

Local Government Pension Scheme Discretions Policy



Islington Council Pension Fund

Policy Change Control

Policy Owner	Corporate Director of Resources
Approved By	Audit Committee
Date	
Next Revision Due	September 2022
Version	1.2

OVERVIEW

Under the LGPS Regulations, the Fund is required to formally publish its policy on “discretions”.

Unless stated otherwise the references to regulations are set out below:

- The Local Government Pension Scheme Regulations 2013
- The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014
- The Local Government Pension Scheme (Administration) Regulations 2008
- The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 as amended)
- The Local Government Pension Scheme (Transitional Provisions) Regulations 2008
- The Local Government Pension Scheme Regulations 1997 (as amended)
- The Local Government Pension Scheme Regulations 1995

This policy statement clarifies Islington Council’s position on the discretions.

The policy statement applies to all members of staff who are eligible to be members of the LGPS, as defined in the regulations.

No	Subject	Regulations	Description of Discretion	Policy	Recommendation
1	Funding of Additional Pension Contributions	R13 16(2)e	The LGPS regulations allow members to make additional pension contributions (APCs) to the LGPS at their own cost of up to £7,316. In addition it allows for shared costs between the employer and employee. Voluntary funding of additional pension contributions via Shared Cost Additional Pension Contributions (APC) - (by regular ongoing contribution)	Not to fund additional pension via shared cost APC.	No change
2	Funding of Additional Pension Contributions	R13 16(4)(d)	Voluntary funding of additional pension contributions via Shared Cost Additional Pension Contributions (APC) - (by one off lump sum)	Not to fund additional pension via shared cost APC.	No change
3	Funding of Shared Cost AVC	R13 17(1)	The LGPS has a provision within its regulations to allow an employee to enter into an agreement in which the employer can decide to also contribute to their employee's AVC arrangement. This is known as a Shared Cost AVC (SCAVC).	Not to allow an employee to enter into an agreement in which the employer can decide to also contribute to their employee's AVC arrangement.	To consider adopting this measure under a Salary Sacrifice arrangement. If an employee enters into a SCAVC Salary Sacrifice arrangement with their employer, the employers NI contribution returns to HMRC are reduced and the employee makes a saving on both NI contributions and income tax.
4	Flexible retirement	R13 30(6) [Replacing Reg. 18 LGPS Benefit Reg. 2008]	Employees aged 55 or more who reduce their working hours or grade may elect, with the employer's consent, to receive immediate payment of all or part of the retirement pension to which they would be entitled in respect of that employment. (The pension amount will normally be actuarially adjusted although under regulation 30(8) the employer may waive any reduction in whole or part:	To continue with the council's existing provision for flexible retirement. (Policy attached as Appendix 2.)	No change. Current policy allows the flexible retirement of active members of the LGPS with decisions made in agreement with the relevant Service Director and Director of Finance based on the business benefits (with no waiver of actuarial reduction).

No	Subject	Regulations	Description of Discretion	Policy	Recommendation
5	Waiving of actuarial reduction – in cases of flexible retirement	R13 30(8)	<p>Whether to permit flexible retirement for staff aged 55 or over who, with the agreement of the Councils, reduce their working hours or grade and, if so, as part of the agreement whether to:</p> <ul style="list-style-type: none"> • in addition to the benefits the member has accrued prior to 1 April 2008 (which the member must draw if flexible retirement is agreed), permit the member to choose to draw o all, part or none of the pension benefits they accrued after 31 March 2008 and before 1 April 2014, and/or o all, part or none of the pension benefits they accrued after 31 March 2014, and • waive, in whole or in part, any actuarial reduction which would otherwise be applied to the benefits taken on flexible retirement before Normal Pension Age (NPA). <p>[Regulation 30(6) of the LGPS Regulations 2013]</p>	<p>The Council will permit flexible retirement where the Service Director in consultation with the Director of Finance agree that this is proven to be in the best financial and/or operational interests of the Council. The Councils' approval will normally be for the release of all accrued pension benefits but, if requested by the member, the Councils may decide on whether, in addition to any pre 1 April 2008 benefits, the member will be permitted to take all, some or none of their post 31 March 2008 benefits subject to any state scheme guarantees being invoked that could cost the pension funds extra pension. Any actuarial reduction applicable to benefits will normally be applied unless the financial interests and/or operational interests of the Councils indicate that waiving part or all of that reduction is justified.</p>	No change

