

Guidance

Employer Discretions LGPS – GDL003.008

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Next Review: April 2020

Customer & Support Services – Resources - HR & OD

Version Control

Version History				
Date	Version	Author/Editor	Comments	Approver
April 2019	V0.1		Amendment to title from People and OD to Human Resources and Organisational Development (HR and OD). Move to appropriate control document under HR&OD Governance	Employment, Reward and Diversity Manager
August 2019	V1.0		Extra detail added to the LGPS pension discretion guide around Shared costs for Additional Pension Contributions. (Previously it only covered AVCs and not APC's). Contents list renumbered	Employment, Reward and Diversity Manager

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1. Purpose & Scope

This document sets out our guidance in exercising its discretions under the Local Government Pension Scheme (LGPS) 2014.

The default position is that we will not make additional pension contributions. However, exceptionally, where it is in the financial interests of the Council to do so and there is a tangible and specific organisational benefit, this guidance allows for the payment of discretionary benefits in cases of early retirement and the award of additional pension.

This guidance also provides for early retirement on compassionate grounds in exceptional circumstances and flexible retirement where there is a benefit to the Council.

The guidance also authorises the Pensions Manager to extend the 12 month limit for allowing active members to transfer benefits from previous pensionable employment into the Pension Fund where it is determined that maladministration has occurred.

The scope of the guidance covers all Cornwall Council employees who are members of the Local Government Pensions Scheme. However, in the case of school-based employees the relevant governing body is responsible for authorising any discretions and meeting any costs in accordance with this guidance.

This guidance also applies to those employees of foundation schools in relation to whom the Council is deemed to be the Scheme employer in accordance with the LGPS Regulations. However, the governing body of a foundation school is the actual employer and so would be responsible for authorising any discretions and meeting any costs associated with the exercise of those discretions.

2. Guidance (inc. responsibilities)

2.1 Distribution - who needs to be aware of this guidance?

- Cornwall Council managers and other employees.
- Green Book trade unions.
- The Human Resources (HR) and Organisational Development (OD) Service.
- Cornwall Pension Fund administering authority.

- Foundation schools (as employers of employees for whom the Council is deemed to be the Scheme employer).

2.2 Context

This guidance replaces the Council's Local Government Pension Scheme (LGPS) employer discretion guidance which it introduced in accordance with the LGPS 2008. This Guidance satisfies the requirement to formulate, publish and keep under review a guidance statement to take account of the new discretions under the LGPS 2014.

2.3 Why is this guidance required?

This guidance is needed to explain whether and in what circumstances the Council will exercise any of its discretions under the Local Government Pension Scheme 2014 and to set out the approval process for decision making.

All local government employers are required to review and update their guidance to take account of the changes introduced as part of the LGPS 2014.

2.4 What are we trying to achieve

This document is intended to set out the guidance position and clarify the limited circumstances and the related approval process where the Council might exercise its discretions under the LGPS 2014 in favour of the employee.

The exercise of any of the available discretions in favour of an employee will fix the Council with additional pension costs.

The default position is that the Council will not grant additional pension benefits under the LGPS 2014 except where it is essential to do so in order to facilitate a tangible and specific organisational benefit and the additional pension costs are recovered within a two-year period or where the Council considers it appropriate to exercise its discretion on compassionate.

2.5 Shared Cost Additional Voluntary Contributions (AVC) (Regulation 17)

AVCs allow any active employee to increase their main scheme benefits by making regular monthly payments direct from their salary to an insurance policy the pension fund currently holds with Standard Life. These payments accumulate and are payable in the form of a pension and lump sum along with the main LGPS benefits when the employee retires. The Council's guidance is not to contribute to an employee's AVC.

2.6 Shared Cost Additional Pension Contributions (APC)

APC's allow an active member to boost their pension at retirement or to cover lost pension due to authorised unpaid leave or industrial action.

Buying extra pension (Regulation 31)

Members can use this option to boost their pension benefits at retirement. An employee must be in the main section of the Scheme to increase their benefits in this way. This option is not available if a member is in the 50/50 section of the scheme.

A member can choose to buy extra pension by spreading payment over a number of complete years (unless they are within 1 year of their Normal Pension Age) or by making a one-off payment. The Council does not contribute towards a member's APC.

Buying lost pension (Regulation 2013 16/6)

If an active member is absent from work as a result of industrial action, authorised unpaid leave, or unpaid additional child related leave, this period will not count towards their pension. Members can use this option if they wish to buy back the pension they lost during this time. They can do this regardless of whether they are in the main or 50/50 section of the Scheme.

