Launceston Town Council

Local Government Pension Scheme Employers (Pension) Discretion Policy

2023

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Prepared By:	Christopher Drake Town Clerk

Employer Discretion Policy

Launceston Town Council as an employer is under a legal duty from 1 April 2008 to prepare and publish a written statement of its policy relating to certain discretionary powers which apply to the Local Government Pension Scheme (LPGS). The Town Council is a local authority for the purpose of the regulations.

This statement sets out the Council's policy regarding the following regulations.

- The Local Government Pension Scheme Regulations 2008 (Benefits, Membership and Contributions) (as amended).
- The Local Government Pension Scheme Regulations 2013.
- The Local Government Pension Scheme (Transitional Pensions and Savings) Regulations 2014.

The following discretions available should be implemented in compliance with the above Regulations. It is understood that the stated discretions are applicable to all eligible members of the Local Government Pension Scheme. Falmouth Town Council will keep this policy statement under review and will make revisions as appropriate.

Under the Local Government Pension Scheme Regulations 2013 the following discretions will apply:

Regulation 16 (2) (e) & 16 (4) (d)	**Power of an employing Authority to contribute to a shared cost APC scheme**
Explanation	An employer may resolve to contribute to an Additional Pension Contribution scheme at a defined rate in a given set of circumstances. The rate and the circumstances applicable must be defined.
Policy	The Council will not fund any employee's additional Pension Contributions either in whole or in part on the basis of cost.

Regulation 17 (1)	**Power to share cost of AVC**
Explanation	In regard to Shared Cost Additional Voluntary Contributions, whereby the employer can choose to share the cost of an employee's AVC.
Policy	The Council will not contribute to any shared Cost Additional Voluntary Contributions Scheme.

Regulations 30(6)	Flexible Retirement
Explanation	A member who has attained the age of 55 and who, with their employer's consent, reduced the hours they work, or the grade in which they are employed, may make a request in writing to receive all or part of their benefits under these Regulations. The employer may pay those benefits to them not withstanding that they have not retired from that employment. If the payment of benefit takes effect before State Pension Age, the benefits payable are reduced in accordance with guidance issued by the Government Actuary. The employer may, however, agree to waive, in whole or part any such reduction.
Policy	The Council offers flexible retirement to all employees aged 55 or over on a business case basis. This will include the discretion to waive the reduction where savings from the flexible retirement will offset any actuarial strain within a two-year payback period.

Regulations 30 (8)	Waiving of Actuarial Reduction.
Explanation	To agree to waive, in whole or in part, any reduction that would otherwise be made on the early payment of a pension to a former employee aged 55 or to the pension paid to an employee allowed to take flexible retirement under Regulation 30 (6) of the Pensions Regulations.
Policy	The Council will consider whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement only in exceptional circumstances, deciding each case on its merits and business case. The Staffing Committee will be responsible for consideration and determination of requests.

Regulations 31	Additional Pension for redundant/business efficiency leavers.
Explanation	An employer can 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.).

Policy	The Council may consider granting additional pension payment to an active member dismissed by reason of redundancy or business efficiency assessed on a case-by-case basis.

Under the Local Government Pension Scheme (Transitional Provisions & Savings) Regulations 2014) the following discretions will apply:

Regulation 11(2)	**Flexible Retirement.**
Explanation	A member who has attained the age of 55 and who, with their employer's consent, reduced the hours they works, or the grade in which they are employed, may make a request in writing to receive all or part of their benefits under these Regulations. The employer may pay those benefits to them not withstanding that they have not retired from that employment. If the payment of benefit takes effect before State Retirement Age, the benefits payable are reduced in accordance with guidance issued by the Government Actuary (unless subject to Taper protection). The employer may, however, agree to waive, in whole or part any such reduction.
Policy	The Council will consider whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement only in exceptional circumstances, deciding each case on its merits and business case. The Staffing Committee will be responsible for consideration and determination of requests.

Sch 2, para 2(2)	**Rule of 85 switch.**
Explanation	An employer has discretion to 'switch on' the year of 85 rule for a member voluntarily drawing benefits on or after age 55 and before age 60.
Policy	The Council will agree to 'switch on' the 85 year rule on a case by case basis, having consideration of the cost to the Council.

