



Administering Authority Discretions Policy Statement 2019

April 2019

Under the LGPS Regulations, the Fund is required to formally publish its policy on “discretions”. Discretions is taken to include where the administering authority is required to carry out a task, but an element of choice is seen to exist as to how the task is completed.

Unless stated otherwise the references to regulations are set out below with the following prefixes used throughout the draft.

- 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 as amended) [prefix B]
- The Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [prefix T]
- The Local Government Pension Scheme Regulations 1997 (as amended) [prefix L]

Admission of Admission Bodies [Regulation R4, R3(5) RSch2]

The administering authority may make an admission agreement with any admission body. The administering authority can also make admission agreements with a Care Trust, NHS Scheme employing authority or Care Quality Commission. An admission agreement may take effect on a date before the date on which it is executed.

The Council will usually agree to an admission agreement with an admission body that is regarded as having a community of interest, provided it is satisfied about the long term financial security of the body or it has a public sector guarantee. The administering authority will enter into an admission agreement with other admission bodies provided that any requirements it has set down are met. The Council may agree that the admission agreement may take effect on a date before the date on which it is executed.

Right to Terminate Admission Agreement [RSch2]

The administering authority has the right to terminate an admission agreement in prescribed circumstances.

The Council shall retain the right to terminate an admission agreement in the event of:

- a) The insolvency, winding up or liquidation of the admission body,
- b) A material breach by the admission body of any of its obligations under the admission agreement or these Regulations which has not been remedied within a reasonable time, or
- c) A failure by the admission agreement to pay any sums due to the fund within a reasonable period after receipt of a notice from the administering authority requiring it to do so.

Exit Payment [R64]

The administering authority may suspend (by way of issuing a suspension notice) for up to three years, an employer's obligation to pay an exit payment where the employer is again likely to have active members within the specified period of suspension.

Where an intention to allow new members to join the scheme is identified, the Council may allow the employer up to six months to admit such members.

Additional Pension Contributions [R16]

The administering authority may turn down a request to pay an Additional Pension Contribution (APC) or Shared Cost Additional Pension Contribution (SCAPC) over a period of time where it would be impractical to allow such a request. The member would still be able to pay via a single lump sum payment.

Due to the administration costs involved requests to pay Additional Pension Contributions or Shared Cost Additional Pension Contributions over a period of time in order to address an absence from work of less than 10 working days will be refused unless there are exceptional circumstances.

Medical Examination Required for Purchase of APC/SCAPC [R16]

The administering authority may require the member to undergo a medical at their own expense and may refuse an application if the authority is not satisfied that the member is in reasonably good health.

The Council will require that a member provides satisfactory medical evidence to ensure they can be reasonably expected to complete the contract undertaken and will not retire due to a pre-existing medical condition on health grounds. No medical shall be required if the member is paying for the additional pension by means of a lump sum payment.

Payment of Additional Voluntary Contributions on the Death of a Member [R17]

The administering authority shall decide to whom to pay any AVC monies, including life assurance monies are to be paid to on death of a member.

The Council will decide based on the individual circumstances of the case, who should receive payment of the monies having regard to that it should be paid to or for the benefit of the member's nominee, personal representative or any person appearing to the authority to have been a relative or dependent of the member.

Provision of Estimates in Relation to Transfers of AVCs/FSAVCs [TP15 and A28]

The administering authority may charge a member for providing an estimate of additional pension that would result from a transfer of in house AVC/SCAVC contributions.

Members may request a quote free of charge. In the exceptional case an additional request is made, the Council reserve the right to charge.

Pension Accounts [R22]

A pension account may be kept in any form that the administering authority considers appropriate.

The Council will decide the form in which pension accounts are kept based upon any published information or best practice and in an efficient manner.

Concurrent Employment and the Absence of an Election Form [TP10]

The administering authority shall decide in the absence of an election form from the member within 12 months of ceasing a concurrent employment, and where there is more than one on going employment which on going employment the benefits from the concurrent employment should be aggregated with.

The one with the longest likely lifespan or the ongoing employment that is most similar to the one that has ceased will be selected.

