Local Government Pension Scheme 2014 Discretionary Policy Statement

Contents

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Overview

The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014. The provisions of the new LGPS, together with protections for members benefits accrued before 1 April 2014, are now contained in the Local Government Pension Scheme Regulations 2013 (the 'LGPS Regulations 2013'), the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (the 'LGPS Transitional Regulations 2014') and the Local Government Pension Scheme (Amendment) Regulations 2018 ('LGPS Amendment Regulations 2018').

Therefore, this statement now relates to the application of discretions under:

a. the LGPS Regulations 2013 and the LGPS Amendment Regulations 2018;

b. the LGPS (Transitional Provisions, Savings and Amendment); Regulations 2014 ('LGPS Transitional Regulations 2014) and

c. the Local Government Pension Scheme Regulations 1997 ('LGPS Regulations 1997') and the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 ('LGPS Benefits Regulations 2007'), which continue to have effect in so far as is necessary under *Regulation 3 (Membership before 1 April 2014) of the LGPS Transitional Regulations 2014.*

This document has been produced with advice from the West Yorkshire Pension Fund.

1.0 Introduction

Under Regulation 60 (statements of policy about exercise of discretionary functions) of the LGPS Regulations 2013 and paragraph 2(2) of Schedule 2 of the LGPS Transitional Regulations 2014, Employers are required to make and publish policy statements on how they will exercise five specific discretions.

Following the implementation of the LGPS Amendment Regulations 2018 two further mandatory discretions have been introduced under regulations 24(a), 30(a), 30(c), 30(e) and 30(f).

In addition, there are two further discretions relevant to organisations, which relate to members who left before 1 April 2014. These are under Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008 (in respect of leavers between 1 April 2008 and 31 March 2014) and under Regulation 106 of the LGPS Regulation 1997 (in respect of leavers between 1 April 1998 and 31 March 2008).

Any policy statements made must not limit, or 'fetter' how the Employer uses any of the discretions afforded by the scheme.

The use of any discretion is likely to lead to immediate and potentially continuing increased pension costs for the Employer, which could be considerable.

The Employer is required to keep its statement under review and make such revisions as are appropriate following a change in its policy. Following any changes in its policy the Employer must publish the revised policy and send a copy to the administering authority within one month of the date the policy is revised.

In formulating and revising the policy statements outlined below, the Employer must have regard to the extent to which the exercise of its discretionary powers could lead to a serious loss of confidence in the public service.

The discretions listed below are those that require a written policy; however, Employers have further discretions under the regulations that they may wish to formulate a written policy on.

The award of any discretions within the policy will be subject to the Restriction of Public Sector Exit Payments Regulations (2020) where applicable.

This policy is applicable to all Support Staff employees of both Police and Crime Commissioner of Lincolnshire (PCC) and Lincolnshire Police (LP).

2.0 Scheme Employer Discretions

The following specific discretions relate to the LGPS Regulations 2013 and the LGPS Transitional Regulations 2013.

Please note that the approval of Discretions in Section 2 must be made by the appropriate Chief Financial Officer following the receipt of a business case before any award can be made.

Details of the five discretions available are as follows:

2.1 Shared cost Additional Pension Contributions – Regulation 16 (2)(e) and 16(4)(d)

Note: these specific provisions of Regulation 16 allow an active member who is *paying into the main scheme to enter into an arrangement to pay additional contributions, either by regular contributions (Regulation 16(2)(e)) or by a lump* sum *payment (Regulation 16(4)(d). This may be funded in whole or in part by the Employer.*

The PCC/LP does not consider contributions towards additional pension contributions to be an essential part of its employment strategy. However, the PCC/LP will consider applications made under these specific provisions having regard to the organisations general policy from time to time, on the employee pay strategy and the circumstances surrounding each case.

It is likely that decisions will be made on the merits of each case having regard to factors such as:

- the PCC/CC's ability to meet the cost of granting such a request; and/or
- the member's personal circumstances.

2.2 Awarding Additional Pension - Regulation 31

Note: this Regulation 31 allows PCC/LP to grant additional pension up to the maximum allowed by the scheme rules provided that the member is *active or* is *within 6 months of leaving for reasons of redundancy or business efficiency or whose employment* was *terminated by mutual consent on grounds of business efficiency.*

The PCC/LP will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to the following:

- the member's personal circumstances;
- the interests of the PCC/LP
- the additional contributions due to the Fund by the PCC/LP in respect of the exercise of this discretion;
- any potential benefits or savings to the PCC/LP arising from the exercise of this discretion;
- other options that are, from time to time, available under the PCC/LP severance arrangements;
- the funding position of the PCC/LP within the Fund;
- the ability of the PCC/LP to meet the cost of granting such an award.

