



MERSEYSIDE WASTE DISPOSAL AUTHORITY

## **POLICY STATEMENT**

# **EXERCISE OF DISCRETIONARY FUNCTIONS**

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There are a number of provisions in the Local Government Pension Scheme (LGPS) which give employers discretion as to how the Scheme is to be applied in respect of their employees or where they need to make a decision in respect of employees. Employers need to decide how they will operate each of these discretions. Some may never be relevant to an employer whilst others will determine the day-to day operation of the Scheme. These discretions are group together by the Merseyside Pension Fund to ease the administration of the scheme for employers.

The discretions were originally considered in 1998, on how they would be applied to staff that are members of, or entitled to be members of, the Local Government Pension Scheme, then subsequently reviewed as and when amendments to the regulations required this. However as mentioned above it is now a requirement to review these on an annual basis.

The guidance requires that each Scheme Employer must make a Policy Statement and also keep it under review on an annual basis.

The Policy Statement should show how decisions in respect of the discretions are to be reached.

The application of these discretions applies only to employees that are members or entitled to be members of the Local Government Pension Scheme.

## COMPULSORY DISCRETIONS IN A POLICY STATEMENT

Every Employer is required by law to include in its policy statement six discretions relating to regulations

**2014 – Regulation 31**  
**(Regulation 31, 2007 Regulation Benefit and Admin Reg 40)**

**Old Regulation 13 – Power of employing authority to award additional pension.**

This provision permits an employer to award up to a maximum of £6822 annual pension to active scheme members.

### **Decision of the Authority**

The Authority will not award additional pension to an active member.

**2014 – Regulation 30(6) – Flexible Retirement**

**Old Regulation 18 – Flexible Retirement**

This provision permits an employer to:

- 1) allow a scheme member aged 55 and over, having reduced their work hours or the grade, to receive all or part of their benefit and continue working in the reduced capacity
- 2) waive any reduction that may normally apply due to the early payment of those benefits.

### **Decision of the Authority**

The Authority will adopt this discretion and will assess on an individual basis considering future service provision those members aged 55 and over, having reduced their hours

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and/or grade who also wish to receive their accrued benefits (in part or in full) and continue working in the reduced capacity.

The Authority will not waive, in whole or part any reduction in benefits payable.

<b>Regulation 30 (8) – Choice of early payment of pension.</b>
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This provision permits an employer to;

- 1) allow a scheme member (active or deferred) aged between 55 and 60 to receive their accrued benefits early.
- 2) waive any reduction that may normally apply due to the early payment of the benefits.

**Decision of the Authority**

The Authority will adopt this discretion and will assess on an individual basis, considering future service provision, any application for early payment of benefits in respect of active members on or after age 55 and before 60

The Authority does not intend to exercise this discretionary power in respect of deferred members where a financial liability arises.

<b>Schedule 2 Paragraph 2 – To apply 85 Year Rule before age 60</b>
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This provision permits an employer to;

- 1) switch on the 85 Year Rule for a member voluntarily drawing benefits on or after age 55 and before age 60.
- 2) to waive on compassionate grounds, the actuarial reduction applied to benefits from pre 01/04/2014 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.

**Decision of the Authority**

The Authority will not adopt this discretion. The application of the 85 Year Rule between the age of 55 and before age 60 will not be permitted in any circumstances and consideration for waiving on compassionate grounds the reductions referred to in relation to the 85 Year Rule will not be given.

***2014 - Regulation 16 (2e) (4d) – Funding of additional pension (Shared Cost Additional Pension Contributions, either by regular or one-off lump sum)***

This provision permits an employer to fund, in whole or in part, additional pension contributions to cover a period of absence, where the employee has opted for this arrangement. These absences are in respect of child related, reserved forces leave, absence for illness/injury and unpaid leave with permission. This does not cover absence due to trade union dispute.

**Decision of the Authority**

The Authority will in the above instances pay in part, meeting two-thirds of the cost of the arrangement, only where the employee elects to do so within 30 days of their return to work.

