



## Local Government Pension Scheme Employer Pension Discretions Policy

December 2024



### Human Resources

Governance		
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## 1. INTRODUCTION

- 1.1 This policy outlines Brent Council's position in relation to the exercise of its discretionary powers under the regulations of the Local Government Pension Scheme (LGPS) 2014. It explains whether and in what circumstances the Council will exercise any of its discretions under the Local Government Pension Scheme 2014 and to set out the approval process for decision making. All local government employers are required to review and update their policy to take account of the changes introduced as part of the LGPS 2014.
- 1.2 This policy covers all council employees who are members of the Local Government Pensions Scheme. However, in the case of school based employees the relevant governing body is responsible for authorising any discretions and meeting any costs in accordance with this policy.

## 2. LEGAL AND BUSINESS CONTEXT

- 2.1 There are a number of other discretions which Scheme employers may exercise under the LGPS Regulations 2013 (see: <http://www.lgpsregs.org/index.php/guides/pdfarchive>).

## 3. POLICY REMIT AND DEFINITIONS

- 3.1 The specific areas where employers will be required to formulate, publish and keep under review, statements of Policy are as follows:
  1. Augmentation of membership
  2. Awarding additional pension
  3. Flexible retirement
  4. Allowing early payment of benefits
  5. Waiving actuarial reduction for early retirement
  6. Transfer of previous service
- 3.2 The specific LGPS Regulations and the proposed regulations and policy statements are detailed below section 4 and in Appendix 1 in a table format.

## 4. DETAIL

### 4.1 Regulations 9 and 10 Pensions Regulations - Whether to vary an employee's contribution bands

Members must pay pension contributions at the appropriate rate set on 1<sup>st</sup> April or the first day of active membership, if later. The employer may vary the contribution rate if there is a change in employment or a material change that affects the member's pensionable pay.

The council will only vary the employee's contribution rate in exceptional circumstances.

### 4.1 Regulation 21(5), 21(5A) and 21(5B) Pension Regulations - Whether to increase assumed pensionable pay in certain specific circumstances

If a member is absent because of illness, child related leave or reserve forces leave their pension benefits may be based on assumed pensionable pay (APP). If, in the employer's opinion, the member's APP is materially lower than their pay in the twelve months preceding

the absence they can either include (1) a “regular” lump sum received during that period or (2) substitute a higher pensionable pay having regard for their earnings in that period.

The council may increase assumed pensionable pay and each case will be considered on its merits.

#### **4.2 Regulations 16(2)(e) and 16(4)(d) Pensions Regulations - Funding of Additional Pension Contributions**

Whether to fund, in whole or in part, a shared cost additional pension contributions (SCAPC) on behalf of an active member by regular contributions (Regulation 16(2)(e)) or by lump sum (Regulation 16(4)(d)).

Note: The amount of additional pension that may be credited to an active member’s pension accounts may not exceed the overall additional pension limit of £8,344 (1<sup>st</sup> April 2024 and uplifted annually).

The council will only contribute towards APCs in exceptional circumstances.

#### **4.3 Regulation 17(1) and Schedule 1 (definition of SCAVC) Pension Regulations - Shared Cost Additional Voluntary Contributions (SCAVCs)**

Whether to contribute towards a Shared Cost Additional Contribution arrangement. Pre-2014 SCAVCs also fall under Regulation 17 by virtue of Regulation 15(2A) Transitional Regulations.

The council will only contribute to SCAVCs in exceptional circumstances.

#### **4.4 Regulation D11(2)(c) of 1995 Regulations - Whether to grant early payment of pension on compassionate grounds (pre-1<sup>st</sup> April 1998 leavers)**

Whether to agree to early payment of pension benefits on or after age 50 on compassionate grounds. The employer should note that pension benefits paid before age 55 may attract an unauthorised payments surcharge and they may have to pay a strain cost because the pension benefits cannot be reduced.

The council will only agree to early payment of pension in exceptional circumstances.

