



Milton Keynes
City Council



LGPS Discretions within the Scheme Policy



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Version 7.0



Introduction

Councils have always had some local discretion in how they apply the Local Government Pension Scheme (LGPS), and there has long been local policy in this area. It is a requirement for each Council to make a written statement of its local discretionary policy on these points.

It should be noted that as the Council has a limited resource and needs to maintain a balanced budget, any exercise of discretion will have to be contained within existing service budgets. Therefore the discretions set out below will only be exercised in exceptional circumstances.

Buckinghamshire Council administers the LGPS on behalf of Milton Keynes City Council.

More details on MKCC's pension provisions including helpful links can be found on our intranet page at <http://staffintranet/lgss/hr/pensions>

Full details of the LGPS can be found on the internet. The LGPS member website address is www.lgpsmember.org and the LGPS Regulations and Guidance website is www.lgpsregs.org.

Scope

The policy and procedure set out in this document applies to all current and former Council employees and Councillors who are/have been members of the LGPS.

Section 1

General Discretions

Discretion 1

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 per annum on 1 April 2014 - this figure is inflation proofed annually)

The council will not usually make use of the discretion to grant extra annual pension of up to £6,500¹ (figure at 1 April 2014) to an active Scheme member or within 6 months of leaving to a member whose employment was terminated on grounds of redundancy or business efficiency. Each case will be considered on its own merit. *[Regulation 31 of the LGPS Regulations 2013]*

Discretion 2

Whether, how much, and in what circumstances to contribute to a shared cost Additional Pension Contribution (APC) scheme

The council will not usually make use of the discretion where an active Scheme member wishes to purchase extra annual pension of up to £6,500 (figure at 1 April 2014) by making APCs, to

¹ The figure of £6,500 at 1 April 2014 is revalued each April (starting April 2015) under the Pension (Increase) Act 1971 (as if it were a PI date of 1 April 2013). The uprated figure as at April 2018 is £6,822.

contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC). Each case will be considered on its own merit. *[Regulations 16(2)(e) and 16(4)(d) of the LGPS Regulations 2013]*

Discretion 3

Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)

The council may let an employee, aged 55 or over, reduce their working hours or grade, and receive part or full payment of pension benefits under the main scheme regulations. Any cost of flexible retirement must be met by the service. *[Regulation 30(6) of the LGPS Regulations 2013]*

Discretion 3.1

Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement

If flexible retirement is taken before Normal Pension Age the council would not usually waive any actuarial reduction in benefits to be applied. *[Regulation 30(8) of the LGPS Regulations 2013]*

The decision making process for flexible retirement is contained within the council's Flexible Retirement Policy. The council will consider applications on a case by case basis taking into account all the relevant circumstances including any additional cost to the council.

Discretion 4

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).

The council will not usually agree to switch the 85 year rule back on for members who choose to voluntarily draw their benefits on or after age 55 and before age 60, or agree to waive any actuarial reductions, but will consider any application on its merits and taking into account the cost. *[Paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]*

Discretion 5

Whether to waive any 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)

The council will not usually agree applications for the actuarial reduction to be waived but will consider any application on its merits and taking into account the cost. *[Regulation 30(8)]*

Discretion 5.1

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 on compassionate grounds)

The council will not usually agree applications for the actuarial reduction to be waived but will consider any application on its merits and taking into account the cost. *[TP3(1), TPSch2, para 2(1), B30(5) & B30A(5)]*

Discretion 6

Whether, how much, and in what circumstances to contribute to shared-cost AVC arrangements

The Council will pay SCAVC contributions where an employee has elected to pay AVCs by salary sacrifice. The amount of these employer SCAVC contributions will not exceed the amount of salary sacrificed by the employee. This is a Council discretion which is subject to the employee meeting the Council's conditions for acceptance into the salary sacrifice shared cost AVC scheme and may be withdrawn or changed at any time *[Regulation 17(1)]*

Discretion 7

Extension of deadline for a shared-cost additional pension contribution (SCAPC)

The council will not usually agree to 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) must be made within 30 days of return. Any request received after 30 days will be considered on its own merits and taking into account the cost. *[Regulation 16(16) of the LGPS Regulations 2013]*.

