

Local Government Pension Scheme (LGPS) Discretionary Pension Statement

Date September 2022 – 31st March 2023

Background

The regulations of the LGPS require every employer to

- (i) issue a written policy statement on how it will exercise the various discretions provided by the scheme,
- (ii) keep it under review and
- (iii) revise it as necessary.

This document meets these requirements stating the regulation requirement and the organisation decision on these.

These discretions are subject to change, either in line with any change in regulations or by due consideration by Oadby and Wigston Borough Council.

These provisions do not confer any contractual rights.

The LGPS Employer Discretions Policy is the Council's written policy statement detailing all mandatory employer discretions the LGPS recommend employers also publish.

Some of these discretions are also referred to in relevant HR policies, for example the Flexible Retirement and Early Retirement policies.

This statement will be published on the Council's website at www.oadby-wigston.gov.uk

The Regulations referred to are:

- R:** The Local Government Pension Scheme Regulations 2013 (as amended)
- TP:** The LGPS (Transitional Provision and Savings) Regulations 2014
- A:** The Local Government Pension Scheme (**Administration**) Regulations 2008 (as amended)
- B:** The Local Government Pension Scheme (**Benefits, Membership and Contributions**) Regulations 2007 (as amended)
- T :** The Local Government Pension Scheme (**Transitional Provisions**) Regulations 2008
- L:** The Local Government Pension Scheme Regulations 1997 (as amended)
- ET:** The Local Government (**Early Termination of Employment**) (Discretionary Compensation) Regulations 2006

2013 Regulations and Transitional 2014 Regulations

Employer Discretion		Regulation	OWBC Policy
Shared Cost APC's	Whether, how much, and in what circumstances to contribute to a shared cost APC scheme	R16(2)(e) & R16(4)(d)	<p>Due to potential cost burden Oadby and Wigston Borough Council will not contribute towards the cost of the employee (purchasing additional pension).</p> <p>This will not have any effect on the existing AVC facility available where the employee only is able to make such contributions.</p>
Extension to Shared Cost APC's	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 (otherwise than because of illness or injury, relevant child-related leave or reserved forces service leave)	R16(16)	It is not the policy of Oadby and Wigston Borough Council to extend the 30 day deadline.
Shared AVC's	Whether, how much, and in what circumstances to contribute to shared cost Additional Voluntary Contributions (AVC's) arrangements	R17(1) & definition of SCAVC in RSch 1	Under Regulation 17 of the LGPS Regulations 2013, Oadby and Wigston Borough Council will not exercise the discretion to allow LGPS members to contribute to a shared cost salary sacrifice additional voluntary contribution scheme.
Right to Return of contributions in cases of fraud or grave misconduct.	No right to return of contributions where a member left their employment due to offence of a fraudulent character or grave misconduct in connection with that employment, unless Employer directs a	R19 (2)	It is not the policy of Oadby and Wigston Borough Council to refund contributions to the member.

	total or partial refund is to be made		
Flexible Retirement	Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)	R30(6) & TP11(2)	<p>The Council has agreed to consider its discretion when, with the Council's consent, a scheme member who is over 55 reduces their hours and/or grade and wishes to receive their accrued pension benefits without having retired from employment.</p> <p>All requests will be determined by the relevant Committee on a case by case basis before any decision is made.</p>
			<p>This does not preclude younger employees, under 55 years of age requesting flexible working but without the payment of their retirement benefits.</p> <p>Please refer to the full Flexible Retirement Policy</p> <p>The Council may review its policy at any time.</p>

	Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement	R30(8)	It is not the policy of Oadby and Wigston Borough Council to waive, in whole or in part any actuarial reduction resulting from Flexible Retirement unless the actuarial reduction (arising from the pension strain) is of a de minimis amount and the request meets all other policy criteria.
Early Retirement Waive Actuarial Reduction	Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31 March 2014 membership)	R30(8)	<p>The Council have a policy on Early Retirement. Any employee from their 55th birthday can voluntarily retire and access their benefits with an actuarial reduction.</p> <p>An employee may request that Oadby and Wigston Borough Council waive in full or in part their reduction on compelling compassionate grounds only. Each case will be considered on its own merits following full consideration of all financial and service delivery implications via the relevant Committee.</p> <p>The Council may review its policy at any time</p>
85 Year Rule	Whether to 'switch on' the 85 year rule for a member voluntarily drawing benefits	TPSch 2, para 1(2) & 1(1c)	Employees can request that the Council 'switch on' the 85 year rule, if they are eligible.

