



London Borough of Hammersmith & Fulham

Local Government Pension Scheme  
Discretionary Decisions Policy Statement

Hammersmith & Fulham Pension Fund

## **1. Background.**

- 1.1 All employers who participate in the Local Government Pension Scheme (LGPS) are required to draw up a Discretionary Decisions Policy Statement in accordance with Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008, and Regulation 60 of the Local Government Pension Scheme Regulations 2013.
- 1.2 Every employer must send a copy of its Discretionary Decisions Policy Statement to its Administering Authority (the London Borough of Hammersmith & Fulham [LBHF]).
- 1.3 Every employer must:
- keep its statement under review,
  - make such revisions as are appropriate, and
  - ensure that all discretionary decisions made are in accordance with the governing LGPS regulations.
- 1.4 In preparing, reviewing and making revisions to its statement, employers must be satisfied that the policy is workable, affordable and reasonable, having regard to foreseeable costs.
- 1.5 The responsibility is on the employer to fund, (or where appropriate arrange for the scheme member in their current or former employment to fund), the resulting costs from the discretionary decision(s) that the employer makes where they exceed the costs that would have been incurred had the scheme member retired at their normal pension age. All such payments must be made in accordance with the LBHF Pensions Administration Strategy.
- 1.6 Existing employer discretions required to be in place under the 2008 and 1995 Regulations remain in force for those employees who left the scheme prior to 1<sup>st</sup> April 2014 and they are included in this document.
- 1.7 This document also summarises the discretionary policy decisions made by the LBHF Administering Authority.

## **2. The LBHF Policy Statement.**

- 2.1 This policy statement applies to all LBHF employees who are current or deferred members of the Council's LGPS or have eligibility to join the scheme.
- 2.2 This policy document details the discretionary policy decisions applicable to:
- active scheme members from 1<sup>st</sup> April 2014 and members with ceased active membership from 1<sup>st</sup> April 2014, and
  - active scheme members from 1<sup>st</sup> April 2008 and who ceased active scheme membership on or after 1<sup>st</sup> April 2008 and before 1 April 2014, and

- active scheme members from 1<sup>st</sup> April 1998 and who ceased active membership on or after 1<sup>st</sup> April 1998 and before 1<sup>st</sup> April 2008.

### **3. Discretions relating to active scheme members from 1<sup>st</sup> April 2014 and members with ceased active membership from 1<sup>st</sup> April 2014.**

#### **3.1 Flexible Retirement.**

##### Context

Regulation 30(6) and 30(8) Local Government Pension Scheme Regulations 2013 enables an employer to let a scheme member in their employment aged 55 years or over to reduce his/her hours or grade and receive immediate payment of all or part of their pension benefits to which that scheme member is entitled.

Where applicable this payment is adjusted by the amount shown as appropriate in actuarial guidance.

In the event that the scheme member would suffer such an actuarial reduction in their pension and lump sum due to the early payment of the pension benefits, the regulations allow a further discretion for the employer, at its own cost, to waive that reduction in any particular case.

##### LBHF policy

The Council will consider allowing flexible retirement to a scheme member aged 55 years or over but only where the pension fund incurs no additional costs other than if the member had retired at their normal retirement age.

If a flexible retirement is requested in relation to a reduction in contractual hours, requests will only be considered where the reduction in contractual hours is at least 40 %. Under this arrangement the employee would not be permitted to work more than 3 days per week.

This discretion may only be used where the employing department can demonstrate that there is no adverse impact to service users.

The Council wishes to support employees who wish to have a gradual transition to full retirement via a reduction in working hours or a reduction in responsibility, so will be minded to support applications from employees who have attained age 60 years. In all cases, support will be required from the employing department which will need to submit a business case detailing how the service will be maintained.

Decisions will be made on each case by the LBHF Adjudicating Panel.

#### **3.2 The 85-year rule.**

##### Context

The employer has discretion whether to apply the 85-year rule protections to scheme members who have left their employment and choose to voluntarily draw their benefits between the ages of 55 years and 60 years, under [paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014].

