



**MANCHESTER
CITY COUNCIL**

**Policy document: Local
Government Pension Scheme
employer discretions**

Updated 26 November 2018

1. Introduction and Scope

1.1 The Local Government Pension Scheme

The Local Government Pension Scheme (LGPS) is a statutory pension scheme. Its rules are laid down under Acts of Parliament. Manchester City Council is a Scheme Employer in the LGPS and will be referred to as 'the Council' in the remainder of this document.

1.2 Purpose of this document

The purpose of this document is to list areas of mandatory discretion the Council has within both the Local Government Pension scheme and the Discretionary Compensation and Injury Allowance Regulations. The policy also details how the Council has determined that it will exercise those discretions.

This document will be published.

1.3 Effective date

When approved by the Council, the following effective dates apply:

LGPS discretions: the date of the decision to amend the policy at Personnel Committee.

Discretionary Compensation and Injury Allowance Regulations: one month after the amended policy statement is published.

1.4 Scope

In formulating and reviewing its policy, the Council is required to have regard to the extent to which the exercise of its discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service, and be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

As the costs of exercising these discretions can have an impact on the Council's financial position in respect of capital cost payments to the pension fund, their employer contribution rate and the wider financial viability of the scheme, these areas of discretion are considered and monitored by the City Treasurer who has delegated authority within the Council's Constitution for pensions administration. The City Treasurer may delegate decision making as required to a suitable nominated representative(s).

This policy document lists the discretions which require a published policy and the Council's approach. This approach takes account of (not an exhaustive list):

- The provision for all members to be able to access their pension early from age 55 at their own choice,
- Normal pension age increasing;

- The Government's aim for people to take responsibility for financing their retirement plans;
- The underlying concept that pension taken early will be in payment for longer than originally assumed when forecasting benefits and therefore the amount paid will be adjusted to take account of this;
- The impact on the Council's wider financial position, including all costs associated with the request;
- Supporting the Council's vision and objectives;
- Maintaining the financial viability of the pension scheme;
- Where appropriate, the impact on employees and consideration of their personal and domestic circumstances;
- The need to have regard to the extent to which the exercise of the discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service; and
- The need to be satisfied that the policy is workable, affordable, and reasonable, having regard to the foreseeable costs.

1.5 Employee decision making

The Council is unable to offer advice on members' decisions regarding their pension. Members are advised to seek their own financial advice.

Further information is available from the Greater Manchester pension Scheme website.

<https://www.gmpf.org.uk/>

2. Pension Scheme Discretions

2.1 Regulations

Employer discretions apply to active and deferred members.

The LGPS regulations requiring mandatory policies, in force at 14 May 2018, are:

- The Local Government Pension Scheme Regulations 2013 (prefix R).
- The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (prefix TP).
- The Local Government Pension Scheme (Administration) Regulations 2008 (Prefix A)
- The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (prefix B).
- The Local Government Pension Scheme (Transitional Provisions) Regulations 2008 (prefix T).
- The Local Government Pension Scheme Regulations 1997 (as amended) (prefix L).
- The Local Government Pension Scheme Regulations 1995 (as amended).
- The Local Government Pension Scheme (Transitional Provisions) Regulations 1997 (prefix TL).

The other regulations requiring policies are:

- The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended). Prefix G
- The Local Government (Early Termination of Employment) Prefix F (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended).
- The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011. Prefix E
- The Local Government (Discretionary Payments) Regulations 1996 (as amended).

2.2 Scope of Discretions

Within this policy document discretions apply to the following areas:

1. Active members;
2. Deferred members (people who are no longer active members of the scheme) including councillor members;
3. Calculation of redundancy payments; and
4. Treatment of compensatory added years payments and injury allowances

For ease of reference the mandatory discretions and the Council's policy are shown in table format on the following pages, referenced to the relevant Regulation prefixes above.

2.3 Impact on other policies

Where appropriate, other Council policies and procedures affected by these discretionary areas will be updated including those for Flexible Retirement, Employee Ill Health and Early Termination of Employment.

2.4 Decision Making

2.4.1 Decisions

From the day an employee starts a job with the Council, to the day when benefits or dependant(s)' benefits are paid, the employer and the pension scheme administering authority have to make decisions under the pension scheme rules that affect members and their dependants.