Discretion 8

Late inward transfer of pension rights

A request to transfer pension rights into the LGPS must be made within 12 months of joining the scheme. Any request to transfer pension rights after the twelve month limit will be declined unless there are extenuating circumstances for the delay. Further information about the application process is made available to new employees with their contract of employment or can be found on the LGPS website [Transfer another pension into your LGPS pension | Pensions](#).

Discretion 9

Late election not to have deferred benefits aggregated

There will usually be no extension to the 12 month time limit within which a Scheme member who has a deferred LGPS benefit in England or Wales following the cessation of employment (or cessation of a concurrent employment) may elect not to have the deferred benefits aggregated with their new LGPS employment (or ongoing concurrent LGPS employment) if the member has not made an election to retain separate benefits within 12 months of commencing membership of the LGPS in the new employment (or within 12 months of ceasing the concurrent membership). *[Regulations 22(7) and (8) of the GLGPS Regulation 2013]*

Discretion 10

Late election to have deferred benefits aggregated

There will usually be no extension to the 12 month time limit within which a Scheme member 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 except in extenuating circumstances. [Regulation 10(6) of the LGPS (Transitional provisions, Savings and Amendment) Regulation 2014 as amended by regulation 27 of the LGPS (Amendment) Regulations 2018].

Discretion 11

Allocation and review of pension contribution bands

The pension contributions bands are published on the council's intranet at [Pensions - Staff Intranet](#). The contribution rate is based on actual pay. Overtime and additional hours are pensionable from 1 April 2014. [Regulations 9 and 10 of the LGPS Regulations 2013]

Each April, the council will decide the appropriate rate of contributions for each employment by matching the actual pensionable pay to the appropriate band in the contributions table. If there is a material change to pay during the year, the contribution rate will be reviewed and the employee notified. The contribution bands within the LGPS are reviewed every year.

Discretion 12

Regular lump sum payments

When 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 during paid additional maternity, paternity 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

the Council will include in the calculation 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. [Regulations 21(4)(a)(iv), 21(4)(b)(iv) and 21(5) of the LGPS Regulations 2013]

Discretion 13

Adjustment of 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 additional maternity, paternity 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

Under the circumstances described in Discretion 12 above, if, in the council's opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments) in the 3 months (or 12 weeks if not paid monthly) preceding the commencement of Assumed Pensionable Pay (APP), is materially lower than the level of pensionable pay, the members would have normally received, it may substitute a higher level of pensionable pay when calculating APP, having regard to the level of pensionable pay received by the member in the previous 12 months. *[Regulations 21(5A) and 21(5B) of the LGPS Regulations 2013]. Although this discretion is new, its effective date is backdated to 1 April 2014 by way of regulation 7 of the LGPS (Amendment) Regulations 2018.*

Discretion 15 Discretionary injury benefit scheme

The council will not usually make payments in respect of discretionary injury benefit regulations but will review this decision on a biennial basis. The next review will be in January 2021. *[Regulation 14(1) of the Local Government (Discretionary Payments) Injury Allowances) Regulations 2011]*

Section 2

Discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to scheme members (excluding councillor members) who ceased active membership between 1 April 2008 and 31 March 2014

1. Discretion to 'switch on' the 85-year rule upon the voluntary early payment of deferred benefits

The council will not usually agree to switch the 85-year rule back on for members (excluding councillor members) who ceased active membership between 1 April 2008 and 31 March 2014) who choose to voluntarily draw their benefits on or after age 55 and before age 60, or agree to waive any actuarial reductions, but will consider any application on its merits and taking into account the cost. *[Paragraph 1(1)(c) & 1(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]*

2. Discretion to 'switch on' the 85-year rule upon the voluntary early payment of a suspended tier 3 ill health pension

The council will not usually agree to switch the 85 year rule back on for members (excluding councilor members) who ceased active membership between 1 April 2008 and 31 March 2014) upon the voluntary early payment of a suspended tier 3 ill health pension, but will consider any application on its merits and taking into account the cost. *[Paragraph 1(1)(c) & 1(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]*

3. Discretion to waive on compassionate grounds the actuarial reduction applied to benefits paid early.

The council will consider applications on a case-by-case basis taking into account all the relevant circumstances including the cost. In this context compassionate grounds will nearly always be those arising out of very difficult domestic/financial circumstances. *[Regulation 30(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007]*

4. Discretion to grant an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60.

The council will consider applications on a case-by-case basis taking into account all the relevant circumstances including any additional cost to the council. *[Regulation 30A(3) of the LGPS (Benefits, Membership and Contributions) Regulations 2007]*

5. Discretion to waive, on compassionate grounds, the actuarial reduction applied to the reinstatement of a suspended tier 3 ill health pension paid early (i.e. on or after age 55 and before age 60).