2.3 Flexible Retirement- Regulation 30(6)

Note: this provision in the Regulation allows the PCC/LP to consent for a member who has attained the age of 55 to draw all or part of their retirement benefits (both pension and lump sum) whilst continuing in employment and Fund membership provided that:

- there has been a reduction in hours, or
- a reduction in grade.

Employers can choose to waive any reductions that apply under Regulation 30(8).

The PCC/LP will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the operating requirements of the employing department
- the PCC/LP's ability to meet the cost of granting such a request
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place for time to time can be made
- the member's personal circumstances.
- whether to permit the member to choose to draw all, part or none of the pension benefits they have built up after 1 April 2008. Your flexible retirement policy should set out your position on this matter.

2.4 Waiving actuarial reductions - Regulation 30(8)

Note: Employers may waive the actuarial reductions applied to a *member's benefits, unless 85 year rule protections exist. Employers can waive:*

- all of the reductions in respect of pre 1 April 2014 benefits but only on compassionate grounds (paragraph 2 of Schedule 2 of the LGPS Transitional Regulations 2014);
- all or some of the actuarial reduction in respect of post 1 April 2014 on any grounds.

Where 85 year rule protections exists and the member has *full or tapered protection employers can waive all of the reductions but only on compassionate grounds for the service up to the date the 85 year rule protection ends (31 March 2016 (full) or 31 March 2020 (tapered)).*

The PCC/LP will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the PCC/LP's ability to meet the cost of granting such a request;
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place from time to time can be made;
- the member's personal circumstances.

Applications for the payment of unreduced benefits for service before 1 April 2014 on the grounds of compassion will be granted if:

- in the PCC/LP's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and
- the PCC/LP can meet the cost of granting such a request.

2.5 Switching on the 85 rule- Schedule 2- 1(1)(c) of the LGPS Transitional Regulations 2014

Note: Employers can decide to "switch on" the 85 year rule to allow members to receive benefits either unreduced or with a smaller reduction to their 85 year rule date. Employers will be responsible for meeting any strain costs relating to benefits being paid before age 60. If the Employer does not "switch on" the 85 year rule the member's benefits will be reduced to age 60 or the date they meet the 85 year rule if later.

The PCC/LP will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the PCC/LP's ability to meet the cost of granting such a request;
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place from time to time can be made;
- the member's personal circumstances.

3.0 Further Employer Scheme Discretions

The following further discretions are related to the LGPS Regulations 1997 and the LGPS Benefits Regulations 2007.

Please note that approval of Discretions in Section 3 must be made by the appropriate Chief Financial Officer following the receipt of a business case before any award can be made.

There are also two other discretions for the PCC/LP, but these relate specifically to members who left before 1 April 2014.

Whilst the LGPS Regulations 2013 repeals the LGPS Regulations 1997 and the LGPS Benefits Regulations 2007 (in so far as they had not already been repealed, Regulation 3(1) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 allows for the LGPS Regulations 1997 and the LGPS Benefits Regulations 2007 to still have effect in so far as they relate to certain member benefits before 1 April 2014. As such, the other discretions still available for certain members only, are as follows:

3.1 Early Payment of Deferred Pensions for members who left before 1st April 2014 - Regulation 2 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, Regulation 30(2) and 30(5) of the LGPS Benefits Regulations 2007 & Regulation 31(2) and Regulation 31(5) of the LGPS Regulations 1997

Note: This Regulation allows Employers to allow members who left the scheme before 1 April 2014 and who are over the age of 55 to take their benefits early. Under Regulation 30(5) Employers can waive any reduction to benefits paid under that Regulation on compassionate grounds. Additionally, under Regulation 2 (1(2)) Employers may elect to switch on' the 85 year rule where a member has taken voluntarily early payment of deferred benefits from age 55.

The PCC/LP will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the PCC/LP's ability to meet the cost of granting such a request;
- the member's personal circumstances.

Applications for the payment of unreduced benefits on the grounds of compassion will be granted if:

- in the PCC/LP's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval; and
- the PCC/LP can meet the cost of granting such a request.

Deferred members who left the Scheme before 1 April 2008 can still make application for the early payment of their deferred benefits after age 50 under LGPS rules. However, under HMRC rules such payments would be classed as 'un-authorised' and would be subject to a punitive tax charge.

3.2 Early Payment of Deferred Pensions for members who left before 1st April 2014 and have ceased to be entitled to a tier 3 ill benefit - Regulation 2 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, Regulation 30A(3) and 30A(5) of the LGPS Benefits Regulations 2007.