Retirement Benefits [R30]

The administering authority, in cases where the current employer or the former employer has ceased to be a Scheme employer, may consent to waive, in whole or in part the actuarial reduction where the member voluntarily draws their pension before normal pension age.

The administering authority may also in cases where the current employer or the former employer has ceased to be a Scheme employer may consent to waive, in whole or in part the actuarial reduction on benefits paid on flexible retirement. Where a request is received it will be considered on an individual basis and on its own merit, however where there is a cost as this cost will have to be spread across all employers the cost has to be justified.

Strain on the Fund [R68]

The administering authority may require an employer who allows a member to retire by reason of flexible retirement, redundancy or business efficiency to pay the additional charge on the fund. This also includes the cost where the employer has chosen to waive any reduction on flexible retirement or where the member voluntarily draws benefits before normal retirement age.

The Council will require an employer to make the appropriate payment to meet the additional charge where the member has retired early through flexible retirement, redundancy, business efficiency or where the employer has exercised their discretion to waive any reduction as a result of flexible retirement or voluntary retirement.

Switching on the Rule of 85 [TP Sch 2]

In cases where the current employer or former employer has ceased to exist the administering authority may consent to switch on the 85 year rule where the member is voluntarily drawing benefits on or after age 55 and before age 60.

Where a request is received it will be considered on an individual basis and on its own merit, however where there is a cost as this cost will have to be spread across all employers the cost has to be justified.

Waiving the Reduction [TP Sch 2 & B30]

In cases where the current employer or former employer has ceased to exist, the administering authority may consent to waive any actuarial reduction on the benefits on pre and/or post April 2014 benefits.

Where a request is received it will be considered on an individual basis and on its own merit, however where there is a cost as this cost will have to be spread across all employers the cost has to be justified.

Strain on the Fund [TP Sch 2]

The administering authority may require an employer to pay any additional costs as a result of the employer waiving the reduction in cases where the employer has consented to the early payment of on benefits before age 60 under Benefit Regulation 30.

The Council will normally require the employer to make the additional payment to meet any additional cost.

Extension of the Time Limit to Draw Benefits [R32]

The administering authority shall decide whether to extend the time limits in which a member must give notice of their wish to draw their benefits before normal retirement age or upon flexible retirement.

Where a request is received asking for the time limit to be extended the individual circumstances will be considered on whether it is appropriate to extend the time limit.

Commutation of Small Pensions [R34,B39,T14,R39]

The administering authority may commute a small pension into a single lump sum.

The administering authority will commute small pensions when a member has made a request.

Independent Registered Medical Practitioner – Approval [R36 & A56]

The administering authority shall approve the choice of the medical practitioner used by the employer for ill health retirement.

A medical practitioner who is registered with the General Medical Council and who has the appropriate qualifications specified in the regulations will be approved.

Certificate Produced by an IRMP Under the 2008 Scheme [TP12]

In cases where the employer or the former employer has ceased to exist to be a scheme employer, the administering authority can use a certificate produced by an IRMP under the 2008 Scheme to make a determination under the 2014 Scheme.

The certificate will be allowed except in circumstances of a particular case the certificate is not compliant with the requirements of the 2014 Scheme.

Early Payment on Ill Health Grounds – Deferred Member [R38]

In cases where the employer or the former employer has ceased to exist to be a scheme employer, the administering authority shall decide whether the deferred member meets the criteria of being permanently incapable of carrying out their former job and are unlikely to be capable of undertaking gainful employment before normal pension age or for at least three years whichever is sooner.

Where a request is received each case will be considered individually and a decision will be made based on the medical evidence and opinion provided by the Independent Registered Medical Practitioner.

Early Payment on Ill Health Grounds – Deferred Pensioner Member [R38]

In cases where the employer or the former employer has ceased to be a scheme employer, the administering authority can decide whether a deferred pensioner is unlikely to be capable of undertaking gainful employment before normal pension age because of ill health.

Where a request is received each case will be considered individually and a decision will be made based on the medical evidence and opinion provided by the Independent Registered Medical Practitioner.

Payment of the Death Grant [R40, R43,R46,TP17 & B23,B32,B35,TSCH & LI55]

The administering authority has absolute discretion in determining the recipients of any death grant payable from the Scheme.

