

# Local Government Pension Scheme [LGPS] LGPS 2013: Regulation 60 Employer's Policy Statement – Exercising Discretionary Functions 2014

(adopted by Portishead Town Council (date 2014))

## Background

Within the LGPS 2014, there is provision in specific regulations for Portishead Town Council to make certain decisions concerning the pension benefit entitlements of its current or past scheme members.

Under Regulation 60, the Council must prepare a written statement of its policy in relation to the exercise of its functions under regulations—.

- (a) 16(2)(e) and 16(4)(d) (funding of additional pension);
- (b) 30(6) (flexible retirement);
- (c) 30(8) (waiving of actuarial reduction); and
- (d) 31 (award of additional pension),
- (e) 1(1)(c) of Schedule 2 of the Transitional Regulations 2014
- (f) 2(1) of Schedule 2 of the Transitional Regulations 2014

As an employer with a small number of members and limited resources it is likely that usage of the relevant regulations will only be made on very rare occasions. As a result all relevant decisions will be made by the Council.

This policy statement confirms the Portishead Town Council policy for all regulations covered within Regulation 60 of the LGPS Regulations 2013 as follows:-

**Portishead Town Council being an employer with limited resource and few LGPS members will as a general rule not make use of the provisions listed above and referred to in Regulation 60.**

However in each case where these provisions need to be considered, Portishead Town Council will decide whether the circumstances of the case justify an alternative decision being made.

All decisions will be made following a report to Council prepared by the Town Clerk or by another designated person where the matter relates to the Clerk.

The timing of this report must allow the Council to budget for any additional expenditure.

The Council will not consider using provisions to purchase or assist purchase of additional pension where any additional cost exceeds **£750**. This limit will not be used where any discretion being made incurs a cost that would have been made in normal circumstances [See Example 2 below]

## **Things to take into account when**

### **Considering contributing towards additional pension**

Where the provision allows the purchase of additional pension, consideration must be given to the financial implications. However the reason for awarding additional pension may be compassionate.

### **Considering allowing Flexible Retirement**

Consideration for this could be where the Council is considering reducing the hours of a particular post and the post-holder is interested in using this provision. It might be of mutual benefit to allow such retirement. It will usually only be considered where there is a benefit to the Council.

### **Considering whether to waive / forgo any actuarial reductions**

The Town Council needs to consider “Why would the Council finance forgoing any or all of a reduction? Would it be beneficial for the Council?”

There is also differing criteria to consider as waiving any reduction on LGPS 2014 career average benefits can be whole or partial, whereas pre 2014 benefits any waiving must be the full reduction. Also, depending on what period the benefits relate to, pre April 2014 discretionary decisions can only be made on compassionate grounds.

The decisions to be made on waiving reductions are

<b>Benefit</b>			<b>Reason for decision</b>
Care Scheme LGPS 2014	Waive reduction	Fully or Partially	Any grounds
Pre 2014 Benefits	Waive reduction	Fully	Compassionate grounds

Each part of the benefit is dealt with separately.

As the regulation to allow members to request payment of benefits from age 55 is part of the LGPS 2014 regulations, the protections for the rule of 85 will not automatically apply if immediate payment is made before age 60. A member aged 56

in these circumstances would suffer a reduction of at least 4 years unless the employer decides that the rule of 85 is to apply under Schedule 2, 1(1)(c).

This decision to allow can be made taking into account all grounds but should only be used where it is shown that there is some benefit to the Council.

Examples of when an alternative decision may be justified might include but not be limited to the following:-

#### *EXAMPLE 1*

*A member of staff may have been employed for a long period of service and the Council may wish to reward their loyalty and as a goodwill gesture purchase some additional pension. Any such decision would be subject to the financial limit set out in this policy statement*

#### *EXAMPLE 2*

*Under the regulations a scheme member can elect to pay to recover pension lost during a period of absence on no pay. Provided they elect within 30 days of returning from authorised leave of absence or child related leave the cost of the APC contract will be split 1/3rd employee and 2/3rds employer. If they elect after the 30 day period the cost of the APC contract will be at full cost to the employee, unless the Parish Council choose to contribute towards the cost. There may be extenuating circumstances as to why the employee has not been able to elect [e.g. incapacitation]. The Council may consider paying the same amount as if the election had been made within the 30 day period if the delay in electing can be justified.*

