

**Local Government Pension Scheme Employer Discretions – Proposed Updated Policy
October 2020**

Regulation	Discretion	Proposed Updated ESCC Policy
<u>1995 Scheme</u>		
D11(2)(C)	Whether to grant applications for the early payment of deferred pension benefits on or after age 50 and before NRD on compassionate grounds ¹ .	The Council's policy is that in exercising any discretion, it will not put the Fund in a position where it is making payments that are unauthorised and therefore subject to an unauthorised payments charge under the Finance Act 2004.
<u>1998 Scheme</u>		
TP1(1)(f) & TP1(2) of Schedule 2	Whether, as the 85 year rule does not automatically fully apply to members who would otherwise be subject to it and who choose to voluntarily draw their deferred benefits (on or after 14 May 2018) on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members	The Council's policy is that any decision involving an additional cost to the Council will need to be supported by a robust business case, clearly setting out the cost/benefit analysis and rationale for the consideration of exercising the discretion. Any such business case must be approved by the Chief Finance Officer and the Head of HROD, in consultation with other senior officers as appropriate, for example, the relevant departmental Chief Officer or school Headteacher.
L31(2)	Whether to grant applications for the early payment of pension benefits on or after age 50 and before age 55 ²	The Council's policy is that in exercising any discretion, it will not put the Fund in a position where it is making payments that are unauthorised and therefore subject to an unauthorised payments charge under the Finance Act 2004.
L31(5) & TP 2(1) of Schedule 2	Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to benefits which are paid before age 65	The Council's policy is that any decision involving an additional cost to the Council will need to be supported by a robust business case, clearly setting out the cost/benefit analysis and rationale for the consideration of exercising this discretion. Such business cases must be approved by the Chief Finance Officer and the Head of HROD, in consultation with other senior officers as appropriate, for example, the

¹ It should be noted that benefits paid on or after age 50 and before age 55 will be subject to an unauthorised payments charge under the Finance Act 2004 and, where applicable, an unauthorised payments surcharge under that Act, but there would be no Scheme sanction charge.

² It should be noted that benefits paid on or after age 50 and before age 55 will be subject to an unauthorised payments charge under the Finance Act 2004 and, where applicable, an unauthorised payments surcharge under that Act, and a Scheme sanction charge on any benefits built up after 5 April 2006.

		<p>relevant departmental Chief Officer or school Headteacher.</p> <p>For the purposes of waiving an actuarial reduction, the County Council operates the following definition of compassionate grounds:</p> <ul style="list-style-type: none"> • compelling domestic reasons which will affect the ability of the individual to continue with his/her present working arrangements; • ill health which does not meet the criteria for ill health retirement.
<u>2008 Scheme</u>		
TP1(1)(c) & TP1(2) of Schedule 2	Whether, as the 85 year rule does not automatically fully apply to members who would otherwise be subject to it and who choose to voluntarily draw their deferred benefits (on or after 14 May 2018) on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members	The Council's policy is that any decision involving an additional cost to the Council will need to be supported by a robust business case, clearly setting out the cost/benefit analysis and rationale for the consideration of exercising this discretion. Any such business case must be approved by the Chief Finance Officer and the Head of HROD, in consultation with other senior officers as appropriate, for example, the relevant departmental Chief Officer or school Headteacher.
TP1(1)(c) & TP1(2) of Schedule 2	Whether, as the 85 year rule does not automatically fully apply to members who would otherwise be subject to it and who choose to voluntarily draw their suspended tier 3 ill health pension (on or after 14 May 2018) on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members	The Council's policy is that any decision involving an additional cost to the Council will need to be supported by a robust business case, clearly setting out the cost/benefit analysis and rationale for the consideration of exercising this discretion. Any such business case must be approved by the Chief Finance Officer and the Head of HROD, in consultation with other senior officers as appropriate, for example, the relevant departmental Chief Officer or school Headteacher.
B30(5) & TP2(1) of Schedule 2	Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.	<p>The Council's policy is that any decision involving an additional cost to the Council will need to be supported by a robust business case, clearly setting out the cost/benefit analysis and rationale for the consideration of exercising this discretion. Such business cases must be approved by the Chief Finance Officer and the Head of HROD, in consultation with other senior officers as appropriate, for example, the relevant departmental Chief Officer or school Headteacher.</p> <p>For the purposes of waiving an actuarial reduction, the County Council operates the</p>