2.4.2 The role of the City Treasurer

Employer discretions are the responsibility of the City Treasurer under the Council's constitution. In some cases, the City Treasurer will delegate decision making to a suitable, nominated representative.

2.4.3 Maintained Schools with a delegated budget

Staff in community schools, community special schools, maintained nursery schools or voluntary controlled schools are employed by the Local Authority.

Staff in foundation schools, foundation special schools, foundation trust schools and voluntary aided schools are employed by the Governing Body of the school.

A Maintained School is a community school, a community special school, a maintained nursery school, a foundation school, a foundation special school, a foundation trust school, or a voluntary school.

Section 37 of the Education Act 2002 provides that the Governing Body of a Maintained School with a delegated budget shall determine whether any payment shall be made by the Local Authority in respect of the dismissal of, or for the purpose of securing the resignation of, any member of the school's staff. It is also for the Governing Body to determine the amount of the payment. However, section 37 does not apply in relation to any payment which the Local Authority is required to make by virtue of any contract, other than one made in contemplation of the impending dismissal or resignation, or under any statutory provision (e.g. the payment of a statutory redundancy payment).

Although Section 37 gives all of the Maintained Schools with a delegated budget the power to go beyond the Local Authority's policies as stated above, in reality, as this will entail additional cost, it is not anticipated that schools will depart from the Council's policies. Nevertheless, as Section 37 gives this power for certain discretions, these have been noted by ** in the table below.

If a Maintained School with a delegated budget intends to depart from the Council's policy, the Council expects to be notified in advance, in writing stating why. Notice must be given to the City Treasurer where a school proposes to invoke this power as part of the process for approving terminations and pension decisions.

2.4.4 Exercise of discretion

Nothing in this Policy Statement shall fetter the Council's discretion to exercise its powers. Each application within the discretionary areas will be considered in line with the published policy, taking account of the individual circumstances and reasons for the request, the financial and operational impact on the Council and the pension scheme, the need to avoid unlawful discrimination, and any exceptional circumstances that may exist.

The Council will only consider using its discretion in exceptional circumstances set against the background that:

- Normal retirement age is increasing and will continue to do so;
- People need to take personal responsibility for planning and funding their retirement;
- By taking their LGPS pension early, it means that it is anticipated that the pension will be paid for longer than originally forecasted. Therefore it is normal that this will mean less pension paid per annum than had it been put into payment at normal retirement age. This policy is not expected to mitigate this;

- Members need to take account of their revised pension in light of their financial and domestic circumstances when looking to access it early; and
- The Council is unable to fund the reduction in income or to substitute other forms of financial support because a member chooses to draw their pension early with adjustments.

The Council will consider, in exceptional cases, exercising discretions where there is a clear financial or operational benefit to the Council. The cost to the Council is a key consideration in exercising its discretions.

2.5 Internal Dispute Resolution Process

Where a member is not satisfied with any decision affecting them made in relation to the pension scheme, they have the right to ask for it to be looked at again under the formal complaints procedure referred to as the Internal Dispute Resolution Procedure (IDRP).

The Council's aim is to resolve matters informally when they are raised and preferably without the need to use the formal stages. This does not take away a member's right to use the formal IDRP stages.

The formal IDRP has two stages and covers the decisions employers are required to make including the Council exercising its discretions.

2.6 Policy Review

The regulations require all scheme employers to publish and keep under review a written policy statement on all mandatory discretions they may exercise in relation to members of the LGPS.

This policy will be reviewed on a three yearly basis or sooner where there is a change in legislation that would affect its operation or business needs require it.

It is proposed that the review of the policy statement and any associated documents is carried out by the City Treasurer in consultation with the Executive Member for Finance and Human Resources. Any proposed changes arising out of that review will be referred to Personnel Committee for approval.

