

LOCAL GOVERNMENT PENSION SCHEME (LGPS) DISCRETIONS

Human Resources and Organisational Development



1. INTRODUCTION

The Local Government Pension Scheme (LGPS) Regulations requires each local authority to have a written policy confirming how mandatory discretions will be exercised and how optional discretions are to be considered.

Plymouth City Council's current LGPS Discretions Policy was approved in November 2014. The policy has now been reviewed and updated and needs approval. Power to deal with this type of pension decision is given to Council rather than Cabinet under the Local Government (Functions and Responsibilities) Regulations 2000 and Superannuation Act.

2. REVIEW

Central Government and Plymouth City Council's pensions administering authority, Peninsula Pensions, have recommended that employers should not 'fetter their discretionary powers'. In simple terms, this means employers should not make the policy too rigid, or too restrictive, as to prevent flexibility where a possibly unanticipated situation arises. As recommended, the policy has been adjusted to allow discretions for exceptional circumstances. Section 7 now details the circumstances where PCC may consider use of these discretions, thereby avoiding fettering.

Plymouth City Council's discretionary scheme adopts the general principles that a discretion is only exercised in exceptional circumstances:

- if there is a cost to PCC
- an inconsistency would be created with the Teachers' Pension Scheme

The policy is also amended to support the introduction of a Shared Contribution Additional Voluntary Contributions (SCAVC).

3. PROPOSED CHANGES

The proposed changes to these discretions are outlined below.

Pension Discretion	Description of Change
Section 4: LGPS 2014 Regulations	
Funding of Shared Cost AVC (SCAVC) Section 4.3: Regulation 17 (1)	Discretion changed to enable the introduction of PCC Salary Sacrifice SCAVC Scheme.
Aggregation of Benefits Section 4.5: Regulations 22 (7)c and 22 (8) b.	Discretion changed, to unfetter the discretion*
Flexible Retirement Section 4.6: Regulations 30(6) and Transitional 11(2)	1. Discretion changed, to mirror reduction in gross pay in TPS Phased Retirement Regulations, from 25% to 20%.

	2. Text of discretion changed, and the word 'normally' inserted in discretion, so PCC can consider Flexible Retirement if there is a cost to the employer.
Waiving of Actuarial Reduction in Benefits Section 4.7: Regulation 30(8)	Discretion changed, to unfetter the discretion*
'85 Year Rule' Switch-on Section 4.8: Transitional Regulation Schedule 2	Discretion changed, to unfetter the discretion*
Award of Additional Pension Section 4.9: Regulation 31	Discretion changed, to unfetter the discretion*
Section 5: LGPS 2008 Regulations	
Early Payment of Pension Section 5.2: Benefit Regulation 30	1. Format of Section 6 changed to clarify the discretionary powers available to certain age groups. 2. Discretion changed, to unfetter the discretion*
Section 6: LGPS Regulations 1997	
General	1. Format of Section 6 changed to clarify the discretionary powers available to certain age groups. 2. Text changed to reflect the removal of Employer Consent, from LGPS Regulations.
Regulation 31	Discretion changed, to unfetter the discretion*
New Section 7	
Section 7: Exercise of Discretions in Exceptional Circumstances.	Section introduced to cover the principles used for approval, the list of discretions covered by Section 7, the governance of Section 7, and the application process.

*(Only to be exercised in exceptional circumstances, as per Section 7).

4. IMPLICATIONS

▪ **Funding of Shared Cost AVC (SCAVC) Section 4.3: Regulation 17 (1)**

This will allow PCC to introduce a Shared Cost AVC Scheme, which would present a financial saving to both the council and employees when compared to the current AVC Scheme.

▪ **Flexible Retirement Section 4.6: Regulations 30(6) and Transitional 11(2)**

PCC's current criteria for flexible retirement of a 25% minimum reduction in gross pay will be reduced to 20% to mirror that of the Teachers' Pension Scheme, removing the current inconsistency and offering greater flexibility to council employees.

▪ **Changes to Sections 5 and 6**

Sections five and six are now up to date and reflect LGPS regulations with regards to employer consent for specific age groups.

▪ **New Section 7**

Where discretions have been unfettered, these are only to be exercised in exceptional circumstances. The 'exceptional circumstances' have followed the discretions template provided by Peninsula Pensions and are:-

- The interests of the Council.
- Any potential benefits or savings to the Council.
- The member's personal circumstances.
- The additional contributions, or payments, due to the Devon County Council Pension Fund.
- The ability of the Council to meet the cost of granting such an award.
- The funding position of the Council within the Devon County Council Pension Fund.

It is proposed that the Service Director for Human Resources and the Council's Section 151 Officer will be responsible for assessing the circumstances of each case and for making the final decision, on the advice of the Delt Pensions Team and Peninsula Pensions.