#### **4.5 Regulation 31(1)/(2) of 1997 Regulations - Whether to grant early payment of pension (leavers from 1<sup>st</sup> April 1998 to 31<sup>st</sup> March 2008)**

Whether to agree to early payment of pension benefits on or after age 50 and before age 55 on compassionate grounds. The employer should note that pension benefits paid before age 55 may attract an unauthorised payments surcharge.

The council will only agree to early payment of pension in exceptional circumstances.

#### **4.6 Regulation 30(6), Pensions Regulations and Regulations 11(2) and (3) of Transitional Regulations – Flexible Retirement**

Whether to agree to an employee aged 55 or over reducing their hours of work or their grade so that they may receive all or some of their retirement pension while still employed.

Whether, in addition to any pre-1st April 2008 pension benefits which the member must draw, to permit the member to draw; (a) all, part or none of benefits accrued between 1st

April 2008 and 31st March 2014 and (b) all, part or none of the pension benefits built up after 31st March 2014.

The council will consider applications for flexible retirement in accordance with its published policy and each case will be assessed on its merits.

#### **4.7 Schedule 2 of Transitional Regulations - Switching-on the 85-year rule**

Whether to switch on the 85-year rule under Regulation 1(2) and 1(3) of Schedule 2 of the Transitional Regulations.

The council will only switch-on the 85-year rule in exceptional circumstances.

#### **4.8 Regulation 30(8), Pensions Regulations and Schedule 2 of Transitional Regulations**

(Post 2014) Whether to agree to waive, in whole or in part, any actuarial reduction that would otherwise apply to the pension paid to a former employee aged 55 or over under 30(5) or 30(6) [flexible retirement] using regulation 30(8) of the Pension Regulations.

(Pre-2014) Whether to waive actuarial reductions entirely under 30(5) or 30A(5) [deferred pensioner members] of the Benefits Regulations and Regulation 2(1), of Schedule 2 of the Transitional Regulations.

The council will only waive actuarial reductions in exceptional circumstances.

#### **4.9 Regulation 31, Pensions Regulations - Award of Additional Pension**

To award additional pension at full cost to the employer:

- (1) an active member; or
- (2) a former active member who was dismissed by reason of redundancy, business efficiency or mutual consent on grounds of business efficiency.

Note: Any additional pension awarded (including any additional pension purchased by the employer or the member under Regulation 16 of the Pensions Regulations) may not exceed the overall additional pension limit of £8,344 (1st April 2024 and uplifted annually).

Additionally, in the case of a member falling within (2) above, the resolution to award additional pension must be made within 6 months from the date on which the employment ended.

The council will only award additional pension in exceptional circumstances.

#### **4.11 Regulation 22 (7)(b), Pensions Regulations - Aggregation of Benefits: Concurrent Employments**

Whether to allow an active member with concurrent employments, who ceases an employment with an entitlement to a deferred pension, more than 12 months to elect **not** to have their deferred pension aggregated with their active member's pension account.

The council will only extend the deadline in exceptional circumstances.

#### **4.12 Regulation 22 (8)(b), Pensions Regulations - Aggregation of Benefits: Deferred Member becoming Active Member**

Whether to allow a deferred member who becomes an active member longer than 12 months in which to elect not to have their deferred benefits aggregated with the benefits in their active member's pension account.

The council will only extend the deadline in exceptional circumstances.

**4.13 Regulation 10(6)(b) Transitional Regulations - Aggregation of Benefits: Deferred Member becoming Active Member (pre-2014 membership)**

Whether to allow a deferred member who becomes an active member longer than 12 months in which to elect for their pre-2014 deferred benefits to be aggregated with their active member's pension account (but, technically, they would lose the final salary link if they have not made an election under 5(5) Transitional Regulations within twelve months of becoming an active member of 2013 scheme).

The council will only extend the deadline in exceptional circumstances.

**4.14 A 74(2) - Whether to recover any monetary obligation**

Whether to recover from the Fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights or AVCs/SCAVCs) where the obligation was incurred because of a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left employment.