The council will not usually agree applications for the actuarial reduction to be waived but will consider any application on its merits and taking into account the cost. *[Regulation 30A(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007]*

Section 3

Discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to active and deferred councillor members and any other members who ceased active membership between 1 April 1998 and 31 March 2008

1. Discretion to ‘switch on’ the 85-year rule upon the voluntary early payment of deferred benefits

The council will not usually agree to switch the 85-year rule back on, but will consider any application on its merits and taking into account the cost. *[Paragraph 1(1)(f) & 1(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]*

2. Discretion to grant applications for the early payment of pension benefits on or after age 50 and before age 55

The council will consider applications on a case-by-case basis taking into account all the relevant circumstances including any additional cost to the council. *[Regulation 31(2) of the LGPS Regulations 1997]*

3. Discretion to waive on compassionate grounds any actuarial reduction that would normally be applied to benefits which are paid before age 65.

The council will consider applications on a case by case basis taking into account all the relevant circumstances including the additional cost to the council. In this context compassionate grounds will nearly always be those arising out of very difficult domestic/financial circumstances. *[Regulation 31(5) of the LGPS Regulations 1997]*

Section 4

Discretions to be exercised on or after 1 April 2014 in relation to scheme members who ceased active memberships before 1 April 1998

Discretion to grant early payment of deferred pension benefits on or after age 50 and before NRD² on compassionate grounds.

The council will consider applications on a case-by-case basis taking into account all the relevant circumstances including the cost. In this context compassionate grounds will nearly always be those arising out of very difficult domestic/financial circumstances. *[Regulation D11(2)(c) of the LGPS Regulations 1995]*

How to Apply

Applications for discretions requiring a decision by the council should be made in writing to the Chief People Officer, Milton Keynes City Council, Civic Offices, Central Milton Keynes MK9 3ES.

The decision will be made by the Director – Finance & Resources and the Head of HR, whose role will include monitoring decisions to ensure consistency, in consultation with the appropriate Director. Consideration will be given to the full circumstances of each case, including the relevant budgetary provision.

Determination of questions and disputes

Any applications to deal with questions and disputes arising from the administration of the scheme membership must be made to the Chief People Officer, Milton Keynes City Council, Civic Offices, Central Milton Keynes MK9 3ES.

Disputes will be dealt with under relevant regulations within the Local Government Pension Scheme (Administration) Regulations 2008.

Further pensions information can be found at:

- Buckinghamshire Council's Pensions website: [Local Government Pension Scheme | Buckinghamshire Council](#)
- The LGPS member website: www.lgpsmember.org
- The LGPS Regulations and Guidance website: www.lgpsregs.org

² NRD under the 1995 Regulations is defined as the earlier of: age 60, if by that age the member would have had 25 or more years membership of the scheme if they had remained in the scheme until then, or the date the member would have achieved 25 years membership, if that date would fall after age 60 and before age 65, or age 65 if by that age, the member would not have had 25 years membership of the scheme if they had remained in the scheme until then.

Version Control

| Version | Date | Updated by | Comments |
|---------|------------|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| V5.0 | 09/05/2023 | Nicole Gregory | Transferred on to new MKCCC template. Change to Discretion 6 under Section 1 General Discretions to allow the possibility of contributions to a SCAVC scheme. |
| V6.0 | 22/05/2024 | Kellie Evans | New Template & Change Head of HR to Chief People Officer |
| V7.0 | 13/11/2024 | Nicole Gregory | Amended discretion 8 – removed reference to contacting Service Desk or raising Halo request for information on transferring, replaced with link to LGPS website for guidance. |

