

**LOCAL GOVERNMENT PENSION SCHEME (LGPS) 2014 DISCRETIONS POLICY STATEMENT**

**EPPING FOREST DISTRICT COUNCIL**

**Date: 1 April 2014**

Under the LGPS Regulations 2013, effective from 1 April 2014, all employers participating in the LGPS are required to prepare and publish a written statement on how it will exercise the various discretions provided by LGPS 2014, LGPS 2008, LGPS 1997 and the Compensation and Injury Allowances Regulations.

This document includes discretionary policies for as required by the following Regulations:

- Regulation 60, LGPS Regulations 2013
- Regulation 66, LGPS (Administration) Regulations 2008
- Regulation 106 LGPS Regulations 1997 (for pre 1 April 2008 leavers and/or councillor members as applicable).
- Regulation D11(2)(c) LGPS Regulations 1995 (as amended in relation to pre 1 April 1998 leavers)

**Exceptional Compassionate Grounds**

Financial hardship alone is not deemed sufficient grounds to apply the discretion for early release of pension benefit. For the purposes of this Policy, exceptional compassionate grounds are where an ex-member of the pension scheme has had to give up paid employment to be the sole carer for a severely disabled or seriously ill dependent, and where reasonable additional support is not available.

This Policy will be kept under review.

**Print Name** .....

**Signed** .....

**Position** .....

**Date** .....

## 1. Employer Discretions - Local Government Pension Scheme Regulations 2013

EFDC Ref	Discretion	Regulation	Employer Policy
1a	Whether, how much, and in what circumstances to contribute to a shared cost APC or AVC scheme.	R16(2)(e) & R16(4)(d) R17(1) R15(1)(d)	The Council <b>will not</b> set up a shared cost APC or AVC scheme.
1b	Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement).	R30(6) & TP11(2)	The Council <b>will</b> consent to the payment of benefits on flexible retirement if a member is age 55 and above provided; <ul style="list-style-type: none"> <li>▪ there has been a permanent reduction to their hours by at least 25%; and/or</li> <li>▪ there has been a permanent reduction in grade (excluding the results of job evaluation or redeployment processes); and</li> <li>▪ the request is made within 3 months of the change; and</li> <li>▪ where there is no cost to the Council.</li> </ul>
1c	Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement.	R30(8)	The Council <b>will not</b> waive actuarial reductions on a flexible retirement.
1d	Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age.	R30(8)	The Council <b>will not</b> waive, in whole or part, the actuarial reduction on benefits where a member voluntarily elects to draw his or her benefits before normal pension age.
1e	Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.	TPSch 2, paras 1(2) and 2(2)	The Council <b>will not</b> “switch on” the 85 year rule for a member voluntarily electing to draw benefits on or after age 55 but before age 60.
1f	Whether to waive any actuarial reduction on pre and/or post April 2014 benefits.	TP3(1), TPSch 2, paras 2(1) and 2(2), B30(5) and B30A(5)	The Council <b>will not</b> waive actuarial reductions on pre and or post April 2014 benefits.
1g	Whether to 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 £6,500.00 p. a.).	R31	The Council <b>will not</b> award additional pension to any member

## 2. Additional Employer Discretions – LGPS Regulations 2013

EFDC Ref	Discretion	Regulation	Employer Policy
2a	Determine rate of employee's contributions	R9(1) 7 R9(3)	The Council <b>will</b> allocate employees to a contribution band based on the definition of pensionable pay which will be assessed whenever there is a material change to their pensionable pay. New staff will be allocated a contribution band on the basis of their contracted earnings. Where an employee's Assumed Pensionable Pay (APP) is not clear, i.e. casual staff, they will be placed on the lower percentage contribution rate for the first year and re assessed the subsequent April.
2b	In determining Assumed Pensionable Pay, whether a lump sum payment made in the previous 12 months is a "regular lump sum"	R21(5)	The Council <b>will</b> determine that a bonus paid in a previous year is not a regular payment for the purposes of calculating APP for a future year. (This discretion is currently not applicable as the Council does not pay any employee a bonus).
2c	Extend 12 month time limit for acceptance of a transfer value	R100(68)	The Council <b>will not</b> extend the time limit for acceptance of a transfer value. An active Scheme member will only be permitted to transfer in a previous pension value within 12 months of joining the Council.
2d	Extend 12 month time limit for acceptance of a request not to have deferred benefits aggregated with their new or concurrent LGPS employment	R22(8)(b), R22(7)(b)	The Council <b>will not</b> extend the time limit for acceptance of a request not to aggregate previous deferred benefits with an employee's new or concurrent LGPS employment.
2e	Which employees to nominate for membership (admission bodies only)	R3(1)(c) & R4(2) (b)	This Regulation does not apply to Epping Forest District Council.
2f	Determine whether a deferred beneficiary meets the criteria for ill health pension benefits	R38(3)	The Council <b>will</b> determine in line with the medical assessment undertaken subject to completion of an ill health certificate by an Occupational Health specialist.
2g	Decide to suspend Tier 3 benefit where member is likely to be capable of undertaking gainful employment	R38(6)	The Council <b>will</b> determine in line with the medical assessment undertaken subject to completion of an ill health certificate by an Occupation Health specialist.
2h	Recover any overpayment of Tier 3 ill health pension following commencement of gainful employment	R37(3)	The Council <b>will</b> seek to recover any overpayment where a Tier 3 pension has been paid after gainful employment has commenced, and the ex-employee has failed to disclose this information to the Council.

