

Appendix 1

Local Government Pension Scheme

Administering Authority Discretions Policy 2022

Policy Change Control

Policy Owner	Corporate Director of Resources
Approved By	
Date	
Next Revision Due	September 2023
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 [prefix R]
- The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [prefix TP]
- The Local Government Pension Scheme (Administration) Regulations 2008 [prefix A]
- The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 as amended) [prefix B]
- The Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [prefix T]
- The Local Government Pension Scheme Regulations 1997 (as amended) [prefix L]
- 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.

Summary of Administering Authority Pension Discretion Changes

1. Funding of Shared Cost AVC.

ISLINGTON COUNCIL - ADMINISTERING AUTHORITY DISCRETIONS – CHANGE:

No	Subject	Regulations	Description of Discretion	Policy	Recommendation
1	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 adopt 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.

ISLINGTON COUNCIL – ADMINISTERING AUTHORITY DISCRETIONS – NO CHANGE :

No	Subject	Regulations	Description of Discretion	Policy	Recommendation
2	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).	No change
3	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)	No change
4	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.	No change

No	Subject	Regulations	Description of Discretion	Policy	Recommendation
5	Governance compliance statement	R13 55	Governance Compliance Statement must state whether the administering authority delegates its function or part of its function in relation to maintaining a pension fund to a committee, a sub-committee or an officer of the administering authority.	Islington Council has set up the Local Pension Board to ensure that the pension scheme is properly run. The Council has delegated the investment arrangements of the scheme to the Pensions Sub-Committee. See our latest Governance Compliance Statement on: islington.gov.uk/pension-scheme/about-the-fund	No change
6	Funding Strategy	R13 58	Decide on Funding Strategy for inclusion in Funding strategy statement.	See our latest Funding Strategy Statement on: islington.gov.uk/pension-scheme/about-the-fund	No change
7	Communication policy	R13 61	Communication policy must set out the policy on provision of information and publicity to, and communicating with, members, representatives of members, prospective members and Scheme employers; the format, frequency and method of communications; and the promotion of the Scheme to prospective members and their employers.	See our latest Communication Policy on: islington.gov.uk/pension-scheme/about-the-fund	No change
8	Recovery of unpaid employee contributions as debt from benefits	A45	Whether to recover any outstanding employee contributions as debt or as deduction from benefits	The Council will deduct any unpaid employee contributions from the benefits relating to the membership to which the unpaid contributions relate.	No change.

No	Subject	Regulations	Description of Discretion	Policy	Recommendation
9	Employer strain payments	R13 68(2) TP Sch 2, Para 2(3) L 80(5)	Whether to require any strain on Fund costs to be paid “up front” by an employer following redundancy / business efficiency, flexible retirement, or the waiver (in whole or in part) of any actuarial reduction on voluntary or flexible retirement, or the waiver of an actuarial reduction on compassionate grounds under TP Sch 2, para 2(1).	The Council will recharge all strain on the fund costs in accordance with the Rates and Adjustment Certificate and guidance produced by the Fund Actuary. Payment should normally be made at the end of the financial year in the form of lump sum.	No change
10	Employer Payments	R13 69(4)	Decide form and frequency of information from employers to accompany payments to the Fund	Information should be provided on a monthly basis unless a less frequent basis is agreed with the Head of Pensions & Treasury.	No change
11	Appeal to the Secretary of State	R13 79 & A63	Whether to appeal to the Secretary of State against an employer decision or lack of an employer decision	The Council will appeal to the Secretary of State if it believes an employer has made (or failed to make) a decision that is both wrong in law and material	No change
12	Admission Agreement	R3(1A), R3(5) & RSch 2, Part 3, para 1 A	Whether to agree to an admission agreement with a body applying to be an admission body.	The Council will enter into an admission agreement with an admission body that is regarded as having a community of interest, provided it is satisfied about the long-term financial security of the body and it has a public sector guarantee.	No change

No	Subject	Regulations	Description of Discretion	Policy	Recommendation
13	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
14	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
15	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
16	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
17	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

No	Subject	Regulations	Description of Discretion	Policy	Recommendation
18	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
19	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.	No change

No	Subject	Regulations	Description of Discretion	Policy	Recommendation
20	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
21	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
22	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
23	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
24	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
25	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
26	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

No	Subject	Regulations	Description of Discretion	Policy	Recommendation
27	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
28	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
29	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
30	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

No	Subject	Regulations	Description of Discretion	Policy	Recommendation
31	Information to be supplied by Employers	TP23, TP22(1) & R80(1)(b)	Specify information to be supplied by employers to enable administering authority to discharge its functions.	Information to be supplied by employers is specified on the Council's pension webpages: islington.gov.uk/jobs-and-careers/council-pension-scheme/employer	No change
32	Death Grant Payments	R13 95	Whether to pay the whole or part of the amount that is due to the personnel representatives (including anything due to the deceased member at the date of death) to: <ul style="list-style-type: none"> personal representatives, or anyone appearing to be beneficially entitled to the estate without need for grant of probate / letters of administration where payment is less than amount specified in s6 of the Administration of Estates (Small Payments) Act 1965.	The Council has absolute discretion as to whom any sum will be paid but in general would do its best to act in accordance with any wishes that the deceased member expressed. To assist the Council, members are encouraged to complete an Expression of Wish form to nominate one or more individuals and also any organisation, to receive all or a share of your death grant.	No change
33	Approving medical advisors	R95 D11(2) c	The Administering Authority is required to approve medical advisors used by employers	The Council accepts the choice of all the fund employers to appoint their own Occupational Health Doctors. Any Doctor signing an ill-health certificate must be qualified in Occupational Health Medicine as stipulated in the pension scheme regulations.	No change
34	Double entitlement	R 49(1)(c) B 42(1)(c)	Decide, in the absence of an election from the member, which benefit is to be paid where the member would be entitled to a benefit under 2 or more regulations in respect of the same period of Scheme membership.	The authority to determine and notify the member of the provision under which benefits are to be awarded will be delegated to the Pensions Manager.	No change

No	Subject	Regulations	Description of Discretion	Policy	Recommendation
35	Concurrent aggregation	TP 10(9)	Where there are multiple ongoing employments, in the absence of an election from the member within 12 months of ceasing a concurrent employment, decide to which record the benefits from the ceased concurrent employment should be aggregated.	The authority to determine this is delegated to the Pensions Manager. (The assessment will be based on which of the concurrent employments continuing immediately after leaving the employment in question is considered the main ongoing employment. This assessment being made based on which employment has the greatest annual rate of pensionable pay based on pay that would be pensionable under Regulation 20 of the LGPS Regulations 2013).	No change
36	Final Pay	TP 3(6), 4(6)(c), 8(4), 10(2)(a) & 17(2)(b) B 10(2)	Where member to whom B10 applies (use of average of 3 years pay within the period of 13 years ending with the last day of active membership for final pay purposes) dies before making an election, whether to make that election on behalf of the deceased member.	The pay figure that will provide the greatest benefit will be applied in all cases.	No change
37	Determination over value of exit payment	R 64(2ZB)	Determine the amount of an exit credit, which may be zero, when an employer becomes an exiting employer in the Fund with a funding surplus.	Delegated to the Head of Pensions & Treasury and to be agreed in consultation with the Fund Actuary.	No change
38	Revised Rates & Adjustment Certificates	R64(4)	Whether to obtain revision of employer's contribution rate if there are circumstances which make it likely a Scheme employer will become an exiting employer.	Delegated to the Head of Pensions & Treasury and to be agreed in consultation with the Fund Actuary.	No change

