GAINSBOROUGH TOWN COUNCIL

Pensions Discretions Policy

Contents

Document History
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1. Overview

The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014. The provisions of the new LGPS, together with protections for members benefits accrued before 1 April 2014, are now contained in the Local Government Pension Scheme Regulations 2013 (the **'LGPS Regulations 2013**') and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (the **'LGPS Transitional Regulations 2014'**) (as at 14th May 2018).

Therefore, this policy now relates to the application of discretions under:

(a) the **LGPS Regulations 2013**;

(b) **LGPS Transitional Regulations 2014**; and

(c) the Local Government Pension Scheme Regulations 1997 ('**LGPS Regulations 1997'**) and the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (**'LGPS Benefits Regulations 2007'**), which continue to have effect in so far as is necessary under *Regulation 3 (Membership before 1 April 2014) of the LGPS Transitional Regulations 2014.*

2. Introduction

Under *Regulation 60 (statements of policy about exercise of discretionary functions) of the LGPS Regulations 2013* and *paragraph 2(2) of Schedule 2 of the LGPS Transitional Regulations 2014*, employers are required to make and publish policy statements on how they will exercise **five specific mandatory discretions**.

In addition there are **two further discretions** relevant to employers, which relate to members who left before 1 April 2014. These are under *Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008* (in respect of leavers between 1 April 2008 and 31 March 2014) and under *Regulation 106 of the LGPS Regulation 1997* (in respect of leavers between 1 April 1998 and 31 March 2008).

Any policy statements made must not limit, or 'fetter' how an employer uses any of the discretions afforded by the scheme.

The use of any discretion is likely to lead to immediate and potentially continuing increased pension costs for the employer, which could be considerable.

The Council will keep its policy under review and make such revisions as are appropriate.

In formulating and revising the policy statements outlined below, the Council will have regard to the extent to which the exercise of its discretionary powers could lead to a serious loss of confidence in the public service.

3. Scheme Employer Discretions

Specific discretions under the LGPS Regulations 2013 and the LGPS Transitional Regulations 2014

1. Shared cost Additional Pension Contributions - Regulation 16 (2)(e) and 16 (4)(d)

Note: Where an active member pays Additional Pension Contributions by regular or lump sum contribution to purchase extra annual pension, an employer can choose to *voluntarily contribute towards the cost of purchasing that extra pension through a SCAPC*

COUNCIL POLICY

The Council does not consider contribution towards additional pension contributions to be an essential part of its employment strategy. However, **the Council** will consider applications made under these specific provisions having regard to **the Council's** general policy from time to time, on the employee pay strategy and the particular circumstances surrounding each case.

It is likely that decisions will be made on the merits of each case having particular regard to factors such as:

- **the Council`s** ability to meet the cost of granting such a request; and/or
- the member's personal circumstances.

2. Awarding Additional Pension - Regulation 31

Note: Regulation 31 allows employers to grant additional pension up to the maximum allowed by the scheme rules provided that the member is active ***or*** *is within 6 months of leaving* ***for reasons of*** *redundancy* ***or*** *business efficiency* ***or*** *whose employment was terminated by mutual consent on grounds of business efficiency.*

The Council may wish to use this Regulation as an aid to recruitment, an aid to retention or to compensate or reward an employee who is retiring.

The Council should also consider provisions of this Regulation, in particular Regulation 31(4), if they decide to exercise their power under ***Section 1 (general power of competence) of the Localism Act 2011.***

COUNCIL POLICY

The Council will consider applications made under this *Regulation* having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to the following:

- the member's personal circumstances;
- the interests of **the Council;**
- the additional contributions due to the Fund by **the Council** in respect of the exercise of this discretion;
- any potential benefits or savings to **the Council** arising from the exercise of this discretion;
- other options that are, from time to time, available under **the Council** severance arrangements;
- the funding position of **the Council** within the Fund;
- the ability of **the Council** to meet the cost of granting such an award.

3. Flexible Retirement - Regulation 30(6)

Note: The Council can decide whether to permit a member who has attained the age of 55 to draw all or part of their retirement benefits (both pension and lump sum) whilst continuing in employment and Fund membership provided that:

- *there has been a reduction in hours, or*
- *a reduction in grade.*

The Council may agree to waive any actuarial reductions that apply under Regulation 30(8).

COUNCIL POLICY

The Council will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the operating requirements of the employing department
- **the Council`s** ability to meet the cost of granting such a request
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place from time to time can be made
- the member's personal circumstances.
- whether to permit the member to choose to draw all, part or none of the pension benefits they have built up after 1 April 2008.

4. Waiving actuarial reductions - Regulation 30(8)

Note: the Council may agree to waive in whole or in part the actuarial reductions that would be required :

- *all of the reductions in respect of pre 1 April 2014 benefits but only on compassionate grounds (paragraph 2 of Schedule 2 of the LGPS Transitional Regulations 2014);*
- *all or some of the actuarial reduction in respect of post 1 April 2014 on any grounds.*

Where 85 year rule protections exist and the member has full or tapered protection the Council can waive all of the reductions but only on compassionate grounds for the service up to the date the 85 year rule protection ends (31 March 2016 (full) or 31 March 2020 (tapered)).

COUNCIL POLICY

The Council will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- **the Council** ability to meet the cost of granting such a request
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place from time to time can be made
- the member's personal circumstances.