No	Subject	Regulations	Description of Discretion	Policy	Recommendation
6	Waiving of actuarial reduction – in cases of voluntary early retirement)	R13 30(8)	An active member can voluntarily retire on or after age 55 and draw pension benefits, as can a deferred member on or after age 55 [Regulation 30(5)]. The pension amount in both cases will normally be actuarially adjusted. Employers may agree to waive all or part of the actuarial reduction in each case. Waiving the reduction would require the Council to make a payment to the pension fund for the shortfall (pension strain) created by paying the pension early without reduction.	Not to apply the discretion to waive all or part of any actuarial reduction in respect of Regulation 30(5)	To consider in the case of Regulation 30(5) waiving all or part of any actuarial reduction in very exceptional circumstances: i) where for an active member immediately prior to retirement, there is a clear financial or operational advantage with each case considered on its merits and subject to the approval of the relevant Service Director and Director of Finance). (e.g. in the case of an active member) in circumstances where redundancy is not an immediate option, but potentially possible in the medium term, there could be a cost saving) or ii) on compassionate grounds (See Appendix 4 for criteria to consider on compassionate grounds) Subject to in all cases to there being no detrimental impact on services.

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7	Waiving of actuarial reduction – in cases of flexible retirement	R13 30(8)	<p>Whether to permit flexible retirement for staff aged 55 or over who, with the agreement of the Councils, reduce their working hours or grade and, if so, as part of the agreement whether to:</p> <ul style="list-style-type: none"> • in addition to the benefits the member has accrued prior to 1 April 2008 (which the member must draw if flexible retirement is agreed), permit the member to choose to draw o all, part or none of the pension benefits they accrued after 31 March 2008 and before 1 April 2014, and/or o all, part or none of the pension benefits they accrued after 31 March 2014, and • waive, in whole or in part, any actuarial reduction which would otherwise be applied to the benefits taken on flexible retirement before Normal Pension Age (NPA). <p>[Regulation 30(6) of the LGPS Regulations 2013]</p>	<p>The Council will permit flexible retirement where the Service Director in consultation with the Director of Finance agree that this is proven to be in the best financial and/or operational interests of the Council. The Councils' approval will normally be for the release of all accrued pension benefits but, if requested by the member, the Councils may decide on whether, in addition to any pre 1 April 2008 benefits, the member will be permitted to take all, some or none of their post 31 March 2008 benefits subject to any state scheme guarantees being invoked that could cost the pension funds extra pension. Any actuarial reduction applicable to benefits will normally be applied unless the financial interests and/or operational interests of the Councils indicate that waiving part or all of that reduction is justified.</p>	No change