#### *EXAMPLE 3*

*An employee or deferred scheme member aged over 55 may approach the Council to see whether they might be allowed to draw their pension without reduction on compassionate grounds, as there is a need for them to look after and care for a dependant relative full time. If the decision can only be made on compassionate grounds then financial grounds cannot be used to refuse a request. It must be seen that if two people apply with the same compassionate grounds that one is not treated differently for cost reasons. Care must be taken when making a decision, for example in the above case if you introduce a restriction on the grounds of compassion to say only terminally ill dependants it could have adverse consequences as if the dependant dies after say only one month the member would still continue to get the higher pension, whereas someone caring for only an incapacitated dependant would get a reduced pension even though they may need to provide constant care for a considerable period of time somewhat undermining the compassion given.*

## Illustration to show how regulations allow employers to reduce actuarial reductions

The illustration is for a member whose date of birth is 01/04/1963 who leaves on 31 March 2019 (age 56).

At the time of leaving, membership was 25 years so the rule of 85 had not been satisfied but would have been in 2 years at age 58 (see 85 Rule check).

As the date of birth is after 1 April 1960 the protection for rule of 85 only applies on service to 31 March 2008.

The period from 1 April 2008 to 31 March 2014 is subject to a reduction but retains the Normal Retirement Age of 65.

The Service from 1 April 2014 is under the LGPS 2014 and therefore Pension is calculated on Career Average. The actuarial reduction is from date of leaving to State Pension Age which for this member is age 67.

The reductions on each part is as follows:-

1994 to 2008 <b>80ths</b>	reduction for 4 years early (age 56 to age 60)	20% (Women and Men)
2008 to 2014 <b>60ths</b>	reduction for 9 years early (age 56 to age 65)	37% (Women) 39% (Men)
2014 to 2019 <b>Career Average</b>	reduction for 11 years early (age 56 to age 67)	44% (Women) 45% (Men)

The Policy Statement sets out when an employer would consider forgoing these reductions in full or part (where applicable)

The Regulations where such decisions can be made are as follows:

(c)	<b>Local Government Pension Scheme Regulations 2013 (LGPS 2013)</b>	30(8)	waiving of actuarial reduction LGPS 2014 benefits
(e)	<b>Transitional Regulations (TR)</b>	Schedule 2 1(1)(c)	Allow Rule of 85 before Age 60
(f)	<b>Transitional Regulations (TR)</b>	Schedule 2 2(1)	Waiving of reduction where Rule of 85 not met

Transitional Regulation 3(5) allows for some actuarial reductions to be covered within the 2008 regulations and therefore discretions already in place for these will still be operational

<b>LGPS 2008 Regulations</b>	30(5)	Existing Policy
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**Member Date of Birth:** 01/04/1963

**Age:** 56

**Leaving Date:** 31/03/2019

**Final Salary:** £24,000

<b>80ths</b>	<b>60ths</b>	<b>Career Average Benefits</b>
<b>MEMBERSHIP</b>		
<b>From to 1994 2008</b>	<b>From to 2008 2014</b>	<b>From to 2014 2019</b>
<b>14</b>	<b>6</b>	<b>5</b>

X

X

<b>1/80</b>	<b>1/60</b>
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X

X

<b>24000</b>	<b>24000</b>
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<b>4200</b>	<b>2400</b>	<b>2444</b>
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<b>Period from leaving to Age 60</b>	<b>Period from leaving to Age 65</b>	<b>Period from leaving to SPA = age 67</b>
<b>4</b>	<b>9</b>	<b>11</b>

Transitional

Transitional

Transitional

SCH2 1(4)(b)	Reg 3(5)	Reg 30 (5)
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**Reduction can be waived**

<b>SCH2 2(1)</b>	<b>2008 Regs</b>	<b>Reg 30 (8)</b>
Compassionate Grounds	Compassionate Grounds	Any Grounds
<b>Wholly</b>	<b>Wholly</b>	<b>Wholly or Partially</b>

or

<b>Allow 85 Rule Pre Age 60</b>	<b>Sch 2 1(1)(c)</b>
<b>Age 58 - 60</b>	<b>2 years</b>
	Any Grounds

	<b>Wholly</b>
<b>Years short of 85 Rule at DoL</b>	<b>2 years</b>
<b>Payable under</b>	<b>SCH2 1(3)(b)</b>
<b>waived under</b>	<b>SCH2 2(1)</b>
	Compassionate Grounds
	<b>Wholly</b>