



Beverley Town Council

Pensions Policy

(Taken from the documents advised
by the East Riding Pension Fund)



Statement of policy

on the Local Government Pension Scheme Regulations (LGPS) 2013 and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014.

The Employing body which is:

Beverley Town Council

has resolved that the following discretions available in the above Statutory Instruments, should be implemented in compliance with Regulation 60 of the LGPS Regulations 2013 and paragraph 2(2) of Schedule 2 of the LGPS (Transitional etc) Regulations 2014 as set out below:

PART A - where formulation of policy is compulsory

REGULATION 30(6)	POLICY DECISION
Flexible Retirement	Option 1
Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up whilst still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade. In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives the reduction either fully or in part (regulation 30 (8)) or a member has protected rights.	<i>This discretion will not be exercised</i>
REGULATION 31	POLICY DECISION
Power of employing authority to grant additional pension of up to £6,822 of annual pension	Option 1
An employer may resolve to grant extra pension of up to £6,822 to an active Scheme member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency.	<i>This discretion will not be exercised</i>
REGULATION 16(2)(e) and 16(4)(d)	POLICY DECISION
Discretion of employing authority to decide to pay towards the cost of Additional Pension Contributions (APCs)	Option 1
Where an active scheme member has decided to make Additional Pension Contributions (APCs) to purchase extra pension benefits (up to £6,822 per annum), the employer can resolve to voluntarily contribute towards the cost of this. Note: This does not include instances where the employee is paying for lost pension via an APC where the election was made in the first 30 days – here the employer must pay two-thirds of the cost of such purchase	<i>This discretion will be considered on application by an eligible employee and the costs fully investigated including the impact on the employer's contribution rate and benefit to Beverley Town Council be demonstrated.</i>
REGULATION 30(8) & PARAGRAPH 2(1) of Schedule 2 Transitional Regulations	POLICY DECISION

<p>Power of employer to waive actuarial reductions</p> <p>Employers can agree to waive any actuarial reductions due in the case of employees retiring any time after age 55.</p> <p>Employers have the ability to waive any actuarial reductions, only on compassionate grounds, for pension benefits accrued up to 31 March 2014.</p> <p>If this discretion is used, the employer will pick up the cost of waiving reductions as an immediate strain cost payment.</p> <p>For pension benefits accrued after 31 March 2014, however, the employer has a discretion to waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2014.</p>	<p>Option 1</p> <p><i>This discretion will be considered on application by an eligible employee and the costs fully investigated including the impact on the employer's contribution rate and benefit to Beverley Town Council be demonstrated.</i></p>
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PARAGRAPH 1 (1)(c) Schedule 2 Transitional Regulations	POLICY DECISION
	Option 1
<p>Power of the employer to 'switch' back on the 85-year rule for employees retiring between ages 55 and 60 - TP Sch2, para 2(2)</p> <p>Employees are able to voluntarily retire between ages 55 and 60, post-31 March 2014 and onwards. Formerly this was only with employer permission and if granted, the employer would have paid any strain cost due if the employee met the 85-year rule.</p> <p>The 85-year rule does not automatically apply to members retiring between 55 and 60 as the facility to retire voluntarily between 55 and 60 is a new facility.</p> <p>The employer has the discretion to 'switch' back on the 85-year rule for employees leaving between 55 and 60, thus allowing employees to not have reductions (or have lesser reductions). In these cases the employer would have associated strain costs that would have to be paid by the organisation instead.</p>	<p><i>This discretion will be considered on application by an eligible employee and the costs fully investigated including the impact on the employer's contribution rate and benefit to Beverley Town Council be demonstrated.</i></p>

There are other non-compulsory discretions to consider, and cases where these may arise in the future will be considered on an individual basis; the merits of each case being fully investigated. In exercising the discretionary powers available under the above Regulations has acted with due prudence and propriety and considered the financial impact of applying the discretions.

These policies may be subject to review from time to time. Any subsequent change in this Policy Statement will be notified to affected employees. We will notify the Fund of any revisions to this Statement within one month of the revised policy taking effect.

Appendix

Employer discretions

Discretionary powers allow employers to choose how, or if, they apply certain provisions. The Regulations require that you:

- publish a written policy statement confirming how you will exercise the compulsory discretions and any of the optional ones allowed under LGPS that you decide to include;
- review the statement regularly;
- revise it as necessary; and,
- give us a copy of your policy statement

Your policy statement will need to cover all the compulsory discretions and be set out in a clear and easy to read format.

If you do not have a policy statement on these discretions you are not complying with the LGPS regulations and ERPF cannot process any award of additional pension, flexible retirement, or waiving actuarial reductions for your employees. ERPF require a copy of the discretionary policies to ensure that the potential employer costs are correctly reflected in future valuation result; in the absence of a policy being held the actuary will assume the higher cost option is taken which would increase the employer's liabilities.

Mandatory discretions

You must have a policy statement on the following discretions. The discretions template is colour co-ordinated for each set of Regulations.

