

LOCAL GOVERNMENT PENSION SCHEME (LGPS)



Employer's Policy Statement Exercise of Discretionary Powers

Since 1997, the LGPS legislation has required every Employer to issue a written Policy Statement on how it will exercise the various discretions provided by the Scheme; to keep it under review; and to revise it as necessary. This version of Great Yarmouth Borough Council's Policy Statement was published on 12 May 2009 and notified to the Norfolk Pension Fund on the same day.

For convenience, it was considered appropriate that all of Great Yarmouth Borough Council's discretionary policies that relate to the LGPS in some way should appear in one document. The first four discretions are required by law to be included in the Council's Policy Statement. The requirement is in Reg 66(1) of the LGPS (Administration) Regulations 2008.

In the following pages,

'A Regs' means the LGPS (Administration) Regulations 2008

'B Regs' means the LGPS (Benefits, Membership & Contributions) Regulations 2008



Name of Employer	Great Yarmouth Borough Council has adopted the policies shown on the following pages
Signed (authorised signatory)	<i>R C Read</i>
Name of authorised signatory	Robert Charles Read
Date	12 May 2009

POLICY STATEMENT

Introduction

In constructing this Policy Statement it is made clear that:

- < the Policy Statement confers no contractual rights
- < the Council retains the right to change the Policy Statement at any time
- < only the policy which is current at the time a relevant event occurs to the employee / scheme member will be the one applied to that employee / member
- < a policy should not act as a 'fetter' on the Council's discretion. In exceptional circumstances, it may be appropriate for the Council to make an exception to a particular policy. Any exception to a policy contained within this Policy Statement will only be undertaken with the approval of the Council's Monitoring Officer.

This published Policy Statement was approved by the Council's Head of Policy and Improvement, following consultation with management and UNISON representatives.

Further copies of this Policy Statement can be obtained from
Human Resources,
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For a large print copy please call 01493 846360

PART 1 - COMPULSORY ITEMS IN THE 2008 REGULATIONS:

Awarding Additional Membership : B Regs, Regulation 12

An employer is allowed to increase a member's benefits by awarding additional membership up to a maximum of 10 years.

- < The Council has decided to use its discretion to enhance an employee's pension at the point of retirement in the following circumstances:

Redundancy and Retirement in the Interests of the Efficiency of the Service

Where an employee is made redundant or retires in the interests of the efficiency of the service, the Council will allow the employee to use the whole of their compensation payable under the "104 week's pay scheme" (less any redundancy payment) to purchase permissible augmented years in the LGPS, if they wish to do this. [See the reference to The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 in Part 3 of this document for a fuller explanation.]

Such possible augmentation will not apply to an employee whose fixed term contract comes to an end only if this can be objectively justified.

Awarding Additional Pension : B Regs, Regulation 13

An employer is allowed to increase a member's benefits by awarding additional pension up to a maximum of £5000 per annum.

- < The Council will not use the discretion available to it to award such additional pension, other than that which results from an augmentation referred to under Regulation 12 above.

Flexible Retirement : B Regs, Regulation 18

An employer may give consent for a member aged 55* or more who reduces their grade or hours of work (or both) to receive all or part of their LGPS benefits immediately, even though they haven't left its employment.

The Council has decided that:

- < Early release of benefits following reduced hours or salary will be allowed only in circumstances where it is demonstrated to be in the Council's long-term interests.
- < Before a decision is made, the Council must be informed of the full economic cost of granting flexible retirement and of any financial and non-financial benefits.

If the benefits payable on flexible retirement would normally be reduced for early payment, the employer may agree to waive all or part of the reduction.

The Council has decided that:

- < Each case will be considered on its merits. Before a decision is made, the Council must be informed of the full economic cost of waiving all or part of the reduction and of any financial and non-financial benefits.

Note – the above decisions are normally delegated to the Head of Financial Services.

[*The lower age is protected at 50 for a member as at 31st March 2008 who retires by 31st March 2010.]

Early Payment of Pension : B Regs, Regulation 30

An employer may give consent for a member aged 55* or more who leaves its employment without an entitlement to immediate LGPS benefits to receive them straight away regardless.

The Council has decided that:

- < Voluntary early retirement with immediate payment of benefits will be allowed only in circumstances where it is demonstrated to be in the Council's long-term interests.
- < Before a decision is made in any case, the Council must be informed of the full economic cost of granting early retirement and of any financial and non-financial benefits.

If the benefits payable would normally be reduced for early payment, the employer may agree to waive all or part of the reduction on compassionate grounds.

The Council has decided that:

- < Each case will be considered on its merits. Before a decision is made, the Council must be informed of the full economic cost of waiving all or part of the reduction and of any financial and non-financial benefits.

Note – the above decisions are normally delegated to the Head of Financial Services.

[*The lower age is protected at 50 for a member as at 31st March 2008 who retires by 31st March 2010.]