### 3. Employer Discretions - Local Government Pension Scheme (Administration) Regulations 2008

EFDC Ref	Discretion	Regulation	Employer Policy
3a	Whether to grant application for early payment of deferred benefits on or after age 55 and before age 60.	B30(2)	The Council <b>will</b> determine each application for early release of pension only if there are compelling business reasons to do so. The Council will not waive the percentage reduction applied to the early payments of benefits, where applicable.
3b	Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30.	B30(5)	The Council <b>will not</b> waive any actuarial reductions for early release of deferred benefits.
3c	Whether to grant an application for early payment of a suspended tier 3 ill health pension on or after age 55 and before age 60.	B30A(3)	The Council <b>will not</b> consent to applications for early payment of a suspended tier 3 ill health pension on or after age 55 and before age 60.
3d	Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30(A)	B30A(5)	Where an employee does not meet the 85 year rule their pension may be affected by an 'actuarial reduction'. However, if an employee does not meet the 85 year rule but the Council has agreed to the early release of pension, the Council will meet the financial strain up to an amount of £5,000.
3e	Whether, for a member leaving on the grounds of redundancy or business efficiency on or before 31 <sup>st</sup> March 2014, to augment membership (by up to 10 years). The resolution to do so would have to be made within 6 months of the date of leaving. Hence this discretion is spent entirely after 30 <sup>th</sup> September 2014.	B12	The Council <b>will not</b> increase the years of membership of a member.

### 4. Employer Discretions – Local Government Pension Scheme Regulations 1997 (as amended) in relation to pre 1 April 2008 leavers

EFDC Ref	Discretion	Regulation	Employer Policy
4a	Grant application from a post 31 <sup>st</sup> March 1998/ pre 1 <sup>st</sup> April 2008 leaver for early payment of benefits on or after age 50/55 and before age 60.	31(2)	The Council <b>will</b> determine each application for early release of pension only if there are compelling business reasons to doing so. The Council <b>will not</b> waive the percentage reduction applied to the early payments of benefits, where applicable. Applications for those of age 50-54 will not be considered due to the HMRC ruling that such payments are unauthorised.
4b	Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31 <sup>st</sup> March 1998 / pre 1 <sup>st</sup> April 2008. Leaver.	31(5)	The Council <b>will not</b> waive, on compassionate grounds, the actuarial reduction applied to the early payment of deferred benefits.

## 5. Employer Discretions – Local Government Pension Scheme Regulations 1995 (as amended) in relation to pre 1 April 1998 leavers

EFDC Ref	Discretion	Regulation	Employer Policy
5a	Grant applications for early payment of deferred pension benefits on or before age 50 and before age 65 on compassionate grounds.	D11(2)(c)	The Council <b>will not</b> consent to applications for early payment of deferred benefits from age 55+. Applications for those aged 50-54 will not be considered due to the HMRC ruling that such payments are unauthorised.

## 6. Employer Discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)

EFDC Ref	Discretion	Regulation	Employer Policy
6a	To base redundancy payments on an actual weeks pay where this exceeds the statutory week's pay limit.	5	The Council <b>will</b> base redundancy payments on actual weeks pay.
6b	To award lump sum compensation of up to 104 week's pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment.	6	The Council <b>will</b> award lump sum compensation of one and a half times the statutory entitlement up to a maximum of 45 weeks.

## 7. Discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended)

EFDC Ref	Discretion	Regulation	Employer Policy
7a	How to apportion any surviving spouse's annual compensatory added years payment where the deceased person is survived by more than one spouse	21(4)	The Council <b>will not</b> grant added years upon retirement under any circumstances.
7b	How it will decide to whom any children's annual compensatory added years payments are to be paid where children's pensions are not payable under the LGPS (because the employee had not joined the LGPS) and, in such a case, how the annual added years will be apportioned amongst the eligible children	25(2)	The Council <b>will not</b> grant added years upon retirement under any circumstances.
7c	Whether, in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal pension suspension rules should be dis-applied i.e. whether the spouse's or civil partner's annual	21(7)	The Council approach is not to suspend/abate pension in circumstances of re-marriage, civil partnership or co-habitee where it applies to compensation added years. However, the Council reserves the right to review on a case by case basis, should this be deemed appropriate.