Applications for the payment of unreduced benefits for service before 1 April 2014 on the grounds of compassion will be granted if:

- in **the Council's** sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and

- **the Council** can meet the cost of granting such a request.

5. Switching on the 85 rule – Regulation 1(1)(c) of the LGPS Transitional Regulations 2014

Note: The Council can decide to "switch on" the 85 year rule to allow members who have protections under old regulations, and who choose to voluntarily draw their benefits on or after age 55 and before age 60 to receive benefits either unreduced or with a smaller reduction to their 85 year rule date. The Council will be responsible for meeting any strain costs relating to benefits being paid before age 60. If the Council does not "switch on" the 85 year rule the member's benefits will be reduced to age 60 or the date they meet the 85 year rule if later.

COUNCIL POLICY

The Council will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- **the Council's** ability to meet the cost of granting such a request;
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place from time to time can be made;
- the member's personal circumstances.

<u>Further discretions under the LGPS Regulations 1997 and the LGPS Benefits Regulations 2007</u>

6. Early Payment of Deferred Pensions for members who left before 1 April 2014 - Regulation 2 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, *Regulation 30(2) and 30(5) of the LGPS Benefits Regulations 2007 & Regulation 31(2) and Regulation 31(5) of the LGPS Regulations 1997*

Note: From 14 May 2018, all deferred members may voluntarily elect for early payment of their deferred benefits prior to their Normal Retirement Date. An employer can decide on compassionate grounds whether to waive any actuarial reduction to benefits paid before age 65. The Council can decide whether to 'switch on' the 85 year rule where a member has taken voluntarily early payment of deferred benefits from age 55.

COUNCIL POLICY

The Council will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- **the Council`s** ability to meet the cost of granting such a request
- the member's personal circumstances.

Applications for the payment of unreduced benefits on the grounds of compassion will be granted if:

- in **the Council's** sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval; and
- **the Council** can meet the cost of granting such a request.

N.B. Deferred members who left the Scheme before 1 April 2008 can still make application for the early payment of their deferred benefits after age 50 under LGPS rules. However, under HMRC rules such payments would be classed as 'un-authorised' and would be subject to a punitive tax charge.

7. Early Payment of Deferred Pensions for members who left before 1 April 2014 and have ceased to be entitled to a tier 3 ill health benefit - Regulation 2 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, Regulation 30A(3) and 30A(5) of the LGPS Benefits Regulations 2007.

Note: The Council can decide whether to grant early payment to members who have ceased to be entitled to a tier 3 ill health benefit and who are over the age of 55. The Council may on compassionate grounds agree to waive any actuarial reduction to benefits paid before age 65. An employer can decide whether to 'switch on' the 85 year rule where voluntary early payment of suspended tier 3 ill health pension is taken.

COUNCIL POLICY

The Council will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- **the Council** ability to meet the cost of granting such a request
- the member's personal circumstances.

Applications for the payment of unreduced benefits on the grounds of compassion will be granted if:

- in **the Council's** sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval; and
- **the Council** can meet the cost of granting such a request.

Recommended (non-mandatory) LGPS 2013 & 2014 discretions

8. Extending the 12-month time limit for transfer of pension rights – Regulation 100 (6) LGPS Regulations 2013

Note: An employer can decide to extend the 12-month time limit to permit a member to transfer their previous pension rights from another scheme, if an election had not been made within 12 months of joining the LGPS.

COUNCIL POLICY

The Council, will only consider applications made under this Regulation in the most exceptional circumstances and if:

- evidence indicates that the Fund had not informed the member about the transfer within the 12-month time limit; or
- verifiable evidence indicates that the member made an election to transfer within 12 months of joining the LGPS, but the election form was not received by the Fund.

9. Extending the time limit for a member to elect for a Shared Cost Additional Pension Contributions (SCAPCs) – Regulation 16 (16) LGPS Regulations 2013

Note: An employer can decide to extend the 30-day deadline for a member to purchase additional pension by SCAPCs upon return from a period of unpaid absence (other than because of illness or injury, relevant child-related leave or reserve forces leave).

COUNCIL POLICY

The Council will exercise its discretion to allow late payment and decide each case on its individual merits.

10. Determining and reviewing an employee's contribution band – Regulation 9 and Regulation 10 LGPS Regulations 2013

Note: An employer must decide how to allocate the pension contribution band for a new employee, and review at each subsequent April.

COUNCIL POLICY

The Council will determine and review the rate of employee contributions in accordance with Regulation 9 and Regulation 10 of the LGPS Regulations 2013.

11. Whether to include a regular lump sum payment when calculating Assumed Pensionable Pay – Regulation 21 (4)(a)(iv), Regulation 21 (4)(b)(iv), and Regulation 21 (5)

Note: An employer can when calculating Assumed Pensionable Pay decide to include 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.

COUNCIL POLICY

The Council may include any regular lump sum payment received by the member in the 12 months preceding the date the absence began or the ill health retirement occurred.

12. Shared Cost Additional Voluntary Contributions Arrangement (SCAVC) – Regulation 17 (1) and TP 15 (2A) and A 25(3) and definition of SCAVC in R Sch1

Note: An employer can choose to pay for or contribute towards a member's Additional Voluntary Contribution through a SCAVC arrangement.

COUNCIL POLICY

The Council may exercise its discretion to contribute towards a SCAVC arrangement.