PART 2 - NON-COMPULSORY ITEMS IN THE 2008 REGULATIONS:

Absence Contribution Time Limit : A Regs, Regulation 22(2)

A member who has been away from work as a result of maternity, paternity or adoption leave, industrial action (mainly strikes) or unpaid leave of absence has the right to pay voluntary pension contributions to prevent any gap in membership. Their request to do so normally has to be made within 30 days of returning to work (or within 30 days of their last day of service if they don't return).

- < The Council will not use the discretion available to it to extend the 30 days application period.

Membership Aggregation : A Regs, Regulation 16(4)(b)(ii)

A member who transfers from another LGPS employer, either directly or after a break, may opt to aggregate the two periods of membership provided they do so while still an active member in the new post and within twelve months of joining. The employer has discretion to extend the twelve months time limit.

- < The Council has decided to extend the 12 month period for those existing Council employees who declared to the Norfolk County Council Pension Fund by 31 March 2005 that they had such a period of unaggregated service and that such service will be treated in accordance with the Regulations that would have applied at 31 March 2004.

Shared Cost AVCs : B Regs, Regulation 15(3) and A Regs, Regulation 25(3)

It is implicit in these two Regulations that an employer may contribute towards a Shared Cost Additional Voluntary Contribution (AVC) Scheme, i.e. an AVC Scheme into which the employer pays contributions as well as the member.

- < The Council has decided that a Shared Cost AVC Scheme be not set up.

Forfeiture of Pension Rights : A Regs, Regulations 47(2), 72, 73, 74 & 76

If a member leaves as a result of a conviction for an offence in connection with their LGPS employment or as a result of their own criminal, negligent or fraudulent act in connection with that employment, the employer has discretion (within the terms of these five regulations) to direct that all or part of their LGPS pension rights should be forfeited and/or paid over to the employer or specified dependants of the member.

- < The Council will exercise this discretion depending on the circumstances of the case. This power will be delegated to the Head of Financial Services.

'Specified Person' for Member Disagreements : A Regs, Regulation 57(5)(c)

There is a three-stage dispute procedure for members who disagree with any LGPS decision made by their employer. The first stage is handled by an independent referee appointed by the employer. Second Stage appeals are dealt with by the administering authority, Norfolk County Council. The third and final stage is an appeal to The Pensions Ombudsman.

- < The Council has appointed:
Mr Chris Harding, MBE, LL.B, Solicitor, c/o Norfolk Police Authority, Jubilee House, Falconers Chase, Wymondham, Norfolk, NR18 0WW
to resolve first stage appeals on its behalf.

Transfers of Pension Rights : A Regs, Regulation 83(8)

A member who has previous pension rights in a different pension scheme* may transfer them into the LGPS provided they opt to do so within twelve months of joining it. The employer has discretion to extend the twelve months time limit.

- < The Council will not use the discretion available to it to extend the twelve month application period.

[*This does not include rights in the LGPS, which are dealt with under Membership Aggregation above.]

Members' Contribution Rates : B Regs, Regulation 3(4)

Employers are required to allocate employees into the appropriate contribution band when they become an active member of the pension scheme. If a permanent material change to the employee's terms and conditions of employment would later move them into a different band in the course of a financial year, the employer has discretion to change their contribution rate.

- < As required by the Regulations, employees' contribution bands will be determined by the Council on the basis of their pensionable pay and contributions deducted accordingly.

In assessing pensionable pay, the Council will take regard of any increases likely to be paid, together with shift pay, weekend enhancement, market supplements or other similar pensionable allowances. Where such allowances

may fluctuate past patterns of earnings may be used to obtain the best accuracy.

Where an employee's whole time pensionable pay permanently changes to such an extent that it moves to a different contribution band during the course of a financial year, the Council will apply the revised contribution rate from the next available pay month. In the event of a backdated change, that had not been anticipated, the banding change will not be backdated.

Sessional or casual workers will be assessed on the FTE annual pay from which their session or hourly rate was derived.

Fee earners, e.g. Returning Officers' fees, will be assessed on the actual fees for the year and may be reassessed as necessary (unless advised otherwise by the Norfolk Pension Fund).

Note – reassessment will not apply where there has been no permanent change to the Full Time Equivalent pay, e.g. a change of hours, unpaid leave of absence, sickness, maternity leave, end of contract etc.

An employee may request a reassessment if they believe that their banding assessment was inaccurate or if they are aware of a factor that had not been taken into account.

In the first instance employees should assist Human Resources in correctly determining their banding before invoking the dispute procedure referred to in this Policy Statement.

PART 3 – OTHER LOCAL POLICIES THAT RELATE TO THE LGPS:

Duty of Care

The Council recognises that it has a duty of care to the local tax payers on the one hand and to individual employees, their dependants and family on the other hand. It recognises that there can be a conflict of interest in some circumstances.