		<p>following definition of compassionate grounds:</p> <ul style="list-style-type: none"> • compelling domestic reasons which will affect the ability of the individual to continue with his/her present working arrangements; • ill health which does not meet the criteria for ill health retirement.
B30A(5) & T2(1) of Schedule 2	<p>Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to any suspended tier 3 ill health pension benefits which are brought back into payment before age 65</p>	<p>The Council's policy is that any decision involving an additional cost to the Council will need to be supported by a robust business case, clearly setting out the cost/benefit analysis and rationale for the consideration of exercising this discretion. Such business cases must be approved by the Chief Finance Officer and the Head of HROD, in consultation with other senior officers as appropriate, for example, the relevant departmental Chief Officer or school Headteacher.</p> <p>For the purposes of waiving an actuarial reduction, the County Council operates the following definition of compassionate grounds:</p> <ul style="list-style-type: none"> • compelling domestic reasons which will affect the ability of the individual to continue with his/her present working arrangements; • ill health which does not meet the criteria for ill health retirement.
<u>2014 Scheme (mandatory)</u>		
R16(2)(e)	<p>Where Additional Pension Contributions are to be paid by regular contributions in order to purchase additional pension, whether to fund in whole or in part a member's additional pension contribution. The maximum additional pension which can be purchased is £7,026 with effect from 1 April 2019.</p>	<p>The Governance Committee received a report on 22 April 2014 where it agreed the Council's policy as being not to allow this benefit in normal circumstances given the potentially significant costs associated.</p> <p>Where a request to consider this is received, such consideration will only be undertaken in exceptional circumstances and will be subject to a robust business case, clearly setting out the cost/benefit analysis and rationale for the consideration. Any such business case must be approved by the Chief Finance Officer and the Head of HROD, in consultation with other senior officers as appropriate, for example, the relevant departmental Chief Officer or school Headteacher.</p>
R16(4)(d)	<p>Where an Additional Pension Contribution is to be paid by a lump sum contribution in order to</p>	<p>The Governance Committee received a report on 22 April 2014 where it agreed the Council's policy as being not to allow this</p>

	<p>purchase additional pension, whether to fund in whole or in part a member's additional pension contribution. The maximum additional pension which can be purchased is £7,026 with effect from 1 April 2019</p>	<p>benefit in normal circumstances given the potentially significant costs associated.</p> <p>Where a request to consider this is received, such consideration will only be undertaken in exceptional circumstances and will be subject to a robust business case, clearly setting out the cost/benefit analysis and rationale for the consideration. Any such business case must be approved by the Chief Finance Officer and the Head of HROD, in consultation with other senior officers as appropriate, for example, the relevant departmental Chief Officer or school Headteacher.</p>
R30(6) & TP11(2)	<p>Whether to allow an active member who has attained the age of 55 or over, reduces their working hours or grade to receive immediate payment of all or part of their retirement pension to which the member is entitled in respect of that employment subject to an actuarial reduction.</p>	<p>The Governance Committee received a report on 11 September 2012 where it agreed the Council's policy as being not to allow this benefit on the basis that the Council no longer operates a Flexible Retirement Policy for the reasons as set out in the report.</p>
R30(8)	<p>Whether to waive in whole or in part any reduction in a member's pension benefits as a result of a member who has not attained normal pension age but who has attained the age of 55 or over and has elected, under R30(5), to receive immediate payment of a retirement pension.</p> <p>Whether to waive in whole or in part any reduction in a member's pension benefits where a member flexibly retires under R30(6).</p>	<p>The Council's policy is that any decision involving an additional cost to the Council will need to be supported by a robust business case, clearly setting out the cost/benefit analysis and rationale for the consideration of exercising this discretion. Any such business case must be approved by the Chief Finance Officer and the Head of HROD, in consultation with other senior officers as appropriate, for example, the relevant departmental Chief Officer or school Headteacher.</p>
R31	<p>Whether to award additional pension up to the maximum (£7,026 with effect from 1 April 2019) to an active member or a member who was an active member who was dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency within 6 months of the date the member's employment ended.</p>	<p>The Council's policy is that any decision to exercise this discretion will need to be supported by a robust business case, clearly setting out the cost/benefit analysis and rationale for the consideration of exercising this discretion. Any such business case must be approved by the Chief Finance Officer and the Head of HROD, in consultation with other senior officers as appropriate, for example, the relevant departmental Chief Officer or school Headteacher.</p>

