Local Government Pension Scheme (LGPS)

Discretions Policy

The LGPS is a inland revenue approved, defined benefit occupational pension scheme set up under the Superannuation Act 1972 and is contracted out of the State Second Pension scheme (S2P). The benefits under the LGPS are based on the length of membership and final year's pay for contributions before April 2014 and average annual salary for contributions paid from April 2014.

The LGPS covers local government and other organisations that have chosen to participate in it. Employees need to be under the age of 75 and have an employment contract for at least 3 months to be brought in automatically under LGPS rules, but can opt in outside of these auto enrolment rules. If employed by a designating body, such as a town or parish council the employer must nominate membership of the scheme.

An employee can leave the LGPS at any time by giving the employer notice in writing, although there will only be entitlement to a refund of contributions if left within 2 years of joining. If it is decided to opt-out, it is possible to opt back into the scheme provided the member is under age 75.

Contribution rates depend on how much the salary is but will be between 5.5% and 12.5% of actual pay. The rate paid depends on which pay band the salary falls into. Contributions to the LGPS will attract tax relief at the time they are deducted from pay and will be contracted out of the State Second Pension scheme (S2P). Whilst a member of the LGPS, prior to State pension age, contributors pay reduced National Insurance contributions.

The employer pays the balance of the cost of providing members benefits in the LGPS. Every three years an independent review is undertaken to calculate how much the employer should contribute to the scheme. Increases or decreases in the cost of providing the scheme may, in future, need to be shared between members and employers, in accordance with government guidance.

Extra payments can be made to increase retirement benefits. This can be done either by paying Additional Pension Contributions (APCs) to buy extra LGPS pension or by making payments to the scheme's Additional Voluntary Contributions (AVCs) arrangement. Payments can also be made to a personal pension or stakeholder pension or free-standing AVC scheme of choice.

The LGPS provides statutory pension increases. This means that on retiring on or after age 55, pension benefits will be increased each year in line with the cost of living. Ill health pensions are increased each year in line with the cost of living regardless of age.

Benefits are calculated differently for membership before 1st April 2008, 1st April 2008 to 31 March 2014, and from 1 April 2014 onwards. For LGPS membership built up to 31st March 2008 an annual pension based on 1/80th of final year's pensionable pay and an automatic tax-free lump sum of three times the pension is received. For LGPS membership built up between 1st April 2008 and 31st March 2014, an annual pension based on 1/60th of final year's pensionable pay is received. For LGPS pension built up from 1st April 2014, the member builds up annual pension each year worth 1/49th of that year's pensionable pay.

The introduction of the new Local Government Pension Scheme from 1st April 2014 requires all employers to review existing pension policies and consider compulsory and non-compulsory "discretions" and publish new policy statements that are effective from 1st April 2014.

Compulsory discretions:

The following numbered points are to be considered and can be decided on the basis of affordability to the Council for example, or compassionate grounds towards the employee.

1) Power to Award Additional Pension (Regulation 31)

- An employer can award an additional pension of up to £6,500 a year to an active member.
- An award may also be made within six months of leaving to members who have left on the grounds of redundancy or business efficiency.
- The employer will pay a one off contribution in order to buy a set amount of additional pension.

The Council decided that:

- ***Additional pension will not be awarded in any circumstances***

2) Power to Share the Cost of Additional Pension Contributions (Regulation 16[2e] [4d])

- An employer can agree to meet some of the cost when an active scheme member wishes to increase their pension by up to £6,500 per annum.

- The employer can make a one off or regular additional regular pension contribution at any proportion agreed.

NOTE: An employee cannot commence an additional pension contribution in this circumstance if they are in the 50/50 section (i.e. a period of paying reduced contributions), and, for unpaid leave absences, this is not discretionary – there are different conditions (e.g. the additional pension contributions must continue to be paid even in the 50/50 section).

The Council decided that it:

- ➢ **Will not consider a cost share in any circumstance**

3) Power to Allow Flexible Retirement (Regulation 30 [6])

- An employer can allow a member aged 55 or more to draw all of the pension benefits they have already built up whilst still continuing in employment.
- This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade.
- In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives the reduction, either fully or in part, or a member has protected rights.
- The employer will pay any cost for early payment of the benefits, including the additional costs of waiving any early payment reduction.

The Council decided that:

- ➢ ***Flexible retirement would not be allowed***

4) Power to Waive Actuarial Reductions (Regulation 30 [8])

- An employer can agree to waive any actuarial reduction on pre-2014 benefits on compassionate grounds, and/or waive on any grounds all, some or none of the reductions on post-2014 benefits
- The employer will pay for the cost of waiving the reductions

The Council decided that it:

- ➢ ***May waive the actuarial reduction in exceptional circumstances***

5) Power to Switch on the 85-year Rule (LGPS Regulations 2014 [Transitional Provisions, Savings and Amendments – paragraph 2 (2) of schedule 2])

- The employer can agree to apply the 85-year rule to pre 1st April 2014 accrued benefits (subject to a minimum actuarial reduction to age 60.) [There will be no 85-year rule on post 2014 benefits.]
- The 85-year rule does not automatically apply if the employee decides to voluntarily draw benefits on or after age 55 and before age 60 – but the employer can agree to apply the 85-year rule to the pre 1st April 2014 accrued benefits.

- If it is decided to switch on the 85-year rule, the employee will not receive the reduction on their protected membership even if they are leaving before age 60. The employer will cover the cost of this.

The 85-year rule applies to employees who reach the age of 60 by 31st March 2016. It is when your age and length of pensionable service total 85 or more. If the employee reaches 60 after 1st April 2016 and opt to take their pension between age 60 and 65 then their benefits will be reduced in proportion to the lesser of the number of years and days that you would meet the 85 year rule, or the number of years and days that you would reach your normal retirement date.

The Council decided that it:

- ***Will not switch on the 85-year rule in any circumstances***

6) Power to Allow Early Payment of Pension to Post 31st March 2008 / Pre – 1st April 2014 Leavers (Regulation B30 (2) (5).B30A.(3).(5)

An employer can allow the early payment of deferred benefits to those with pre-2014 benefits between ages 55 and 59. They may also allow early payment of pensions to former employees who were in receipt of a tier three ill health pension which has since been suspended. In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives the reduction on compassionate grounds or a member has protected rights.

NOTE: A member with deferred benefits or who retires with a tier three ill health pension can apply for their pension on ill health grounds at any age. This is not an employer discretion; the employer must have the member assessed by an independent medical practitioner and make a decision based on the ill health certificate.

The Council decided that:

- ***Early payment of deferred benefits, including suspended tier three ill health pensions, will not be considered***

Non-compulsory discretions were noted

1) Membership Aggregation Regulation 22 (7)(b), (8)(b)

- If a member has previous LGPS membership then they will need to make a decision about whether it is combined with their new LGPS membership.
- The election to keep separate pension benefits must be made within 12 months of becoming an active member, who must be active at the date of election.
- An employer may allow a period of longer than 12 months.

2) Transfer of Pension Rights Regulation 100 (6)

- Where an active member requests to transfer previous pension rights into the LGPS, the member must make a request within 12 months of becoming an active member.
- An employer may allow a longer period than 12 months.