If you were not in ERPF during that time, you do not need to have a policy statement and can remove them from your template (e.g. if you joined ERPF in 2009, you do not need to complete the discretions for the purple or orange section).

For members who were actively paying into the scheme as at 1 April 2014 onward
<ol style="list-style-type: none">1. Awarding additional pension2. Voluntary funding of additional pension – shared cost additional pension contributions3. Flexible retirement4. Switching on the 85 year rule5. Waiving of actuarial reductions
For members who left the scheme between 1 April 2008 and before 1 April 2014
<ol style="list-style-type: none">1. Switching on the 85 year rule for members with deferred benefits2. Waiving of actuarial reductions on compassionate grounds for deferred members
For members who left the scheme between 1 April 1998 and before 1 April 2008
<ol style="list-style-type: none">1. Switching on the 85 year rule for members with deferred benefits2. Whether to grant early payment of pension benefits on or after age 50 and before age 553. Waiving of actuarial reductions on compassionate grounds for deferred members
For members who left the scheme before 1 April 1998
<ol style="list-style-type: none">1. Whether to grant early payment of pension benefits on or after age 50 and before age 55 on compassionate grounds.

For further information on these discretions and what they mean, refer to the LGPS Technical Guide - Discretionary Policies guidance (available from: <https://lgpsregs.org/resources/guidesetc.php>).

Optional discretions

Within the list of discretions that an employer must have a policy on, only five have to be published - some examples of discretions that an employer has to make a policy on but not publish are:

- Will an employer extend the 12 month window for transfers in?
- Will an employer include one-off payments or bonuses when calculating Assumed Pensionable Pay (APP)?
- Other than at 01 April of each year, how often will an employer review the contribution bandings?

You can have policies on as many discretions as you wish.

To view the full list of LGPS discretions go to LGPS Technical Guide – List of discretions (available from: <https://lgpsregs.org/resources/guidesetc.php>).

General information on formulating policies

When drawing up a policy statement, you may wish to consider the following:

Employer circumstances	The policy should reflect your membership, budgetary constraints and the nature of your business. Just replicating another employer's policies may not be the right thing for you as an employer.
Cost	The policy should be affordable and not likely to cause a serious loss of confidence in the public service.
Fettering	The policy should not be unnecessarily restrictive.
Anti-discrimination laws	The policy must not be discriminatory in any way.

General information about publishing policies

Once an employer has made a policy on their discretions, that policy must be published for all staff to see for 30 days. Only after this period, and only after any queries have been dealt with, can the policy become effective; at this time, an employer should forward a copy to the ERPF.

An employer's discretionary document confers no contractual rights and an employer retains the right to change the policies at any time without prior notice or consultation.

Only the policy which is current at the time a relevant event occurs to an employee/scheme member will be applied to that employee/member.

If you do revise your policy, the revised policy must be published for all staff to see for 30 days. Again, only after this period, and only after any queries have been dealt with, can the policy become effective; at this time, an employer should forward a copy to the ERPF.

Notes on "fettering"

When considering the options available, it will be necessary to have regard to the question of fettering of discretion. There are two trains of thought on this particular subject:

1. The first is that, in order not to be seen to fetter in any way an employer's discretion, the policy should state that each case will be determined based on its circumstances and merits and, if relevant to the discretion in question, up to a maximum of XX will be awarded.

The policy should set out the criteria upon which the discretion will be based. It is argued that constructing a policy in this way helps to satisfy the requirements set out in paragraphs 15 to 17 above.

2. The second type of approach is that, for a particular discretion, an employer might wish to adopt a standard policy but make it plain in the policy statement that:
 - The policy confers no contractual rights,
 - Subject to paragraphs 20 to 22 of the statement of policy discretions document, the employer retains the right to change the policies at any time without prior notice or consultation, and
 - The policy which is current at the time a relevant event occurs to an employee/scheme member will be the one applied to that employee/member.

It may be argued that the employer is not fettering its discretion because it retains the right to amend/change the policy at any time and that the approach is seen to be fairer in that the policy is applied consistently across all employees. However, it can also be argued that such policies do fetter an employer's discretion (because they leave no scope to deal with individual, perhaps exceptional, cases) and may not adequately take into account the requirements set out in paragraphs 15 to 17 of the statement of policy discretions document.

A view given by the Pensions Ombudsman is that:

- Where regulations allow an employer to exercise discretion a policy should be in place to set out how to exercise that discretion.
- A policy is there to guide the decision-maker on how to exercise discretion.
- An employer cannot generally bind itself as to how it will exercise discretion – fettering discretion is unlawful.
- Every case should be considered on its merits; a decision is to be made on whether to follow the policy or make an exception,
- Policies do not override the law; they should not apply a stricter test.



This Pensions Policy was adopted by Full Council on

Date: 25/04/22

Signed: 
Council Chairman

Date: 25/04/22

Signed: 
Town Clerk

Date: 25/04/22