Normally the death grant will be paid to the nominated beneficiary or the death grant could be paid to the Estate of the deceased. Where either or both of these options are seen to be inappropriate or impossible the Council shall exercise its absolute discretion in as to who should receive the death grant.

No Double Entitlement - Benefits Due Under Two or More Regulations [R49 &B42]

The administering authority may decide in the absence of an election form from a member, which benefit is to be paid where the member would be entitled to a benefit under two or more regulations for the same period of Scheme membership.

The member would be notified of the payment of the benefit that would provide the highest level of payment.

Admission Agreement Funds [R54]

The administering authority may establish an admission agreement fund

The Council has chosen not to set up an admission agreement fund.

Governance Compliance Statement [R55]

The administering authority must prepare a governance policy stating whether the administering authority delegates its functions or part of its functions in relation to maintaining a pension fund to a committee, a sub-committee or an officer of the administering authority, and if they do so delegate, state:

- the terms, structure and operational procedures of the delegation
- the frequency of any committee or sub committee meetings
- whether representatives of employing authorities or members are included and if so whether they have voting rights

The policy must also state:

- the extent to which a delegation, or the absence of a delegation, complies with Secretary of State guidance and to the extent it does not so comply, state the reasons for not complying and
- the terms, structure and operational procedures appertaining to the local Pensions Board.

The governance compliance statement will be prepared, maintained and published. A copy will be made available on our website www.wmpfonline.com

Funding Strategy Statement [R58]

The administering authority must after appropriate consultation prepare maintain and publish a statement setting out its funding strategy. The statement has to be published no later than 31 March 2015.

The funding strategy statement is prepared, maintained and published annually. A copy is available on our website www.wmpfonline.com

Pension Administration Strategy [R59]

The administering authority may prepare and publish a pension administration policy and the matters it should include.

The administering authority will publish a pension administration strategy after consultation and it will be kept under review. A copy is available on our website www.wmpfonline.com

Communications Policy [R61]

The administering authority must prepare and publish its communication policy. It must set out its policy concerning communication with members, representatives of members, prospective members and Scheme employers, as well as the format, frequency and method of communications, and the promotion of the Scheme to prospective members and their employers.

The administering authority publishes and maintains a communications policy, a copy of which will be made available on our website www.wmpfonline.com

Revision of Employer's Contribution Rate [R64]

The administering authority may obtain from the actuary, a certificate revising the employer contribution rate, if there are circumstances which make it likely a scheme employer will become an exiting employer.

A revised additional rate and adjustments certificates regarding employer contributions will be obtained where it appears to be appropriate.

Aggregate Scheme Costs – Revised Certificates [R65]

The administering authority may obtain a new rates and adjustments certificate if the Secretary of State amends the regulations as part of the "cost sharing" arrangements.

A new rates and adjustments certificate will be obtained where it appears to be appropriate.

Employer Contributions – Dates for Payment [R69]

The administering authority shall decide on the dates which contributions are to be paid over to the Fund.

All contributions (apart from additional voluntary contributions) should be credited to the Fund without delay by the 19th of the month following the month in which they fall due.

Information Provided by Employers About Contributions – Frequency and Format [R69, TP23,22 & R80]

The administering authority shall decide on the form and frequency of the information to accompany payments to the Fund.

The administering authority will provide to employers the specified formats that employers are to use for the submission of their data, which is to be provided monthly, in line with the payment of contributions. A notification will be issued each year to inform employers of the deadline to submit this data along with any format changes that will be required. The Fund requires this data to be submitted to them no later than 30 April.

Notice to Recover Costs Due to Employer's Performance [R70]

The administering authority will decide to issue the employer with a notice to recover additional costs incurred as a result of the employer's level of performance.

As detailed in the Pension Administration Strategy, the Council will review from time to time whether to issue an employer with notice to recover additional costs incurred as a result of the employer's level of performance.

Employer Payments – Interest on Overdue Payments [R71]

The administering authority may charge interest on payments by employers which are overdue.