	<p>on or after age 55 and before age 60 (other than on the grounds of flexible retirement)</p>		<p>To be eligible, the employee's LGPS Service (all service) and their age must equal 85 years or more, and they must have joined the pension scheme before 1st October 2006.</p> <p>Deferred members from the age of 55 can access their deferred pension benefits early without employers consent, however the pension income will reduce after the actuarial reduction is applied.</p> <p>The Council may review its policy at any time.</p>
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<p>Waiving Actuarial Reduction</p>	<p>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 1 April 2014 and post 31 March 2014 membership):</p> <p>a) on compassionate grounds (pre 1 April 2014 membership) and in whole or in part on any grounds (post 31 March 2014 membership) if the member was not in the Scheme before 1 October 2006,</p> <p>b) on compassionate grounds (pre 1 April 2014 membership) and 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,</p>	<p>TP3(1), TPSch 2, para (2)1, B30(5) & B30A(5)</p>	<p>If it is agreed to apply the '85 year rule', Oadby and Wigston Borough Council may waive the actuarial reduction in full or in part following careful consideration of the financial implications and affordability.</p> <p>Each case will be considered on its own merits including any compelling compassionate reasons and following full consideration of all financial and service delivery implications via the relevant Committee.</p> <p>The Council may review its policy at any time.</p>
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	<p>c) on compassionate grounds (pre 1 April 2016 membership) and 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,</p> <p>d) on compassionate grounds (pre 1 April 2020 membership) and 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</p>		
Grant Additional Pension	Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 p.a. on 1 April 2014 - this figure is inflation proofed annually)	R31	It is not the policy of Oadby and Wigston Borough Council to award additional pension
Transferring in non LGPS pension rights	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	R100(6)	It is not the policy of Oadby and Wigston Borough Council to consider extending the time limit for a transfer in of previous pension rights to proceed after twelve months.

Employee Contribution Rate	Determine rate of employees' contributions and review the pension contribution band to which an employee has been allocated following a material change which affects the member's pensionable pa	R9(1) & R9(3)	The tiered contribution rate for each employee will be based on the pensionable pay elements. Basic salary is assessed at the full time equivalent rate, in each post an employee holds at 1 April. The contribution rate will be re-assessed annually on implementation/application (regardless of when the award is made) of the annual pay award. Reassessment will take place at any point in the year where there is a material change for example:- Promotion, demotion, incremental progression.
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2018 Amended Regulations

Employer Discretion	Regulation	OWBC Policy	
Deferred Benefits	Whether to grant applications for the early payment of pension benefits on or after age 50 and before age 55.	R31(2) of the LGPS Regulations 1997].	It is not the policy of the Council to allow deferred benefit applications on or after age 50 and before age 55.

2008 Scheme (Administration) Regulations and 2007 Regulations

Employer Discretion	Regulation	OWBC Policy	
Deferred Benefits	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)	Ordinarily The Council will not waive any actuarial reduction for deferred members on compassionate grounds.
	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 (1c)	The Council will not "switch on" the 85 year rule.

The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006

Employer Discretion		Regulation	OWBC Policy
Power to increase statutory redundancy payments	The Employer may decide to calculate a redundancy payment entitlement as if there had been no limit on the amount of a week's pay used in the calculation.	R5 ET	The Council has decided to adopt this discretion and base redundancy payment calculations on an unrestricted week's pay but using the statutory age and service related redundancy scale to determine the number of weeks to be used in the calculation.

Employer Discretion		Regulation	OWBC Policy
Compensation Payment	<p>A "one off" lump sum compensation payment may be awarded to an employee up to a maximum value of 104 weeks pay, inclusive of any redundancy payment made.</p> <p>If the above Regulation is adopted, employees who are members of the LGPS can be given the option of converting compensation payments, (less the statutory redundancy payment), into additional pensionable service, in accordance with the augmentation factors provided by the authority. An employer should specify whether they intend to provide this option</p>	R6 ET	<p><u>Redundancy</u> The Council has not elected to pay any additional discretionary compensation in excess of the redundancy payment.</p> <p><u>Efficiency</u> A lump sum compensation payment will be awarded, equivalent to a redundancy payment, based on the statutory age and service related redundancy scale and on unrestricted weeks pay (See above: Regulation 5).</p>

1997 and 1995 Scheme Regulations

Employer Discretion		Regulation	OWBC Policy
Deferred Benefits	Whether to grant applications for the early payment of deferred pension benefits on or after age 50 and before NRD on compassionate grounds.	TL4, L106(1) & D11(2c)	It is not the policy of the Council to allow deferred benefit applications on or after age 50 and before age 55.

The policy in respect of each employer discretion is set out above, however, the council may give further consideration where there are exceptional circumstances and clear merit, or where the cost is not considered to be significant or material.