The council may recover any monetary obligation and each case will be assessed on its merits.

**4.15 Regulation 100, Pensions Regulations - Inward Transfer of Pension Rights**

Whether to allow an employee who has been an active member in their current employment for more than 12 months to ask for the transfer of certain accrued pension rights to be considered.

Note: Regulation 100(6) of the Pensions Regulations requires that a request must be made within 12 months beginning with the date on which the member first became an active member in an employment or such longer period as the employer and the Administering Authority may allow. The discretion is, therefore, only exercisable if both the Employing Authority and the Administering Authority agree.

The council will only extend the deadline in exceptional circumstances.

**4.16 21(7) The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended) - Spouse's CAY pensions**

Whether to cancel the suspension rule where the spouse of a person who ceased employment before 1 April 1998 remarries, enters a new civil partnership or cohabits after 1 April 1998.

The council will not suspend a spouse's CAY pension during remarriage or periods of cohabitation.

4.17 **Regulation 19 The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended) - Compensatory added years (CAY)**

The process to reduce a pensioner's annual compensatory added years' pension and lump sum if, following the cessation of a period of re-employment in local government, they can count more membership than they could have accrued had they worked to 65.

The council may reduce CAY pensions proportionately if a re-employed pensioner can count more membership than they could have accrued had they worked to 65. Any reduction would be based on the excess membership multiplied by the lesser of pay in the original job and pay in the latest job wound back using PI tables. The reduced CAY pension would be suspended until the overpaid CAY lump sum had been recovered.

4.18 **Regulation 5, Compensation Regulations 2006 - Redundancy Payments**

Whether to base redundancy pay on actual pay if it exceeds the statutory maximum under the Employment Rights Act 1996 (£700 per week from 6<sup>th</sup> April 2024).

The council's Managing Change policy is to exercise its discretion to use actual average weekly pay.

The council may pay statutory improved redundancy payments and each case will be considered on its merits.

4.19 **Regulation 6, Compensation Regulations 2006 - Compensation for loss of Employment**

Whether to pay compensation to a person whose employment ceases:

- by reason of redundancy;
- in the interests of the efficient exercise of the employing authority's functions; or in the case of a joint appointment, because the other holder of the appointment leaves

**Note:** Compensation may not be paid under this Regulation if:

- a person has been awarded additional pension by the employer under Regulation 31 of the Pension Regulations (by virtue of the Interpretation Act 1978)
- a person's period of membership of the Pension Scheme has been increased under Regulation 12 of the Benefits Regulations 2007; or
- a person has been awarded an additional pension under Regulation 13 of the Benefits Regulations 2007.
- The amount of compensation paid under this Regulation may not exceed 104 weeks' pay less any redundancy payment payable.
- In all cases the decision to pay compensation under this Regulation must be made no later than 6 months after the date the person's employment terminates.

The council may pay statutory improved redundancy payments and each case will be considered on its merits.

4.20 **14(1) of the Compensation Regulations 2011 - Injury Allowances**

Scheme employers (LGPS employers), **apart from admission bodies**, must formulate, publish and keep under review a policy on:

whether to make an injury award to those who sustain an injury or contract a disease because of anything they were required to do in performing the duties of their job and in consequence of which they:

- suffer a reduction in remuneration, or
- cease to be employed because of an incapacity which is likely to be permanent and which was caused by the injury or disease, or
- die leaving a surviving spouse, civil partner or dependant, and

if the Scheme employer has a policy to make such payments, how it will determine the amount of injury allowance to be paid and whether and when to terminate it. The council will only award injury allowances in exceptional circumstances.

## **5. ROLES AND RESPONSIBILITIES**

### **Employees / Deferred Scheme Members**

5.1 Employees must make requests under this policy in writing to their Corporate Director who will liaise with HR over the approval process.

### **Human Resources / Finance**

5.2 The Director of HR and Organisational Development and Corporate Director, Finance and Resources will consider each request on an individual basis. There will be no automatic consent. Where a request is not approved, reasons for the rejection will be issued to the applicant in writing. If additional pension is awarded under any circumstance, HR and Finance will inform General Purposes Committee and provide justification.