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8	Award of additional pension	R13 31 [replacing Reg12 LGPS Benefits Reg. 2008 which allowed an additional £5,000 per annum]	An employer may award an active member, or a member who was an active member who was dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency, additional annual pension of up to £7,316 from 1st April 2021. (NB. This figure is increased each year, in line with the Regulations.	Not to fund additional pension via added contributions of up to £7,316 (as at 1st April 2021).	No change
9	Waiving of actuarial reduction by switching on the 85 year rule for scheme members wishing to voluntarily draw benefits early	The LGPS (Transitional Provisions and Savings) Regulations 2014	An active member is able to retire without the employer's permission between age 55 and before age 60 and their pension benefits will normally be subject to an actuarial reduction to meet the strain on the pension fund. In cases where the employee is protected under the 85 year rule (a scheme member on 30 September 2006), the employer has discretion to waive the actuarial reduction by switching on the 85 year rule if an employee voluntarily requests to draw their pension benefits and the pension strain cost is met by the employer. (i.e. age at retirement and length of service add up to 85)	Not to switch on the 85 year rule for those who retire before the age of 60. Currently the 85 year rule is switched off.	To consider switching on the 85 year rule in very exceptional circumstances where there is a clear financial or operational advantage' with each case considered on its merits and subject to the approval of the relevant Service Director and Director of Finance.
10	Waiving of actuarial reduction by switching on the 85 year rule for deferred members wishing to voluntarily draw benefits early	Section 1(1)(c) & 1(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014	A member with a deferred benefit who left the scheme voluntarily between 1 April 2008 – 31 March 2014 and who has subsequently become a deferred pensioner may now claim their benefits from age 55 without their employers consent. However, these benefits will be reduced for early payment. Where a member has reached the 85 year rule at the point of retirement, an employer can consent to switching on the 85 year rule. Any 'strain' to the Fund will be payable immediately by the Scheme employer.	Not to switch on the 85 year rule for those members with deferred benefits who voluntarily draw benefits on or after age 55 and before age 60 or upon the voluntary early payment of a suspended tier 3 ill health pension.	No change

No	Subject	Regulations	Description of Discretion	Policy	Recommendation
11	Waiving of actuarial reduction by switching on the 85 year rule for deferred members wishing to voluntarily draw benefits early	R13 Section 1 (1) (f) & 1 (2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) regulations 2014	Deferred members who left the scheme after 1 April 1998 are now able to voluntarily retire between ages 55 and 60. If they were a member of the LGPS on 30 September 2006 then some of their benefits could be protected from reductions applied to early payment under the 85 year rule. This rule only applies automatically to members voluntarily retiring from age 60 but the ceding employer has the discretion to “switch it on” for voluntary retirements between age 55 and 60. Where the employer does not choose to “switch on” the rule, then benefits built up would be subject to reduction.	Not to switch on the 85 year rule for those members with deferred benefits who voluntarily draw benefits on or after age 55 and before age 60	No change
12	Waiving of actuarial reductions on compassionate grounds	R13 31(5) of the LGPS Regulations 1997 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014].	Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to benefits which are paid before age 65? Employers can agree to waive any actuarial reductions on compassionate grounds due in the case of employees who ceased active membership between 1 April 1998 and 31 March 2008.	Not to apply the discretion to waive all or part of any actuarial reduction in respect of Regulation 30(5).	To consider in the case of Regulation 30(5) waiving all or part of any actuarial reduction in very exceptional circumstances subject to the approval of the relevant Service Director and Directors of Finance and HR.

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13	Right to terminate admission agreement	R13 Sch2	The Council has the right to terminate an admission agreement in prescribed circumstances.	The Council shall retain the right to terminate an admission agreement in the event of: (a) The insolvency, winding up or liquidation of the admission body, (b) A material breach by the admission body of any of its obligations under the admission agreement or these Regulations which has not been remedied within a reasonable time, or (.c) A failure by the Employer to pay any sums due to the fund within a reasonable period after receipt of a notice from Islington Council.	No change
14	Medical examination required for purchase of APC	R13 16(10)	The Council has the right to require a member to undergo a medical examination at their own expense to prove that the member is in reasonably good health.	No medical report required to take out APC.	Introduce a requirement for members to provide a satisfactory medical report to ensure they can be reasonably expected to complete the contract undertaken and will not retire due to a pre-existing medical condition on health grounds. No medical shall be required if the member is paying for the additional pension by means of a lump-sum payment.