3. Discretionary policies in relation to active members (excluding councillor members) and members (excluding councillor members) who cease active membership after 31 March 2014

	Description of the Discretionary area	Legislation Reference	The Council's response and approach to this area of discretion	Current Council policy documents
1.	Whether, how much, and in what circumstances to contribute to a shared cost APC scheme	R 16(2)(e) & R 16(4)(d)	The Council may exercise this discretion where there is an economic benefit to the Council.	SCAVC policy under review
2.	Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)	R 30(6) TP 11(2)	The Council will not give blanket consent for staff in the LGPS aged 55 or over to flexibly retire and draw immediate payment of pension benefits. Requests will be considered and assessed on their merits taking account of the financial and operational interests of the Council.	Flexible Retirement Policy
3.	Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement	R 30(8)	Requests will be considered and assessed on their merits taking account of the financial and operational interests of the Council.	As 2 above
4.	Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31 March 2014 membership).	R 30(8)	The Council will not normally exercise this discretion except where there is a clear financial or operational advantage to the Council	
5.	Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of flexible retirement).	TP Sch2, para 1(2)	The Council will not normally exercise this discretion except where there is a clear financial or operational advantage to the Council	
6.	Whether to waive any actuarial reduction for a member voluntarily drawing benefits before	TP3(1) TPSch2, para 2(1), B30(5) and	The Council will not normally exercise this discretion except where there is a clear financial or operational advantage to the	

	<p>normal pension age other than on the grounds of flexible retirement (where the member has both pre 1 April 2014 and post 31 March 2014 membership):</p> <ul style="list-style-type: none"> a) on compassionate grounds (pre 1 April 2014 membership) and in whole or in part on any grounds (post 31 March 2014 membership) if the member was not in the Scheme before 1 October 2006, b) on compassionate grounds (pre 1 April 2014 membership) and in whole or in part on any grounds (post 31 March 2014 membership) if the member was in the Scheme before 1 October 2006, will not be 60 by 31 March 2016 and will not attain 60 between 1 April 2016 and 31 March 2020 inclusive, c) on compassionate grounds (pre 1 April 2016 membership) and in whole or in part on any grounds (post 31 March 2016 membership) if the member was in the Scheme before 1 October 2006 and will be 60 by 31 March 2016, d) on compassionate grounds (pre 1 April 2020 membership) and in whole or in part on any grounds (post 31 March 2020 membership) if the member was in the Scheme before 1 October 2006, will not be 60 by 31 March 2016 and will attain 60 between 1 April 2016 	B30A(5)	Council	
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	and 31 March 2020 inclusive.			
7.	** 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 £6,822 p.a at April 2018 – this figure is uprated annually)	R 31	<p>The Council will generally not exercise this discretion.</p> <p>**The Education Act 2002 confers powers on Maintained Schools with a delegated budget to go beyond the Council's policy for the purposes of the dismissal of, or securing the resignation of, any member of the school's staff.</p>	As 4 above

4. Discretion policies in relations to scheme members (excluding councillor members) who ceased active membership on or after 1 April 2008 and before 1 April 2014

	Description of the Discretionary area	Legislation Reference	The Council's response and approach to this area of discretion	Current Council policy documents
1.	Whether to switch on the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60	TPSch2, para 1(2) & 1(1)(c)	The Council will not normally exercise this discretion except where there is a clear financial or operational advantage to the Council	
2.	Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 (member)	B 30(5), TPSch2, para 2(1)	The Council will not normally exercise this discretion except where there is a clear financial or operational advantage to the Council	
3.	Whether to switch on the 85 year rule for a pensioner member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60	TPSch2, para 1(2) & 1(1)(c)	The Council will not normally exercise this discretion except where there is a clear financial or operational advantage to the Council	
4.	Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A (pensioner member with deferred benefits)	B 30A(5), TPSch2, para 2(1)	The Council will not normally exercise this discretion except where there is a clear financial or operational advantage to the Council	

5. Discretionary policies in relation to councillor members who ceased active membership on or after 1 April 1998, and any other scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008

	Description of the Discretionary area	Legislation Reference	The Council's response and approach to this area of discretion	Current Council policy documents
1	Grant application for early payment of deferred benefits on or after age 50 and before age 55	31(2)	The Council not generally exercise this discretion	
	Whether to switch on the 85 year rule for a member	TPSch2, para 1(2) & 1(1)(f)	The Council will not normally exercise this discretion except	

2	with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60	and R60	where there is a clear financial or operational advantage to the Council	
3	Waive, on compassionate grounds, the actuarial reductions applied to deferred benefits paid early	31(5) & TPSch 2, para 2(1)	The Council will not normally exercise this discretion except where there is a clear financial or operational advantage to the Council	
4	Optants out only to get benefits paid from NRD if employer agrees	31(7A)	The Council will only agree in exceptional cases	