### **Trade unions**

5.3 The role of the trades unions is to represent the views and interests of their members on this policy and associated procedures, as a need arises, and to advise and represent individual members as appropriate.

## **6. APPLICATIONS ON COMPASSIONATE GROUNDS**

6.1 Compassionate grounds can cover a variety of situations and a written application outlining the case should be submitted to the Director of HR and Organisational Development and Director of Finance. All applications on compassionate ground must include supporting documentation as evidence of the circumstance. Brent reserves the right to seek additional information or evidence should it feel necessary. Any application for actuarial reductions in benefits could be waived based on the individual's circumstances.

## **7. MONITORING**

7.1 The applications of the 'discretions' contained in this policy will be reported to CMT and General Purpose Committee annually.

## **8. FURTHER INFORMATION**

8.1 Any clarification in respect of the application of this policy should be sought from Human Resources.



**Appendix 1**

No.	Area	Regulation	Discretion	Policy Summary
1	<b>Whether to vary an employee's contribution band</b>	Regulations 9 and 10 Pensions Regulations	Members must pay pension contributions at the appropriate rate set on 1 <sup>st</sup> April or the first day of active membership, if later. The employer may vary the contribution rate if there is a change in employment or a material change that affects the member's pensionable pay.	The council will only vary the employee's contribution rate in exceptional circumstances.
2	<b>Whether to increase assumed pensionable pay in certain specific circumstances</b>	Regulation 21(5), 21(5A) and 21(5B) Pension Regulations	If a member is absent because of illness, child related leave or reserve forces leave their pension benefits may be based on assumed pensionable pay (APP). If, in the employer's opinion, the member's APP is materially lower than their pay in the twelve months preceding the absence they can either include (1) a "regular" lump sum received during that period or (2) substitute a higher pensionable pay having regard for their earnings in that period.	The council may increase assumed pensionable pay and each case will be considered on its merits.
3	<b>Funding of Additional Pension Contributions</b>	Regulations 16(2)(e) and 16(4)(d) Pensions Regulations,	<p>Whether to fund, in whole or in part, a shared cost additional pension contributions (SCAPC) on behalf of an active member by regular contributions (Regulation 16(2)(e)) or by lump sum (Regulation 16(4)(d)).</p> <p><b>Note:</b> The amount of additional pension that may be credited to an active member's pension accounts may not exceed the overall additional pension limit of £8,344 (1<sup>st</sup> April 2024 and uplifted annually).</p>	The council will only contribute towards APCs in exceptional circumstances.

4	<b>Shared Cost Additional Voluntary Contributions (SCAVCs)</b>	Regulation 17(1) and Schedule 1 (definition of SCAVC) Pension Regulations.	Whether to contribute towards a Shared Cost Additional Contribution arrangement. Pre-2014 SCAVCs also fall under Regulation 17 by virtue of Regulation 15(2A) Transitional Regulations.	The council will only contribute to SCAVCs in exceptional circumstances.
5	<b>Whether to grant early payment of pension on compassionate grounds (pre-1<sup>st</sup> April 1998 leavers)</b>	Regulation D11(2)(c) of 1995 Regulations	Whether to agree to early payment of pension benefits on or after age 50 on compassionate grounds. The employer should note that pension benefits paid before age 55 may attract an unauthorised payments surcharge and they may have to pay a strain cost because the pension benefits cannot be reduced.	The council will only agree to early payment of pension in exceptional circumstances.
6	<b>Whether to grant early payment of pension (leavers from 1<sup>st</sup> April 1998 to 31<sup>st</sup> March 2008)</b>	Regulation 31(1)/(2) of 1997 Regulations	Whether to agree to early payment of pension benefits on or after age 50 and before age 55 on compassionate grounds. The employer should note that pension benefits paid before age 55 may attract an unauthorised payments surcharge.	The council will only agree to early payment of pension in exceptional circumstances.
7	<b>Flexible Retirement</b>	Regulation 30(6), Pensions Regulations  Regulations 11(2) and (3) of Transitional Regulations	Whether to agree to an employee aged 55 or over reducing their hours of work or their grade so that they may receive all or some of their retirement pension while still employed.  Whether, in addition to any pre-1 <sup>st</sup> April 2008 pension benefits which the member must draw, to permit the member to draw; (a) all, part or none of benefits accrued between 1 <sup>st</sup> April 2008 and 31 <sup>st</sup> March 2014 and (b) all, part or none of the pension benefits built up after 31 <sup>st</sup> March 2014	The council will consider applications for flexible retirement in accordance with its published policy and each case will be assessed on its merits.