TP Schedule 2, para 1(1)(c) and 1(3)	Whether to “switch on” the 85 Year Rule for a member voluntarily drawing benefits on or after age 55 and before age 60.	The Council’s policy is that any decision involving an additional cost to the Council will need to be supported by a robust business case, clearly setting out the cost/benefit analysis and rationale for the consideration of exercising this discretion. Any such business case must be approved by the Chief Finance Officer and the Head of HROD, in consultation with other senior officers as appropriate, for example, the relevant departmental Chief Officer or school Headteacher.
TP3(1), TP Schedule 2, para 2(1), R30(8).	Whether to waive upon the voluntary early payment of benefits, any actuarial reduction on compassionate grounds or, for periods of service to which the compassionate service discretion does not apply, to waive any actuarial reduction on any grounds.	<p>The Council’s policy is that any decision involving an additional cost to the Council will need to be supported by a robust business case, clearly setting out the cost/benefit analysis and rationale for the consideration of exercising this discretion. Such business cases must be approved by the Chief Finance Officer and the Head of HROD, in consultation with other senior officers as appropriate, for example, the relevant departmental Chief Officer or school Headteacher.</p> <p>For the purposes of waiving an actuarial reduction, the County Council operates the following definition of compassionate grounds:</p> <ul style="list-style-type: none"> • compelling domestic reasons which will affect the ability of the individual to continue with his/her present working arrangements; • ill health which does not meet the criteria for ill health retirement.
<u>2014 Scheme (non-mandatory)</u>		
R17 & TP15(2A)	Whether, how much, and in what circumstances to contribute to a Shared Cost Additional Voluntary Contribution (SCAVC) arrangement	The Council has in place a ‘Shared Cost Salary Sacrifice AVC scheme’ (referred to by the Council as AVC Wise) that provides for tax relief and national insurance contributions savings. AVC Wise was introduced on 1st September 2018. FAQs and further information about the scheme is available on the intranet.
R16(16)	Whether to extend the 30 day deadline for member to elect for a Shared Cost Additional Pension Contribution (SCAPC) upon return from a period of absence from work with permission with no pensionable pay (otherwise than because of illness or injury, relevant child-	The Council’s policy is that any decision to extend the deadline for an employee to elect to make pension contributions will need to be supported by a robust business case, clearly setting out the reasons as to why the deadline was not met and any cost implications. Any such business case must be approved by the Chief Finance Officer and Head of HROD, in consultation with other senior officers as appropriate,