The 85-year rule does not automatically apply if the scheme member decides to voluntarily draw (non-flexible retirement) benefits between age 55 years and 60 years. In this situation employers have discretion whether to agree to apply the 85-year rule protections.

Employers who agree to apply the 85-year rule protections to scheme members not entitled to it under the pension regulations have to meet all the pension strain costs (as under the 2008 Scheme).

Employers have the discretion to waive actuarial reductions applied to a scheme member's benefits and to accept all the pension strain costs.

In circumstances where employers do not agree to apply the 85-year rule protections, the scheme member would be required to meet all the pension strain costs via the actuarial reduction applied to their pension.

#### LBHF policy

No waiver of actuarial reduction will be made in any such case.

### **3.3 Additional pension contributions.**

#### Context

Under Regulations 16(2) (e) and 16(4) (d) the employer has discretion, where an active scheme member wishes to purchase extra annual pension via Additional Pension Contributions (APCs), to voluntarily contribute towards the cost of that extra pension via a Shared Cost Additional Pension Contribution (SCAPC). This employer contribution can be either by regular ongoing contribution or one-off lump sum.

Should the employer exercise its discretion to fund in whole or in part a SCAPC the Regulations also permit the Administering Authority to require a medical report from the applicant, to show that he/she is in reasonably good health.

#### LBHF policy

Under Regulations 16(2) (e) and 16(4) (d) the Council will not consider making voluntarily contributions towards the cost of purchasing extra pension via a SCAPC.

#### Context

Regulation 16 also gives the employer discretion to fund in whole or in part the scheme member's lump sum contribution to pay existing Additional Pension Contributions (APCs) to cover a period of absence from work on child-related leave, reserve forces leave or because of illness or injury.

#### LBHF policy

The Council will only in exceptional circumstances fund in whole or in part existing scheme member paid APCs to cover a period of scheme member's absence. Consideration will be given to the circumstances of each individual case, and the reasons for the scheme member's absence.

The Council will always require a medical report from an applicant (obtained at the applicant's expense) before agreeing to make APC contributions to cover any such period of absence.

The decision will be made by the Director of Human Resources.

### **3.4 Discretion of employer to award additional pension.**

#### Context

Regulation 31 (2) LGPS 2013 provides employer discretion to award up to £6,500 per year additional pension (reviewed in April each year by the Pensions Increase Act) to an active member or a member who is dismissed by reason of redundancy, business efficiency or retirement.

#### LBHF policy

The Council will consider any requests to exercise its discretion under Regulation 31 (2).

However, an increase to total pension to an active member who is dismissed by reason of redundancy, business efficiency or retirement will only be made in exceptional circumstances given the details of each individual case and the cost implications.

This is a decision made by the Director of Human Resources.

All decisions to award additional pension will simultaneously identify the source of funding to reimburse the pension fund in full for the additional costs.

## **4. Discretions in relation to ceased active scheme members on or after 1st April 2008 and before 1 April 2014.**

### **4.1 Early Payment of deferred benefits.**

#### Context

Whether to grant application for early payment of deferred pension benefits between the ages of 55 years and 60 years and whether to waive, on compassionate grounds, the actuarial reduction applied to these benefits.

#### LBHF policy

Applications for early payment of pension benefits will be considered on an individual basis in view of all relevant considerations including the likely costs and benefits and taking into account any protection rights that may be held by individuals regarding 85-year protections.

A waiver of the actuarial reduction on compassionate grounds will be considered only in very exceptional circumstances.

This will be a decision made by the Director of Human Resources.

### **4.2 Payment of ill health retirement and whether to waive the actuarial reduction.**

#### Context

Whether to grant an application for early payment of pension benefits to a deferred scheme member of a suspended tier 3 ill health pension between the ages of 55

years and 60 years and whether to waive, on compassionate grounds, the actuarial reduction applied to these benefits.

#### LBHF policy

A waiver of the actuarial reduction on compassionate grounds will be considered only in very exceptional circumstances.

This will be a decision made by the Director of Human Resources.