Sch 2, para 2(3)	Actuarial reduction.
Explanation	An employer has discretion to waive, on compassionate grounds the actuarial reduction applied to benefits from pre 1/4/14 membership where the employer has 'switched on' the year of 85 Rule for a member voluntarily drawing benefits on or after age 55 and before age 60.
Policy	Requests will be considered by the Staffing Committee. A decision to waive any actuarial reduction will be considered in exceptional circumstances on compassionate grounds.

Under the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) the following discretions will apply:

Regulation 12	Power of an employing Authority to increase total membership of active scheme members.
Explanation	An employer may resolve to increase the total membership of an active member. A member's total additional membership under this regulation must not exceed 10 years.
Policy	The Council will only exercise this discretion in exceptional circumstances.

Regulations 30(2) & 30(5)	Choice of early payment of pension.
Explanation	With an employer's consent, a member leaving local government employment aged at least 55, but before normal retirement age, or age 60, may choose to receive payment of their retirement benefits immediately. Their pension will be reduced by amounts shown as appropriate by the Government actuary.
Policy	Requests will be referred to the Staffing Committee. These will be considered on a case to case basis, taking into account factors including cost. In regard to waiving the actuarial reduction on compassionate grounds these will be considered by the Staffing Committee only in exceptional circumstances.

Regulation 30A (3) and 30A (5)	Choice of Early Payment of Pension.
Explanation	Power of employing authority to consent to a person's choice of early payment of pension in the case of a pensioner member with deferred benefits
Policy	The Council may consider granting early payment of suspended tier 3 ill health pension in exceptional circumstances. The Council may consider whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under Regulation 30A in exceptional circumstances.

Under the Local Government Pension Scheme Regulations 1997 the following discretions will apply:

Regulations 31(2)	Post 31.3.98/pre 1.4.08 Early payment of benefits
Explanation	The Council can grant an application from a post 31.3.98/pre 1.4.08 leaver or from a Councillor for early payment of benefits on or after age 50/55 and before 60.
Policy	The Council will not generally support granting early payment of deferred pension, but will consider each case on its merits and business case and may grant early payment of deferred pension in exceptional cases.

Regulations 31(5)	Post 31.3.98/pre 1.4.08 Actuarial reduction
Explanation	The Council can waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31.3.98/pre 1.4.08 leaver or from a Councillor. Benefits paid on or after age 50 and before age 55 are subject to an unauthorised payments charge and, where applicable, an unauthorised payments surcharge under the Finance Act 2006.
Policy	The Council will consider each case on its merits and may waive, on compassionate grounds, the actuarial reduction applied to benefits paid under Regulation 31(2) in exceptional circumstances.

Regulation 31(7A)	Optants out NRD agreement
Explanation	Councillor optants out and pre 1.4.08 employee optants out only to get benefits paid from NRD if employer agrees.
Policy	The Council will allow to agree for employee optants to get benefits paid from NRD only if there is no additional costs to the Council, except in exceptional circumstances.

Other Discretions we choose to publish:

Formulation of policy in regard to Regulation 5 of the Local Government Pension Scheme (Benefits, members and contributions) Regulations 2007 (as amended) the following discretion will apply:

Regulation 3	Contribution Rate
Explanation	All existing scheme members make contributions to the LGPS at the appropriate rate, based upon salary bands, from their pensionable pay, in each employment in which they are an active member. The contribution rate to be applied to pensionable pay in any financial year is the rate determined by the employer to represent the assumed pensionable pay for the forthcoming year. Where there is a material change to the member's pensionable pay in the course of a financial year the employer may re-determine the contribution rate to be applied in this case.
Policy	The Council will review and change employee contribution rates on a permanent change of pensionable pay where there are fixed payments that are defined for longer than six months.

Regulation 93	Recovery of money owed as a result of misconduct
Explanation	To recover money owing to the former employer where a person has left employment as a result of gross misconduct or a criminal, negligent or fraudulent act or omission in relation to the employment and owes money to the employer arising out of such misconduct, act or omission. NB: If there is a dispute about the amount owed the Council may only recover the money from the employee pension benefits under a Court Order or the award of an arbitrator.
Policy	The Council will normally look to seek to recover any money owing as a result of a former employee's grave misconduct, or criminal, negligent or fraudulent acts or omissions from the employee's pension benefits.