	related leave or reserve forces service leave)	for example, the relevant departmental Chief Officer or school Headteacher.
R100(6)	Whether, with the agreement of the Pension Fund administering authority , to permit a member to elect to transfer pension rights from another registered pension scheme into the LGPS, if they had not made such an election to do so within 12 months of first joining the LGPS in that employment	The Council's policy is that any decision to extend the deadline for an employee to elect to transfer pension rights from another registered pension scheme into the LGPS outside of the standard 12 months will need to be supported by a robust business case, clearly setting out the reasons as to why the deadline was not met and any cost implications. Any such business case must be approved by the Chief Finance Officer and Head of HROD, in consultation with other senior officers as appropriate, for example, the relevant departmental Chief Officer or school Headteacher.
R22(7) and (8)	Whether to extend the 12 month time limit within which a member who has a deferred LGPS benefit in England or Wales following the cessation of employment (or cessation of a concurrent employment) after 31 March 2014 may elect not to have their deferred benefits aggregated with their new LGPS employment (or ongoing concurrent LGPS employment) if the member has not made an election to retain separate benefits within 12 months of commencing membership of the LGPS in that new employment (or within 12 months of ceasing the concurrent membership)	The Council's policy is that any decision to extend the 12 month time limit for an employee to elect not to have their deferred benefits aggregated with their new LGPS employment will need to be supported by a robust business case, clearly setting out the reasons as to why the 12 month time limit was not met and any cost implications. Any such business case must be approved by the Chief Finance Officer and Head of HROD, in consultation with other senior officers as appropriate, for example, the relevant departmental Chief Officer or school Headteacher.
TP10(6)	Whether to extend the 12 month time limit within which a member (who has not elected to be treated as a member who, in the same employment, was contributing to the Scheme on both 31 March 2014 and 1 April 2014) who has a deferred LGPS benefit in England or Wales following the cessation of employment before 1 April 2014, to elect to aggregate their deferred benefits with their new LGPS employment that	The Council's policy is that any decision to extend the 12 month time limit for an employee to elect to have their deferred benefits aggregated with their new LGPS employment that commenced after 14 May 2018 will need to be supported by a robust business case, clearly setting out the reasons as to why the 12 month time limit was not met and any cost implications. Any such business case must be approved by the Chief Finance Officer and Head of HROD, in consultation with other senior officers as appropriate, for example, the relevant departmental Chief Officer or school Headteacher.

	commenced on or after 14 May 2018	
R9&R10	How the pension contribution band to which an employee is to be allocated on joining the Scheme, and at each subsequent April, will be determined and the circumstances in which the Scheme employer will, in addition to the review each April, review the pension contribution band to which an employee has been allocated following a material change which affects the member's pensionable pay in the course of a Scheme year (1 April to 31 March)	The Council's policy in relation to assessing the pension contribution band to which an employee is to be allocated is, in addition to on appointment and at each subsequent April, when a pay award is implemented.
R21(4)(a)(iv), R21(4)(b)(iv) and R21(5)	<p>Whether, when calculating assumed pensionable pay when a member is:</p> <ul style="list-style-type: none"> – on reduced contractual pay or no pay on due to sickness or injury, or – absent during ordinary maternity, paternity or adoption leave, or paid shared parental leave, or during paid additional maternity or adoption leave, or – absent on reserve forces service leave, or – retires with a Tier 1 or Tier 2 ill health pension, or – dies in service <p>to include in the calculation 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. A 'regular lump sum payment' is a payment for which the member's Scheme employer determines there is a reasonable expectation that such a payment would be paid on a regular basis</p>	The Council's policy is that the calculation of assumed pensionable pay will be based on an assessment of the implications of including a 'regular lump sum payment' in the calculation, for example, if this would result in the employee being better off than if they had not been absent. A balance will be struck between this and fairness to the employee. The agreement of the Chief Finance Officer and Head of HROD will be required to exercise this discretion.

<p>R21(5A) and R21(5B)</p>	<p>When a member is:</p> <ul style="list-style-type: none"> – on reduced contractual pay or no pay due to sickness or injury, or – absent during ordinary maternity, paternity or adoption leave, or paid shared parental leave, or during paid additional maternity or adoption leave, or – absent on reserve forces service leave, or – retires with a Tier 1 or Tier 2 ill health pension, or – dies in service <p>if, in the Scheme employer's opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments) in the 3 months (or 12 weeks if not paid monthly) preceding the commencement of Assumed Pensionable Pay (APP), is materially lower than the level of pensionable pay the member would have normally received, decide whether to substitute a higher level of pensionable pay when calculating APP, having had regard to the level of pensionable pay received by the member in the previous 12 months</p>	<p>The Council's policy is that the agreement of the Chief Finance Officer and Head of HROD is required to substitute a higher level of pensionable pay when calculating APP. A business case will be required setting out the rationale for the request, including the cost implications and considerations around fairness and equity to the employee.</p>
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