The Council reserves the regulatory prescribed right to require interest to be paid when payments are overdue by more than one month. Interest must be calculated at one per cent above base rate on a day to day basis from the due date to the date of payment and compounded with three monthly rests.

Procedure to be Followed When Exercising Stage 2 Dispute Functions and the Manner in Which Those Functions are to be Exercised. [R76,A60,TP23 & R76]

The administering authority will decide how it will exercise its stage two dispute procedure and the procedure to be followed.

The review would be undertaken by a person not involved in the first stage decision and by a person appointed to deal with disputes referred to it under stage 2. The Council will ensure suitable procedures are in place.

Appeal to the Secretary of State Against Employer Decision [R79 & A63]

The administering authority may appeal to the Secretary of State against an employer decision or lack of an employer decision.

The Council will appeal to the Secretary of State if it believes an employer has made (or failed to make) a decision that is both wrong in law and material and where we have been unable to persuade the employer to alter its actions or inactions.

Exchange of Information [R80,TP22,23]

The administering authority shall specify the information to be supplied by employers to enable the administering authority to discharge its function.

The Council will specify the information that is to be supplied by employers having regard to the regulatory requirements and best practice.

Making Payments in Respect of Deceased Person Without Probate/Letters of Administration [R82 & A52]

The administering authority may pay the whole or part of the amount due from the Fund to the personal representatives or any person appearing to be beneficially entitled to the estate without the production of probate or letters of administration where the amounts due are less the amount specified in section 6 of the Administration of Estates (Small Payments) Act 1965.

Payment will normally be made without the production of probate or letters of administration where the amount is below the specified amount.

Payments for Persons Incapable of Managing Their Affairs [R83,A52,B27]

The administering authority may decide where a person (other than an eligible child) appears incapable of managing their affairs, to pay the whole or part of that person's pension benefits to another person to be applied for the benefit of the member.

Where in the Council's opinion a member is unable to manage their own affairs, then having considered the individual circumstances of the particular case they may decide to pay some or all of the benefits to someone else to be applied for the benefit of the member.

Date to Which Benefits Shown on Annual Benefit Statement are Calculated [R89]

The administering authority will decide the date to which benefits shown on the annual benefit statement are calculated.

The date will be selected in line with regulatory requirement and best practice.

Bulk Transfer (Transfer of Undertakings) [R98]

The administering authority must agree any bulk transfer payment.

The terms of the bulk transfer will be discussed with the Fund's actuary, and once all parties are in agreement payment will be made.

Transfers into the Fund and Extension of 12 Month Time Limit [R100]

The administering authority may accept a transfer value of pension rights into the Fund and may also extend the time limit of 12 months from the date the member first became an active member in their current employment.

The Council will accept a transfer value where a request is made. The Council will only agree to extend the time limit where the appropriate employer has agreed to extend the time limit.

Final Pay Reductions [TP3,4,8,10,17 & B10]

The administering authority will decide whether to use an average of three years pay for final pay purposes where the member has died before making an election.

The pay figure which provides the highest overall level of benefits will be selected.

Permanent Reductions in Pay - Certificates of Protection [TP3,4,8,10,17,TSch1 & L23]

The administering authority will decide for a member who has a certificate of protection who has died before making an election which pay figure should be used for final pay purposes.

The pay figure which provides the highest overall level of benefits will be selected.

Eligible Child – Ignoring Breaks in Education or Training [RSch1 & TP17]

The administering authority may treat a child as being in continuous educational or vocational training despite a break.

The Council will accept short breaks and also gap years as being breaks in education and will restart a suspended child's pension at the end of such a break or gap.

Financial Dependence /Interdependence of Cohabiting Partner [RSch1 & TP17]

The administering authority will decide upon the evidence required to determine the financial dependence or financial interdependence of the cohabiting partner and the scheme member.

The Council will provide details of the evidence required taking account of any guidance provided.

Abatement of pre-1 April 2014 Pension [TP & A70]

The administering authority shall decide whether and how to abate the pre 1 April 2014 pension element following re-employment of a scheme pensioner by a local government employer.

In the event of a scheme pensioner obtaining further employment with a scheme employer the pension will not be abated. The Fund resolved from 1 September 2006 not to abate pension on re-employment.