	compensatory added years payments should continue to be paid		
7d	If, under the preceding decision, the authority's policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual compensatory added years payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation	21(5)	The Council reserves the right to re instate any payment of compensatory added years following the end of any remarriage, new civil partnership or cohabitation should this have been the agreed preceding decision. However, the Council reserves the right to review on a case by case basis, should this be deemed appropriate.
7e	Whether and to what extent to reduce or suspend the member's annual compensatory added years payment during any period of re-employment in local government	17	The Council <b>will not</b> reduce or suspend a member's annual compensatory added years during any period of re-employment in local government. However, the Council reserves the right to review on a case by case basis, should this be deemed appropriate.
7f	How to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment in local government	19	The Council <b>will not</b> reduce or suspend a member's annual compensatory added years during any period of re-employment in local government and therefore this discretion decision does not apply.

#### 8. Employer Discretions under the Local Government (Discretionary Payments) (Injury Allowance) Regulations 2011

EFDC Ref	Discretion	Regulation	Employer Policy
8a	Whether to grant an injury allowance following a reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties.	3 (1)	The Council's Policy decision is <b>not</b> to set up an Injury Allowance Scheme at this time.
8b	Amount of 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.	3(4) and 8	The Council's Policy decision is <b>not</b> to set up an Injury Allowance Scheme at this time.
8c	Determine whether person continues to be entitled to an injury allowance awarded under regulation 3(1).	3(2)	The Council's Policy decision is <b>not</b> to set up an Injury Allowance Scheme at this time.
8d	Whether to grant an injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties if the job.	4(1)	The Council's Policy decision is <b>not</b> to set up an Injury Allowance Scheme at this time.
8e	Amount of injury allowance following cessation as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job.	4(3) and 8	The Council's Policy decision is <b>not</b> to set up an Injury Allowance Scheme at this time.
8f	Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1).	4(2)	The Council's Policy decision is <b>not</b> to set up an Injury Allowance Scheme at this time.
8g	Whether to suspend or discontinue injury allowance awarded under regulation 4(1) if person secures paid employment for not less than	4(5)	The Council's Policy decision is <b>not</b> to set up an Injury Allowance Scheme at this time.

	30 hours per week for a period of not less than 12 months.		
8h	Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a reg 3 payment was being made at date of cessation of employment but reg 4 does not apply.	6(1)	The Council's Policy decision is <b>not</b> to set up an Injury Allowance Scheme at this time.
8i	Determine whether and when to cease payment of an injury allowance payable under regulation 6(1)	6(2)	The Council's Policy decision is <b>not</b> to set up an Injury Allowance Scheme at this time.
8j	Whether to grant an injury allowance to the spouse, civil partner, nominated co-habiting partner or dependent of an employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job	7(1)	The Council's Policy decision is <b>not</b> to set up an Injury Allowance Scheme at this time.
8k	Determine amount of any injury allowance to be paid under regulation 7(1)	7(2) and 8	The Council's Policy decision is <b>not</b> to set up an Injury Allowance Scheme at this time.
8l	Determine whether and when to cease payment of an injury allowance payable under regulation (7)1	7(3)	The Council's Policy decision is <b>not</b> to set up an Injury Allowance Scheme at this time.

## Appendix to Discretionary Decisions Statements

### Definition of Pensionable Pay under the LGPS 2013 Regulations.

The definition of pensionable pay in the 2014 Scheme is the total of:

- The salary, wages, fees and other payments paid to the employee, as listed below;
  - Basic salary
  - London Inner Fringe Allowance
  - Non-contractual overtime
  - Contractual overtime
  - Additional hours
  - Night allowance
  - Standby
  - Standby (Environmental Health Technical Officers – Noise Team)
  - Evening meeting allowance
  - Ex Gratia payments
  - First aid payments
  - Emergency Planning
  - Pay protection
  - Relevant historical payments
  - PRP bonus,
  - market supplements; and
- Any benefit specified in the employee's contract of employment as being a pensionable emolument

An employee's pensionable pay does **not** include:

- Any sum which has not had income tax liability determined on it;
- Any travelling, subsistence or other allowance paid in respect of expenses incurred in relation to the employment;
- Any payment in consideration of loss of holidays;
- Any payment in lieu of notice to terminate a contract of employment;
- Any payment as an inducement not to terminate employment before the payment is made;
- Any amount treated as the money value to the employee of the provision of a motor vehicle or any amount paid in lieu of such provision;
- Any payment in consideration of loss of future pensionable payments or benefits;
- Any award of compensation (excluding any sum representing arrears of pay) for the purpose of achieving equal pay in relation to other employees;
- Any payment made by the Scheme employer to a member on reserve forces service leave;
- Returning officer, or acting returning officer fees **other** than fees paid in respect of:
  - local government elections,
  - elections for the National Assembly for Wales,
  - Parliamentary elections, or
  - European Parliamentary elections.