Normal Retirement Date without reduction, while continuing to be employed by a Scheme employer listed in Schedule 2.	<p><u>Council Policy</u></p> <p>The Council has adopted this regulation to be used in exceptional circumstances only.</p> <p>The criteria for exceptional circumstances are defined in the detailed guidelines.</p> <p>The Council will consider each specific case which will be judged equally and fairly on its own merits having fully considered the reasons for early payment and any associated financial costs.</p>

Part 4 – Discretions to be applied under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006

<u>Regulation 5:</u> The Council may decide to calculate a redundancy payment entitlement as if there had been no limit on the amount of the week's pay used in the calculation.	<p><u>Council Policy</u></p> <p>The Council has decided to adopt this discretion and base redundancy payment calculations on an unrestricted week's pay.</p>
<u>Regulation 6:</u> A one-off lump sum compensation payment may be awarded to an employee up to a maximum value of 104 weeks pay (2 years) inclusive of any redundancy payment made.	<p><u>Council Policy</u></p> <p>The council has decided to adopt this discretion in part and will award an additional lump sum compensation payment equal to the value of the statutory redundancy payment – maximum payment 30 weeks – but only in cases of some compulsory redundancies Each award will be subject to a cap to be paid to an employee who is paid less than the full time equivalent of scale point 29.</p> <p>Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.</p>

Part 5 – Discretions to be applied under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011

<p><u>Explanation</u></p> <p>The Council operates The Walsall Council Injury Allowance Scheme under the permissive powers of The Discretionary Payment Regulations 2011.</p> <p>The scheme is unique to Walsall Council employees and is operated within the regulatory guidelines.</p>	<p><u>Council Policy</u></p> <p>The Council has decided that all claims are to be submitted to and agreed by an Injury Allowance Panel. The panel will consist of The Head of Legal Services, The Head of Finance and the Head of Human Resources or their nominees.</p> <p>Both temporary and permanent allowances are available within the terms of reference of the scheme. Each award will be judged on the</p>
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	relevant evidence presented to the panel. Payment will be made from the service budget. There is no separate internal appeals process as designated by the Injury allowance panel.
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Part 6 – Appeals Process – Local Government Pension Scheme (Administration) Regulations 2008

<p><u>Regulation 57: Internal Dispute Resolution Procedure (IDRP)</u> Responsibility for determination of LGPS disputes under the first stage of the procedure now lies with the “Adjudicator” at the employing authority.</p> <p>The Executive Director (Resources) is the Adjudicator for the purposes of the Internal Dispute Resolution Process. If this presents a conflict of interest when the complaint relates to a member of the Resources directorate, the Chief Executive will act as the Adjudicator.</p>	<p><u>Council Policy</u> Any disputes about decisions made under the LGPS should be sent in writing to:</p> <p>The Executive Director (Resources) The Council House Walsall Council WS1 1TW or</p> <p>The Chief Executive if the complaint relates to member of the Resources Directorate.</p>
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April 2014



Walsall Council

Pension Policy Statement: 1 April 2010

Local Government Pension Scheme (LGPS) Regulations Policy Statement for all eligible employees

Under Regulation 66 of the LGPS Regulations 2008 each scheme employer must publish and keep under review a Statement of Policy to explain how it will apply certain discretions allowed under the Pension Regulations. Where references are made, A Reg refers to the "Administration" Regulations and B Reg to the Benefit Regulations

This statement is applicable to all employees of Walsall Council who are eligible to be members of the LGPS.

Before the exercise of any discretion it will be necessary in each individual case to consider the full financial cost implications to the council and the Pension Fund.

All other past policies and discretions will be revoked following the approval of this policy. The discretions detailed in this policy will be the only ones that will apply from 1 April 2010.

Policy Statement

PART 1 - DISCRETIONS TO BE APPLIED CONTAINED IN THE ADMINISTRATION REGULATIONS

At the start of the employment contract

1. Regulation 15 A: Reg: Re-employed and rejoining deferred members

No policy change.

Explanation This discretion allows the extension of the 12 month time limited election to aggregate previous periods LGPS service.	Council Policy The council has <u>NOT</u> adopted this discretion.
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2. Regulation 25 A: Reg: Shared cost AVC (additional voluntary contributions)

No policy change.

Explanation This discretion allows the council to maintain and contribute to an employee's Additional Voluntary Contribution Scheme	Council Policy The council has <u>NOT</u> adopted this discretion.
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3. Regulation 83 A Reg: Power to allow inwards transfer values to be accepted after 12 months' Membership

No policy change.

Explanation This discretion allows the extension of the 12 month time limited transfer of pension rights from previous funds to be extended	Council Policy To allow this discretion in limited circumstances only. Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.
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PART 2 - DISCRETIONS TO BE APPLIED CONTAINED IN THE BENEFITS REGULATIONS

At the start of the employment contract

1. Regulation 3 B Reg: Contributions Banding payable by active members

No policy change.

Explanation Employers will determine the contribution rate payable based on whole time pensionable pay for existing members at 1 April 2010 or at the start of their membership and where there is a material change in pay	Council Procedures – How the Regulation is to be administered The council will review the contribution rate bands at six monthly intervals. Account will be taken when determining the rate of any impending pay award
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Discretions to be applied during employment

2. Regulation 12: B Reg: Power to increase total membership of Active Members (augmentation)

No policy change.

Explanation This discretion allows for an employees membership to be increased but any increase must not exceed, including earlier periods of added years, 10 years	Council Policy The council has <u>NOT</u> adopted this discretion.
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3. Regulation 13: B Reg: Power to award additional pension

No policy change.