8	<b>Switching-on the 85-year rule</b>	Schedule 2 of Transitional Regulations	Whether to switch on the 85-year rule under Regulation 1(2) and 1(3) of Schedule 2 of the Transitional Regulations.	The council will only switch-on the 85-year rule in exceptional circumstances.
9	<b>Waiving of Actuarial Reduction to Pensions</b>	Regulation 30(8), Pensions Regulations  Schedule 2 of Transitional Regulations	(Post 2014) Whether to agree to waive, in whole or in part, any actuarial reduction that would otherwise apply to the pension paid to a former employee aged 55 or over under 30(5) or 30(6) [flexible retirement] using regulation 30(8) of the Pension Regulations.  (Pre-2014) Whether to waive actuarial reductions entirely under 30(5) or 30A(5) [deferred pensioner members] of the Benefits Regulations and Regulation 2(1), of Schedule 2 of the Transitional Regulations.	The council will only waive actuarial reductions in exceptional circumstances.
10	<b>Award of Additional Pension</b>	Regulation 31, Pensions Regulations	To award additional pension at full cost to the employer:  (1) an active member; or  (2) a former active member who was dismissed by reason of redundancy, business efficiency or mutual consent on grounds of business efficiency.  <b>Note:</b> Any additional pension awarded (including any additional pension purchased by the employer or the member under Regulation 16 of the Pensions Regulations) may not exceed the overall additional pension limit of £8,344 (1 <sup>st</sup> April 2024 and uplifted annually).	The council will only award additional pension in exceptional circumstances.

			Additionally, in the case of a member falling within (2) above, the resolution to award additional pension must be made within 6 months from the date on which the employment ended.	
11	<b>Aggregation of Benefits: Concurrent Employments</b>	Regulation 22 (7)(b), Pensions Regulations	Whether to allow an active member with concurrent employments, who ceases an employment with an entitlement to a deferred pension, more than 12 months to elect <b>not</b> to have their deferred pension aggregated with their active member's pension account.	The council will only extend the deadline in exceptional circumstances.
12	<b>Aggregation of Benefits: Deferred Member becoming Active Member</b>	Regulation 22 (8)(b), Pensions Regulations	Whether to allow a deferred member who becomes an active member longer than 12 months in which to elect not to have their deferred benefits aggregated with the benefits in their active member's pension account.	The council will only extend the deadline in exceptional circumstances.
13	<b>Aggregation of Benefits: Deferred Member becoming Active Member (pre-2014 membership)</b>	Regulation 10(6)(b) Transitional Regulations	Whether to allow a deferred member who becomes an active member longer than 12 months in which to elect for their pre-2014 deferred benefits to be aggregated with their active member's pension account (but, technically, they would lose the final salary link if they have not made an election under 5(5) Transitional Regulations within twelve months of becoming an active member of 2013 scheme).	The council will only extend the deadline in exceptional circumstances.
14	<b>Whether to recover any monetary obligation</b>	A 74(2)	Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights or AVCs/SCAVCs) where the obligation was incurred because of a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left employment	The council may recover any monetary obligation and each case will be assessed on its merits.