6. Discretion policies in relations to scheme members who ceased active membership before 1 April 1998

	Description of the Discretionary area	Legislation Reference	The Council's response and approach to this area of discretion	Current Council policy documents
1.	Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds	TL4 & L106(1) & D11(2)(c)	The Council not generally exercise this discretion	

7. Discretions relating to redundancy

	Description of the Discretionary area	Legislation Reference	The Council's response and approach to this area of discretion	Current Council policy documents
1.	To base redundancy payments on an actual week's pay where this exceeds the statutory week's pay limit.	G 5	The Council will base redundancy payments on an actual week's pay where this exceeds the statutory weeks pay limit	PC 1447 Local Government Discretionary Compensation Regulations 2006
2.	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.	G 6	The Council will generally not exercise this discretion.	As 1 above

3.	How to apportion any surviving spouse's or civil partner's annual compensatory added years payment where the deceased person is survived by more than one spouse or civil partner.	G 21(4)	The Council would normally split any payment equally between the surviving spouses or partners. However, this is a rare occurrence and each case will be considered on its individual merits taking into account any express wishes of the deceased person and representations from the surviving spouses or partners.	
4.	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.	F 25(2)	The Council would normally split any payment equally between any eligible children. However, this is a rare occurrence and each case will be considered on its individual merits taking into account any express wishes of the deceased person.	
5.	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 disapplied i.e. whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid.	F 21(7)	The Council would generally look to disapply the normal pensions suspension scheme rules.	
6.	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	F 21(5)	The Council would normally reinstate the payment.	

	reinstated after the end of the remarriage, new civil partnership or cohabitation.			
7.	Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partners annual CAY payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or cohabitation lasts, should be disapplied i.e. whether the spouses' or civil partners' annual CAY payments should continue to be paid to both of them.	F 21(7)	The Council would generally look to disapply the normal pensions suspension scheme rules.	
8.	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.	F 17	The Council would not normally reduce or suspend payments in this instance. The Council reserves the right to look at each case based on the employee's new salary details of the reemployment into local government.	As 1 above
9.	How to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment in local government	F 19	The Council would not normally reduce payments in this instance. The Council reserves the right to look at each case based on the employee's new salary details of the reemployment into local government.	

8. Discretions relating to Injury Allowance

	Description of the Discretionary area	Legislation Reference	The Council's response and approach to this area of discretion	Current Council policy documents
1.	Whether to grant an 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.	E 3(1)	The Council will not generally adopt this discretion	New Policy statement document
2.	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.	E (4) and 8	The Council will not generally adopt this discretion	As above
3.	Determine whether person continues to be entitled to an injury allowance awarded under regulation 3(1)	E 3(2)	The Council will not generally adopt this discretion	As above
4.	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 of the job.	E 4(1)	The Council will not generally adopt this discretion	As above
5.	Amount of 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 of the job.	E 4(3) and 8	The Council will not generally adopt this discretion	As above
6.	Determine whether person continues to be entitled to an injury	E 4(2)	The Council will not generally adopt this discretion	As above

	allowance awarded under regulation 4(1)			
7.	Whether to suspend or discontinue injury allowance awarded under regulation 4(1) if person secures paid employment for not less than 30 hours per week for a period of not less than 12 months.	E 4(5)	The Council will not generally adopt this discretion	As above
8.	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.	E 6(1)	The Council will not generally adopt this discretion	As above
9.	Determine amount of any injury allowance to be paid under regulation 6(1).	E 6(1)	The Council will not generally adopt this discretion	As above
10.	Determine whether and when to cease payment of an injury allowance payable under regulation 6(1)	E 6(2)	The Council will not generally adopt this discretion	As above
11.	Whether to grant an injury allowance to the spouse, civil partner, cohabiting 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.	E 7(1)	The Council will not adopt this discretion	As above
12.	Determine amount of any injury allowance to be paid under regulation 7(1).	E 7(2) and 8	The Council will not adopt this discretion	As above
13.	Determine whether and when to cease payment of an injury allowance payable under regulation 7(1) (employee who dies as a result	E 7(3)	The Council will not adopt this discretion	As above