***2014 – Regulation 30a(3)– Early payment of retirement pension on ill-health ground.***

**Old Regulation 31 – Early payment of Pension : Ill Health.**

This provision permits an employer the discretion to:

- 1) allow a scheme member who has had their tier 3 ill-health benefits suspended put back into payment before their 60<sup>th</sup> birthday.
- 2) waive any reduction that may normally apply due to the early payment of the benefits.

**Decision of the Authority**

The Authority's decision is to adopt this discretion and will release benefits subject to the necessary certification by an IRMP

## NON-COMPLUSORY DISCRETIONS IN A POLICY STATEMENT

There are other discretions that are not compulsory to include in the Policy Statement but are recommended:

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***2014 - Regulation 9 (3)- Contributions payable by active members***

**Old Regulation 9 – Contribution payable by active member**

Under this provision each employer must assess the appropriate rate in a reasonable and consistent manner and review the contribution band on any material change in pay.

**Decision of the Authority**

The Authority will review the contribution band of employees at each pay period. The average of the pensionable pay to date will be annualised, and a contribution rate will be calculated according to this level of pensionable pay. This method of calculation will take into account any contractual changes that occur throughout the year and any pay awards granted. As such scheme members' contribution rates may vary throughout the year.

***2014 – Regulation 22(8)(b) – Re-employed and rejoining deferred members***

**Old Regulation 16(4) b – Membership Aggregation for re-employed and rejoining deferred members**

This provision permits an employer the discretion to extend the statutory 12 months window within which a scheme member can elect to aggregate deferred LGPS benefits into their current employment.

**Decision of the Authority**

The Authority will not extend the 12 month option period for aggregation of deferred benefits in all cases.

***2018 - Regulation 16(16)- Shared Cost Additional Pension Contributions (SCAPCs)***

***Old Regulation 22(2) - Power of employing Authority to increase time limit for active members to apply to make absence contribution.***

A member can elect for SCAPCs 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).

Employers can extend the 30 day deadline for a 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).

### **Decision of the Authority**

The Authority does not allow a late application by a member to pay voluntary contributions.

#### ***2014 – Regulation 17 (1) – Power of employing authority to set up a Share Cost AVC Scheme***

#### **Old Regulation 25 (3) Power of employing authority to set up a Share Cost AVC Scheme**

This provision permits an employer to establish a SCAVC arrangement wherein costs are shared on a basis agreed by the Authority.

### **Decision of the Authority**

The Authority will not adopt the use of this discretionary power.

#### ***2014 – Regulation 100 (6)– Inward Transfer of Pension Rights***

#### **Old Regulation 83 – Inward Transfer of Pension Rights**

This provision allows an employer the discretion to extend the statutory 12 month window within which a scheme member can elect to transfer benefits from another scheme into their current employment.

### **Decision of the Authority**

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The Authority will not extend the normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS in all cases.

***2018 – Regulation 21(4)(a)(iv) 21(4)(b)(iv) 21(5) - Calculating Assumed Pensionable Pay***

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

Employers when calculating assumed pensionable pay (APP) can choose to include the amount of any 'regular lump sum payment' received by the member in the 12 months preceding the date the absence began or the ill health retirement or death occurred. 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.

**Decision of the Authority**

This recommendation would not be applicable to our Authority as lump sum payments and performance related bonus payments do not form part of our pay and conditions structure. Recommendation is not to adopt.

***2018 - Regulation 10(6) - Aggregation of Deferred Benefits***

Employers can 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 31 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.

**Decision of the Authority**



It is recommended that the Authority adopt this discretion but make a decision on a case by case basis with supporting information provided by the pension fund at the time of the Employee's request.

### ***Regulation 7 - Assumed Pensionable Pay***

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

Employers can choose to substitute a higher level of pensionable pay when calculating Assumed Pensionable Pay (APP), having had regard to the level of pensionable pay received by the member in the previous 12 months.

### **Decision of the Authority**

It is recommended that the Authority adopt this discretion but make a decision on a case by case basis.

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