15	<b>Inward Transfer of Pension Rights</b>	Regulation 100, Pensions Regulations	<p>Whether to allow an employee who has been an active member in their current employment for more than 12 months to ask for the transfer of certain accrued pension rights to be considered.</p> <p>Note: Regulation 100(6) of the Pensions Regulations requires that a request must be made within 12 months beginning with the date on which the member first became an active member in an employment or such longer period as the employer and the Administering Authority may allow. The discretion is, therefore, only exercisable if both the Employing Authority and the Administering Authority agree.</p>	The council will only extend the deadline in exceptional circumstances.
16	<b>Spouse's CAY pensions</b>	21(7) The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended)	Whether to cancel the suspension rule where the spouse of a person who ceased employment before 1 April 1998 remarries, enters a new civil partnership or cohabits after 1 April 1998.	The council will not suspend a spouse's CAY pension during remarriage or periods of cohabitation.
17	<b>Compensatory added years (CAY)</b>	Regulation 19 The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended)	The process to reduce a pensioner's annual compensatory added years' pension and lump sum if, following the cessation of a period of re-employment in local government, they can count more membership than they could have accrued had they worked to 65.	The council may reduce CAY pensions proportionately if a re-employed pensioner can count more membership than they could have accrued had they worked to 65. Any reduction would be based on the excess membership multiplied by the lesser of pay in the original job

				and pay in the latest job would back using PI tables. The reduced CAY pension would be suspended until the overpaid CAY lump sum had been recovered.
<b>18</b>	<b>Redundancy Payments</b>	Regulation 5, Compensation Regulations 2006	Whether to base redundancy pay on actual pay if it exceeds the statutory maximum under the Employment Rights Act 1996 (£700 per week from 6 <sup>th</sup> April 2024).	<p>The council's Managing Change policy is to exercise its discretion to use actual average weekly pay.</p> <p>The council may pay statutory improved redundancy payments and each case will be considered on its merits.</p>
<b>19</b>	<b>Compensation for loss of Employment</b>	Regulation 6, Compensation Regulations 2006	<p>Whether to pay compensation to a person whose employment ceases</p> <ul style="list-style-type: none"> <li>• by reason of redundancy;</li> <li>• in the interests of the efficient exercise of the employing authority's functions; or</li> </ul> <p>in the case of a joint appointment, because the other holder of the appointment leaves</p> <p>Note: Compensation may not be paid under this Regulation if:</p> <ul style="list-style-type: none"> <li>• a person has been awarded additional pension by the employer under Regulation 31 of the Pension Regulations (by virtue of the Interpretation Act 1978)</li> </ul>	The council may pay statutory improved redundancy payments and each case will be considered on its merits.

			<ul style="list-style-type: none"> <li>• a person's period of membership of the Pension Scheme has been increased under Regulation 12 of the Benefits Regulations 2007; or</li> <li>• a person has been awarded an additional pension under Regulation 13 of the Benefits Regulations 2007.</li> <li>• The amount of compensation paid under this Regulation may not exceed 104 weeks' pay <u>less</u> any redundancy payment payable.</li> <li>• In all cases the decision to pay compensation under this Regulation must be made no later than 6 months after the date the person's employment terminates.</li> </ul>	
20	<b>Injury Allowances</b>	14(1) of the Compensation Regulations 2011	<p>Scheme employers (LGPS employers), <b>apart from admission bodies</b>, must formulate, publish and keep under review a policy on:</p> <ol style="list-style-type: none"> <li>1. whether to make an injury award to those who sustain an injury or contract a disease because of anything they were required to do in performing the duties of their job and in consequence of which they: <ul style="list-style-type: none"> <li>• suffer a reduction in remuneration, or</li> <li>• cease to be employed because of an incapacity which is likely to be permanent and which was caused by the injury or disease, or</li> </ul> </li> </ol>	The council will only award injury allowances in exceptional circumstances.



			<ul style="list-style-type: none"><li>• die leaving a surviving spouse, civil partner or dependant, and</li></ul> <p>if the Scheme employer has a policy to make such payments, how it will determine the amount of injury allowance to be paid and whether and when to terminate it.</p>	
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