The member can choose to buy the lost pension by spreading payment over a number of complete years (unless they are within 1 year of their Normal Pension Age), or, by making a one off payment. If the member elects to cover the break within 30 days of returning to work, the Council will meet two thirds of the cost unless the absence is due to industrial action.

2.7 Early payment of Retirement Benefits – Waiving Actuarial Reduction (Regulation 30 (8))

Employees can retire from age 55 and receive immediate payment of their pension benefits providing they have at least two years' membership of the LGPS. Whilst the default position is that the pension benefits payable will be subject to an actuarial reduction, the Council may elect to waive any actuarial reduction for early retirement where a financial saving can be achieved within two years and there is a benefit to the Council or in accordance with [2.8 below](#) (early retirement on compassionate grounds).

The Head of HR & OD* is authorised to exercise the discretion in the circumstances described above subject to consultation with the Head of Financial

Planning & Business Intelligence* and the Head of Service responsible for the budget from which any additional costs are to be met.

2.8 Early Payment of Retirement Benefits between aged 55 and 60 – Transitional Provisions Regulations

Prior to the LGPS 2014 where an employee's age and length of service totalled 85 (known as the "85 Year Rule") they could retire with unreduced benefits with the consent of the employer. As the decision to retire early now rests entirely with the employee, the LGPS 2014 Regulations automatically provide for the 85 Year Rule to be 'switched off' resulting in a reduction to all of the employee's benefits. This of course means there is no additional cost to the employer.

The Council will not 'switch on' the 85 Year Rule for early retirement unless a financial saving can be achieved within two years and there is a benefit to the Council.

The Head of HR & OD* is authorised to exercise the discretion in the circumstances described above subject to consultation with the Head of Financial Planning & Business Intelligence* and the Head of Service responsible for the budget from which any additional costs are to be met.

2.9 Early Retirement on Compassionate Grounds (Regulation 30 (5))

The Council may permit early retirement on compassionate grounds in exceptional circumstances. These circumstances might include extreme financial hardship or the need to give up work in order to provide constant care for an immediate family member.

The Head of HR & OD* is authorised to exercise the discretion in the circumstances described above subject to consultation with the Head of Financial Planning & Business Intelligence * and the Head of Service responsible for the budget from which any additional costs are to be met.

2.10 Flexible Retirement (Regulation 30 (6))

The Council permits flexible retirement only where there is a benefit to the Council (either financial or operational) and where an employee's reduced level of earnings together with his or her pension does not exceed his or her pre-retirement earnings.

The Council will not waive any actuarial reduction to an employee's pension benefits in these circumstances.

Any pension costs incurred by the employee's service must be recovered within a period of no more than two years.

The Head of HR & OD* is authorised to exercise the discretion in the circumstances described above subject to consultation with the Head of Financial Planning & Business Intelligence* and the Head of Service responsible for the budget from which any additional costs are to be met.

2.11 Increase of Pension by Employer (Regulation 31)

The award of additional pension is not granted except when it is essential to do so in order to facilitate a tangible and specific organisational benefit.

The Head of HR & OD* is authorised to exercise the discretion in the circumstances described above subject to consultation with the Head of Financial Planning & Business Intelligence* and the Head of Service responsible for the budget from which any additional costs are to be met.

2.12 Transfer of Service into the LGPS (Regulation 100)

The Pensions Administration Manager is authorised to extend the 12 month time limit for allowing active members to transfer benefits from previous pensionable employment into the Cornwall Pension Fund where it is determined that maladministration has occurred as a result of affected employees not having been given any or sufficient details about the pension scheme or transfer option.

*In the event that these roles change as a result of the Council's restructuring the authorisation or consultation responsibilities will transfer to the relevant 3rd tier role with responsibilities for people and finance respectively.

3. Guidance management

The HR & OD Service is responsible for implementing and managing the guidance.

4. Breaches and non-compliance

Breaches of the guidance may be dealt with under the Council's disciplinary procedure.

5. How the impact of the guidance will be measured

The Council will be able to monitor the additional pension costs created by the application of this guidance compared with the impact of the guidance on service delivery which will be more difficult to measure.

6. Evaluation and review

The guidance will be reviewed within 12 months following implementation.

7. Document Information

Further information

Further information and support about this guidance is available from the HR Helpdesk 01872 323500, option 5.

Alternative formats

If you would like this information in another format please contact: Cornwall Council, County Hall, Treyew Road, Truro, TR1 3AY.

Telephone: 0300 1234 100 email: enquiries@cornwall.gov.uk website: www.cornwall.gov.uk

Please consider the environment.
Only print this document if it cannot be sent electronically.

Prepared by:

Customer & Support Services – Resources - HR & OD

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