While wishing to avoid excessive Council expenditure on pension scheme contributions, it is the Council's policy to assist individual employees in selecting the most advantageous pension choices available to them. In doing so it is noted that,

- The Council is not registered to give financial advice to employees. Decisions relating to pension choices available to individuals are the responsibility of the employees and their families.
- Following a Law Lords' decision it was made clear that a duty was owed by an employer to an employee to inform them of a "valuable right", when the individual had not personally negotiated their terms and conditions, the right was contingent upon the employee taking certain action and where it was not realistic to expect the individual to know the details unless drawn to their attention. (Scally and Ors v Southern Health and Social Services Board & Anor [1991] IRLR 522)

The Local Government (Discretionary Payments) Regulations 1996

Part V: Injury Allowances

If, as a result of carrying out their work, an employee suffers a permanent injury or disease and they leave their job, suffer a reduction in pay or die as a result, they are entitled to an injury allowance at an amount decided by the employer. The amount cannot exceed 85% of their pay and takes into account any other income or insurance claims etc. that may have been paid. If they died a payment is made to any surviving spouse/civil partner or dependant.

This Council (in common with most others) does not have a policy defining a payment calculation for such cases and therefore applies a rate of 0% of pay.

The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000

Parts VI and VII: Reduction of annual compensation (new employment of pensioner)

It is intended that a re-employed pensioner should not earn more by way of pension and new job than they were earning before they retired, therefore:

- < The Council considers it appropriate to make the reductions in pension and compensation described in Parts VI and VII, regulations 16 to 19, to the extent that the sum of the annual rates of pension, compensation and re-employment pensionable pay shall not exceed the equivalent rate of pay in the old employment (after appropriate inflation adjustments).
- < it is also considered appropriate that any reduction should end when the new employment ends and that should the new employment have resulted in an excess of pension/compensation it will be reduced to the extent described in regulations 19 (3&4).

Part VIII: Surrenders and awards to surviving spouses or Civil Partners and children

In relation to surviving Civil Partners, widows or widowers and their children, it is believed that their widow's/partner's pension should not stop if they remarry and that if the person who died lived in a country where multiple marriages/civil partnerships are legal then the benefits should be shared equally amongst the widows/widowers/partners, therefore:

In the case of more than one surviving spouse referred to in Regulation 21 (4):

- < the Council considers it appropriate that the joint entitlement should be apportioned equally.

In the case of Regulation 21(5) relating to the subsequent remarriage or cohabitation, of a surviving spouse/partner of an eligible member who ceased employment before 1 April 1998:

- < the Council considers it appropriate to recommence the payment of long-term compensation should the period of remarriage or cohabitation end.

In the case of Regulation 21(7) relating to the subsequent civil partnership, remarriage or cohabitation, commencing after 1 April 1998, of a surviving spouse/partner of an eligible member who ceased employment before 1 April 1998:

- < the Council does not consider it appropriate to reduce or cease the payment

of any pension or compensation during or after the period of civil partnership, remarriage or cohabitation and that paragraphs (5) and (6) shall not apply.

In the event of a case occurring where children's compensation is paid but not children's pensions under the main pension regulations, referred to in regulation 25 (2):

- < the Council will decide to whom the children's compensation is paid and how it is to be apportioned using the same criteria as if children's pensions had been payable under the main pension regulations.

The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006

Please note: in accordance with Regulation 7, changes to this policy do not have effect until one month after the date of publication.

The discretions set out in the policy below will not apply to an employee whose fixed term contract comes to an end only if this can be objectively justified.

Regulation 5: Power to increase statutory redundancy payments

- < Redundancy pay will be based on actual weekly contractual pay if in excess of the statutory weekly pay maximum.

Regulation 6: Discretionary Compensation for Redundancy (or Efficiency)

- < The "104 week's pay scheme"
Compensation may be paid to employees leaving the Authority on grounds of redundancy or interests of efficiency:

(a) Redundancy

The employee may receive compensation calculated by applying a multiplier of 2.2 to their redundancy payment. Based on the statutory redundancy formula, the maximum compensation that any employee may receive will not exceed 66 week's pay. Before their date of leaving, the employee can request that the whole part of their lump sum termination payment that exceeds the redundancy payment be used to purchase permissible augmented years in the LGPS. The redundancy payment would still be payable.

(b) Interests of Efficiency

Compensation will be determined on a case-by-case basis but, in any event, will not exceed the amount that the employee would have received had he/she been made redundant. Before their date of leaving, the employee can request that the whole of their lump sum termination payment be used to purchase permissible augmented years in the LGPS.

This policy is subject to only reckonable service relating to the employee's current continuous Local Government employment, together with immediately preceding continuous employment with associated employers (as set out in The Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999), being used in calculating compensation.

(See also the Council's policy in Part 1 under 'Awarding Additional Membership : B Regs, Regulation 12'.)