### **5. Discretions in relation to scheme members who ceased active membership on or after 1st April 1998 and before 1st April 2008.**

#### **5.1 Early Payment of Deferred Benefits.**

##### Context

The LGPS Regulations 1997 - Regulation 31 (1)

The 1997 Scheme introduced, for those scheme members leaving employment after the 1<sup>st</sup> April 1998, the right of the former scheme member to elect to receive payment of their pension benefits between ages 50 to 59 years, but only with the consent of their former employer. The benefits received will be subject to an actuarial reduction permitted and subject to any protections under the 85-year rule.

##### LBHF Policy

The LGPS Regulations 1997 - Regulation 31 (1)

Applications for early payment of benefits will be considered on an individual basis in view of all relevant considerations including the likely costs and benefits and taking into account any protection rights that may be held by individuals regarding the 85-year rule. Early payment is unlikely to be agreed where there is a cost to the former employer.

This will be a decision made by the Director of Human Resources.

The LGPS Regulations 1997 - Regulation 31 (5)

A member's appropriate employing authority may determine on compassionate grounds that the pension benefits should be paid unreduced.

This will be a decision made by the Director of Human Resources.

#### **5.2 Buy back of lost membership benefits (excluding sickness absence cases) arising from periods where no pay is received e.g. unpaid maternity leave, unpaid leave of absence, and industrial disputes.**

##### Context

The Local Government Pension Scheme Regulations 1997 Regulation 18.

An election to pay back contributions must be made within 30 days or such longer period as the employer may allow.

##### LBHF Policy

Time limits for elections to pay back contributions will be set in relation to each individual case and as and when each situation arises.

This will be a decision made by the Director of Human Resources.

## **6. Administering Authority discretions.**

Within the LGPS there are discretions that rest with the Administering Authority. The decisions made in each instance by the Administering Authority are detailed below.

### **6.1 Awarding Death Grant payments.**

#### Context

Regulation 40 of the LGPS Regulations 2013 (replacing Regulation 23 Admin Regulation 2008) allows an Administering Authority absolute discretion as to the person to whom a death grant payment should be made.

#### Administering Authority policy

The LBHF Administering Authority will decide to whom death grants should be paid, taking into account, but not limited to, the scheme members “expression of wish” form.

Letters of administration, grant of probate, and any other documents may be requested by the Director of Human Resources prior to making a decision regarding the death grant.

This will be a decision made by the Director of Human Resources.

### **6.2 Paying Child Pensions.**

#### Context

Under Schedule 1 LGPS Regulations 2013 (replacing Regulation 26 Admin Regulations 2008) the Administering Authority has the discretion to ignore any break in education and treat a child’s full-time education or vocational training as continuous.

#### Administering Authority policy

The LBHF Administering Authority will take into account the circumstances of each individual case which will include consideration of the reasons for the break, e.g. unplanned change in circumstances, bereavement, etc.

This will be a decision made by the Director of Human Resources.

### **6.3 Continuation of spouse's pension on co-habitation or re-marriage where the member left before 1st April 1998.**

#### Context

The Local Government Pension Scheme (Transitional Provisions) Regulations 1997, The Local Government (Early termination of employment) Discretionary (compensation) Regulations 2000.

The 1997 Transitional Provisions give the Administering Authority the power (on behalf of the Fund as a whole) to resolve that all spouses' pensions paid from the Fund and any annual compensation payment will continue in respect of co-habitation or re-marriage commencing on or after 1st April 1998.

#### Administering Authority policy

That all spouse's pensions and annual compensation will continue to be paid on co-habitation or remarriage on or after 1<sup>st</sup> April 1998.

### **6.4 Re-employed Pensioners (Abatement).**

#### Context

The Local Government Pension Scheme Regulations 1997 Regulation 109.

The 1997 Scheme requires the administering authority to formulate a policy on the extent to which a pension should be abated. The policy formed applies to all pensioners who commence re-employment after 31st March 1998.

#### Administering Authority policy

The policy of the administering authority is to apply abatement to all pensioners who commence re-employment after 31st March 1998.