Explanation This discretion allows the employer to award a scheme member additional pension benefits of not more than £5,000 a year, payable from the same date as scheme benefits. This is in addition to Regulation 12 B Reg	Council Policy The council has <u>NOT</u> adopted this discretion.
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4. Regulation 22 A Reg: Applications to make absence contributions

No policy change.

Explanation Employer has the discretion to extend the period of 30 days for a period of unpaid absence if person applies in writing	Council policy The council has <u>NOT</u> adopted this discretion.
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Discretions to be applied at the termination of employment

5. Regulation 18 B Reg: – Flexi Retirement

This is a revised policy – due to Regulation change.

Explanation A member who is aged 55 or over and with their employers' consent reduces their hours/or grade, can, but only with the agreement of the employer, make an election to the administering authority (West Midlands Pension Fund) for all or part payment of their accrued benefits without having retired from that employment. If payment occurs before the age of 65, the benefits are actuarially reduced. The employer may chose to waive the reduction in whole or part. The cost of the waiving will have to be paid to the fund.	Council Policy The council will consider a waiver in exceptional circumstances only. The criteria for exceptional circumstances are defined in the detailed guidelines. Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.
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6. Regulation 30 B Reg: Early payment of Retirement benefits at the employees request

This is a revised policy due to Regulation change.

Explanation From age 55 members have the right to apply for early payment of their retirement benefits. Payment will be subject to the employers consent. For a member who joined the Scheme prior to 1 October 2006 where the members age and pension service (in whole years) equals less than 85 then reduced benefits would be payable. For a member who joined the scheme on or after 1 October 2006, then reduced benefits would be payable if taken before	Council Policy a) The council has adopted this regulation to be used in exceptional circumstances only. The criteria for exceptional circumstances are defined in the detailed guidelines. b) Where early retirement is granted the conditions opposite will apply. Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.
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age 65	
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7. Regulation 30 B Reg – Former Members Request for Early Payment of Benefits

This is a revised policy due to Regulation change.

<p>Explanation</p> <p>From age 55 former members with deferred benefits have the right to apply for early payment of their retirement benefits. Early payment will be subject to the employers consent.</p> <p>For a member who joined the Scheme prior to 1 October 2006 where the members age and pension service (in whole years) equals less than 85 then reduced benefits would be payable.</p> <p>For a member who joined the scheme on or after 1 October 2006, then reduced benefits would be payable if taken before age 65</p>	<p>Council policy</p> <p>The council has adopted this regulation to be used in exceptional circumstances only.</p> <p>The criteria for exceptional circumstances are defined in the detailed guidelines.</p> <p>The council will consider each specific case which will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.</p>
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PART 3 - EARLY TERMINATION OF EMPLOYMENT (DISCRETIONARY COMPENSATION)

1. Regulation 5 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006

No limit on weekly pay for calculation of redundancy payment.

No policy change

<p>Explanation</p> <p>The council may decide to calculate a redundancy payment entitlement as if there had been no limit on the amount of the week's pay used in the calculation</p>	<p>Council Policy</p> <p>The council has decided to adopt this discretion and base redundancy payment calculations on an unrestricted week's pay</p>
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2. Regulation 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006

Additional lump sum compensation payment

No policy change

<p>Explanation</p> <p>A one-off lump sum compensation payment may be awarded to an employee up to a maximum value of 104 weeks pay (2 years) inclusive of any redundancy payment made.</p>	<p>Council Policy</p> <p>The council has decided to adopt this discretion in part and will award an additional lump sum compensation payment equal to the value of the statutory redundancy payment – maximum payment 30 weeks – but only in cases of some compulsory redundancies</p>
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	<p>Each award will be subject to a cap to be paid to an employee who is paid less than the full time equivalent of scale point 29.</p> <p>Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.</p>
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PART 4 – INJURY ALLOWANCES

1. Local Government Discretionary Payment Regulations 1996 - Part V –

This is a new policy decision

<p>Explanation</p> <p>The council operates The Walsall Council Injury Allowance Scheme under the permissive powers of The Discretionary Payment Regulations 1996.</p> <p>The scheme is unique to Walsall Council employees and is operated within the regulatory guidelines.</p>	<p>Council Policy</p> <p>The council has decided that all claims are to be submitted to and agreed by an Injury Allowance Panel. The panel will consist of The Head of Legal Services, The Head of Corporate Finance and the Head of Human Resources and Development or their nominees.</p> <p>Both temporary and permanent allowances are available within the terms of reference of the scheme. Each award will be judged on the relevant evidence presented to the panel.</p> <p>Payment will be made from the service budget.</p> <p>There is no separate internal appeals process as designated by thru Injury allowance panel.</p>
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PART 5 – APPEAL PROCESS

1. Regulation 57 A Reg: Internal Dispute Resolution Procedure (IDRP)

No change proposed.

<p>Explanation</p> <p>Responsibility for determination of LGPS disputes under the first stage of the procedure now lies with a “Specified Person” at the employing authority.</p> <p>The Executive Director (Resources) is the appointed Specified Person for the purposes of the Internal Dispute Resolution Process. If this presents a conflict of interest when the complaint relates to a member of the Resources</p>	<p>Council Policy</p> <p>Any disputes about decisions made under the LGPS should be sent in writing to:</p> <p>The Executive Director (Resources) The Council House Walsall Council WS1 1TW or</p> <p>The Chief Executive if the complaint</p>
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<p> directorates, the Chief Executive will act as the Specified Person </p>	<p> relates to member of the Resources Directorate. </p>
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Guidance on how to apply the policy will form part of the policy statement

February 2010