These regulations allow Employers to permit members who have ceased to be entitled to a tier 3 ill health benefit and who are over the age of 55 to take their benefits early. Under sub paragraph 5 of Regulation 30A Employers can waive any reduction to benefits paid under that Regulation on compassionate grounds. Alternatively, under Regulation 2 (1(2)), Employers may elect to 'switch on' the 85 year rule where voluntary early payment of suspended tier 3 ill health pension is *taken.*

The PCC/LP will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the PCC/LP ability to meet the cost of granting such a request;
- the member's personal circumstances.

Applications for the payment of unreduced benefits on the grounds of compassion will be granted if:

- in the PCC/LP sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and
- the PCC/LP can meet the cost of granting such a request.

4.0 Non-Statutory Scheme Discretions

4.1 Pensionable Pay

Pensionable pay is the pay the member pays contributions on.

From 1st April 2014 pensionable pay includes non-contractual and contractual overtime and any additional hours on top of your contractual hours.

Please note there is no Employer discretion over the treatment of a pay element as pensionable pay.

4.2 Assumed Pensionable Pay (APP) Methodology

Should a member receive reduced pay as a result of absence from work for any of the following reasons then the members assumed pensionable pay is used to calculate the pension benefits:

- Sickness or injury on reduced or no pay;
- Reserve forces leave on reduced or no pay;
- Ordinary Maternity leave on reduced or no pay;
- Ordinary Paternity leave on reduced or no pay;
- Ordinary Adoption leave on reduced or no pay;
- Additional Maternity leave on reduced pay;
- Additional Paternity leave on reduced pay;
- Additional Adoption leave on reduced pay.

The members APP is based on the pay they received in the three months before their pay reduced (excluding any lump sums you received).

4.3 Allocation of Contribution Bands

The members LGPS contribution rate is based on their pensionable pay (as defined above). The contribution rates are set by pay bandings which are issued each April.

It is important to remember that the banding contribution rates have no impact on an individual pension. The employees' pension is based on the actual pensionable pay, irrespective of the contributions.

4.3.1 Part-time Members

Part-time members pay a contribution rate which is based on their actual pensionable pay and not their full-time equivalent (as from 1st April 2014).

4.3.2 Initial Banding Exercise

The initial assessment to allocate members to their appropriate contribution banding is done as at 1st April. Allocating the members to their appropriate contribution rate is a relatively straight forward process unless the individual undertakes additional hours and/or overtime; especially since there is no way of knowing how many hours overtime an individual will work in the next year.

The PCC/LP utilise the previous year's overtime/honorarium figure as part of the following assessment calculation (which is shown below) -

Salary as at 1st April + Allowances as at 1st April + Overtime/Honorarium from previous year = Assessment Total

4.3.3 Employees starting in year

New starters will be assessed for their pension contribution banding based on the starting salary and allowances.

4.3.4 Review Process - The Definition of Material Changes

Once the initial banding assessment exercise has been carried out the PCC/LP is required by the regulations to reassess the appropriate banding each April. The regulations also permit a review the band on any material change in pay throughout the financial year.

The PCC/LP defines material changes as per below:

- Any contractual changes which affect the pensionable pay;
- Any overtime and or honorarium payments in the period of review would not instigate a change in pension banding.

4.4 Election to transfer benefits into the Fund within 12 months

New joiners to the LGPS who have previous pension rights, are able to transfer these rights into the scheme, provided that the request is made within 12 months of joining. The rights can be transferred from the following schemes:

- Other Local Government Pension Fund;
- Occupational Pension arrangement;
- Personal Pension arrangement.

4.5 Election to combine pensions within 12 months

The rules about linking other LGPS membership changed on 1 April 2014. The new rules are complicated and depend on what previous membership the individual has. Some members need to elect if they want to link previous membership. Other members need to elect if they want to keep previous membership separate – otherwise the membership will be automatically linked.

Any election must usually be made within the first 12 months of re-joining the scheme or leaving a job that overlaps with your current job.

Membership will be automatically linked for members who haven't built up enough membership to keep separate benefits.

4.6 Shared cost Additional Voluntary Contributions (SCAVC) and Shared Cost Additional Pension Contributions (SCAPC)

Active members of the LGPS can elect to make additional pension contributions in the following circumstances:

- To buy extra pension;
- To buy lost pension for unpaid leave of absence or unpaid child-related leave;
- To buy lost pension due to a trade dispute.

In relation to the options to purchase extra pension and to replace lost pension due to a trade dispute is at the full cost of the employee however to buy lost pension for unpaid leave or child related leave this is a shared cost between PCC/LP and employee as long as the request is made within 30 days of returning to work.