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15	Pension Abatement	[Regulation 3(13) LGPS (Transitional Provisions, Savings & Amendment) Regulations 2014 & regulations 70(1) 71(4)(c) of the LGPS (Administration) Regulations 2008]	Whether to abate pensions upon re-employment.	The Council will not abate pensions upon re-employment as agreed at September 2016 Audit Committee. Any pensions that have previously been abated following re-employment will cease to be abated with effect from the Audit Committee decision.	No change
16	Child's Pension - break in full-time education	[Reg. 17(9) of the LGPS (Transitional Provisions, Savings & Amendment) Reg. 2014 & definition in Sch 1 of the LGPS R13]	Whether to treat a child as being in continuous full-time education or vocational training despite a break.	Islington Council will not treat a break of a single period not exceeding one academic year in a child's education as a disqualifying condition for the restart of a suspended pension. The Council will restart a suspended child's pension at the end of such a break or gap, providing confirmation from the relevant educational body is received that education/training has resumed.	No change
17	Joining LGPS membership	R13 22(8)(b)	Whether to extend the 12 month option period for a member to elect that post 31 March 2014 deferred benefits should not be aggregated with a new employment	The Council do not extend the normal time limits, except in exceptional circumstances where it may be reasonable, e.g. where an election was made in time, but not received by the Pension Fund	No change

No	Subject	Regulations	Description of Discretion	Policy	Recommendation
18	Joining LGPS membership	R13 22(7)(b)	Whether to extend the 12 month option period for a member to elect that post 31 March 2014 deferred benefits should not be aggregated with an going concurrent employment	The Council do not extend the normal time limits, except in exceptional circumstances where it may be reasonable, e.g. where an election was made in time, but not received by the Pension Fund	No change
19	Pensionable Pay	R13 21(5A) (5b)	Whether to decide to substitute a higher level of assumed pensionable pay when the preceding 3 months/12 weeks is materially lower than the level of pensionable pay the member would have normally received.	Where pensionable pay in the 3 month period prior to commencement of APP is materially lower than the level of pay that would normally have been received, the Council will not normally substitute this with a higher level of pensionable pay, except when determining calculations for ill health retirement or death in service.	No change
20	Injury allowances	LG (Discretionary Payments) (Injury Allowance) R11 3(1)	Whether to grant an injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.	The Council does not grant any injury allowance.	No change
21	Transfers into the fund and extension of 12-month time limit	R13 100	Whether to accept a transfer value of pension's rights into the Fund and extend the time limit of 12 months from the date the member first became an active member in their current employment.	The Council do not extend the normal time limits, except in exceptional circumstances where it may be reasonable, e.g. where an election was made in time, but not received by the Pension Fund	No change

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22	Employer Payments - Interest on overdue payments	R13 71	Whether to charge interest on payments by employers which are overdue.	The Council reserves the regulatory prescribed right to require interest to be paid when payments are overdue by more than one month. Interest must be calculated at one per cent above base rate on a day to day basis from the due date to the date of payment and compounded with three monthly rests.	No change
23	Notice to recover costs due to employer's performance	R13 70	Whether to issue the employer with a notice to recover additional costs incurred as a result of the employer's level of performance.	The Council reviews from time to time whether to issue an employer with notice to recover additional costs incurred as a result of the employer's level of performance.	No change
24	Employer consent retirement	R95 D11(2) c	Whether to grant an application for early payment of deferred benefits on or after age 50 and before age 55 on compassionate grounds. Benefits paid before age 55 are subject to an unauthorised payment charge payable to HMRC. (Finance Act 2004 Chapter 5 (208))	The Council will only consider such applications in exceptional circumstances. Please refer to appendix 4.	No change
25	Employer consent retirement	R97 31(5)	Whether to grant an application for early payment of deferred benefits on or after age 50 and before age 55 on compassionate grounds. Benefits paid before age 55 are subject to an unauthorised payment charge payable to HMRC. (Finance Act 2004 Chapter 5 (208))	The Council will only consider such applications in exceptional circumstances. Please refer to appendix 4.	No change