Extension of Time Period for Capitalisation of Added Years Contract [TP15 & TSch1 & L83(5)]

The administering authority may extend the time allowed to a member who has an added years contract and who is made redundant to decide whether to pay a capital payment.

The Council will apply the prescribed three month time limit, unless there are individual circumstances which need to be considered in deciding whether to grant an extension of the time limit.

Recovery of Unpaid Employee Contributions as Debt/From Benefits [A45]

The administering authority may recover any outstanding employee contributions as a debt or as a deduction from the benefits.

The Council will, where practical deduct any unpaid employee contributions from the benefits relating to the membership to which the unpaid contributions relate.

Consent for Early Payment and Waiving of Reduction [B30 & TPSch]

Where the former employer has ceased to be a scheme employer, the administering authority may consent to waive the reduction for the payment of deferred benefits on compassionate grounds.

Where a request is received it will be considered individually and on its own merit, however where there is a cost as this cost will have to be spread across all employers the cost has to be justifiable.

'Switch on' the 85-Year Rule for a Pensioner Member with Deferred Benefits

Where the former employer has ceased to be a scheme employer, the administering authority may consent to 'switch on' the 85-year rule for a pensioner member with deferred benefits voluntarily drawing benefits.

The Council would not normally 'switch on' the 85-year rule.

Application for Early Payment of a Suspended Tier 3 Ill Health Pension and Waiving Reduction [B30]

The administering authority may consent to the request for the early payment of pension for a member, who left with a tier 3 ill health pension that is suspended and who now is aged between 55 and 60 where the former employer has ceased to be a scheme employer. The administering authority may also waive any reduction.

Where a request is received, it will be considered individually and on its own merit, however where there is a cost, as this cost will have to be spread across all employers the cost has to be justifiable.

Request for Early Payment of Deferred Benefits on Ill Health Grounds [B31]

The administering authority may decide to agree to a request from a deferred member for early payment of benefits on ill health grounds where the former employer has ceased to exist.

The Council will obtain an opinion from an IRMP as to whether as the member meets the criteria of permanent ill health and reduced likelihood of gainful employment.

Spouses' Pensions Arising Under the 1995 Regulations Payable for Life

The administering authority shall decide to pay spouse's pensions for life for pre 1 April 1998 retirees/Pre 1 April 1998 deferreds who die on or after 1 April 1998, rather than ceasing the pension during any period of marriage or co-habitation.

The Council has deemed that any spouses' pension that comes into payment is payable for life. This does not apply to spouses' pensions that ceased prior to 1 April 1998.

Contact Information

West Midlands Pension Fund

PO Box 3948
Wolverhampton
WV1 1XP

t: **0300 111 1665**

w: **wmpfonline.com**

e: **pensionfundenquiries@wolverhampton.gov.uk**

Lines are open during the following times:

8:30 am to 5.00 pm Monday-Thursday

8:30 am to 4.30 pm Friday

Calls may be monitored for training purposes

For further information on the services available from the Fund, please visit www.wmpfonline.com

Data Protection

To protect any personal information held on computer, the City of Wolverhampton Council is registered under the Data Protection Act 2018. This allows members to check that their details held are accurate. The Fund may, if it chooses, pass certain details to a third party, if the third party is carrying out an administrative function of the Fund, for example, the Fund's AVC provider. Members who wish to apply to access their data on Data Protection Act grounds should contact the Fund's Data Protection Officer via email at wmpfdataprotectionofficer@wolverhampton.gov.uk

This authority is under a duty to protect the public funds it administers, and to this end may use information for the prevention and detection of fraud. It may also share this information with other bodies administering public funds solely for these purposes.

Information produced by the Fund can be made available in several formats including large sight text, Braille and several community languages. If you have any special requirements or would like to speak face to face with a member of staff, please contact us to arrange how we may best meet your needs. Please remember that special requirements may take a little longer than normal to organise, but you have our assurance that we will do our best to ensure you receive the information in the most appropriate and efficient manner possible.

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Employer and Customer Services
PO Box 3948
Wolverhampton
WV1 1XP