

PENSIONS COMMITTEE

SUPPLEMENTARY AGENDA

14 June 2016

The following report is attached for consideration and is submitted with the agreement of the Chairman as an urgent matter pursuant to Section 100B (4) of the Local Government Act 1972

- 7 LOCAL GOVERNMENT PENSION SCHEME: LONDON BOROUGH OF HAVERING EMPLOYER DISCRETIONS STATEMENT OF POLICY AND DISCRETION DECISIONS** (Pages 1 - 34)

Report attached..

Andrew Beesley
Committee Administration
Manager

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PENSIONS COMMITTEE 14 June 2016	REPORT

Subject Heading:	Local Government Pension Scheme London Borough of Havering Employer Discretions Statement of Policy and discretion decisions
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Policy context:	The Council's Discretionary Policies covered by the Local Government Pension Regulations
Financial summary:	There are no further savings for the Council as an employer and the fund as a result of these changes from any identified previously.

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

In accordance with the Local Government Pension Scheme Regulations (LGPS) 2013 and the Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014, Scheme employers participating in the LGPS in England and Wales are required to formulate, publish and keep under review a Statement of Policy on certain discretions which they have the power to exercise in relation to members of the Scheme.

Pensions Committee, June 2016

Scheme employers are also required to (or where there was no requirement, were recommended to) formulate, publish and keep under review a Statement of Policy on certain other discretions they may exercise in relation to members of the LGPS arising from the 2013 Regulations, 2014 Transitional Regulations and prior Local Government Pension Scheme Regulations.

At the Pension Committee of the 24 June 2014 the Committee delegated to the Group Director of Resources, the Director of Human Resources and Organisational Development, and the Council's Monitoring Officer, acting jointly, the setting of the discretion decisions and Policy Statement. Following the setting of the discretion decisions and Policy Statement, the final discretion decisions and Policy Statement were brought back to Committee for information.

As a result of Local Government Pension Scheme (Amendment) Regulations 2015/755 introduced in 2015, and changes to the Oracle Payroll system, certain Employer discretions have been reviewed, and the Policy Statement updated accordingly.

Although not mandatory The Fund has also taken the opportunity to publish more of the Administration discretions into the one Policy Statement for publishing.

RECOMMENDATIONS

It is recommended that the Pensions Committee:

- 1 Note the revised Employing Authority Discretions and Administration Authority Discretions - Statement of Policy attached at Appendix A.

REPORT DETAIL

1 Introduction

1.1 The various Local Government Pension Scheme Regulations define the details of the scheme for members, employing authorities and the administering authority (Havering Pension Fund, as part of the London Borough of Havering). The LGPS Regulations do allow both Havering Pension Fund and the employing authorities' discretion over various elements of the pension scheme. In formulating and reviewing its policy, the Scheme employer must have regard to the extent to which the exercise of its discretionary powers could lead to a serious loss of confidence in the public service.

2 Review of Discretions

2.1 The scheme has been operational from 1 April 2014 and there is a regulatory requirement under the LGPS 2013 (Regulation 60) and Transitional Regulations 2014 (Schedule 2, Paragraph 2) to agree the new and revised discretion decisions and a Policy Statement before the 1 July 2014. It is also understood that where the 1st July was not achievable the Pension Regulator would only seek assurance that the employer was working towards completing the review of the Policy Statement and discretions.

2.2 An in-depth review of the previous employer discretions, together with the new required discretions as a result of the LGPS Regulations 2013 and Transitional Regulations 2014, had been carried out by the Fund Actuaries Hymans Robertson LLP in 2014. This review informed the Group Director of Resources, the Director of Human Resources and Organisational Development, and the Council's Monitoring Officer, acting jointly, in the setting of the discretion decisions and Policy Statement when they met on the 26 July 2014. Following this the Policy Statement was published through various communication channels, including the Havering Pensions website, as well as being shared with other scheme employers.

2.3 The jointly agreed and reviewed Policy Statement and discretion decisions are attached at Appendix A.

2.4 In reviewing the discretions and making recommendations for the application of the discretions by the Council as an employer, Hymans ensured that each discretion was exercised in a manner that does not 'fetter' the Council's discretion, and ensures decisions taken would review the individual circumstances of each particular case as necessary.

2.5 It has become necessary to review how a scheme member's contribution percentage banding is allocated, due to the complexities of the Oracle payroll system. It was discovered that the method of using the current year's salary scale point plus the previous year's variable pay elements was not possible.

2.6 Oracle worked in conjunction with the Local Government Association (LGA) and Department of Communities & Local Government on a suitable solution of using the previous year's pensionable pay figure. On this premise the discretion has been updated accordingly. The previous discretion was worded as follows:

"Contributions are payable on all pay received such as non-contractual overtime or additional hours. Reductions in pay due to sickness, child related leave etc. are ignored. The salary used to determine the band will be assessed by taking into account basic salary each April plus any additional hours or overtime that were paid for in the previous financial year."

The revised discretion is now worded as follows:

"Contributions are payable on all pay received such as non-contractual overtime or additional hours. Reductions in pay due to sickness, child related leave etc. are ignored. The salary used to determine the band will be assessed by taking into

account the pensionable pay received in the previous financial year, not taking into account any reductions to pay due to child related absence, or sick pay, and equating to a full year if starting employment during the financial year.”

- 3 The difference is unlikely to affect a significant proportion of cases, and any potentially incorrect banding decisions will be ameliorated by appropriate scrutiny. This is the most satisfactory solution given the limitations of the Oracle system on this matter.

IMPLICATIONS AND RISKS

Financial implications and risks:

Examination of the payroll records found using the revised method of banding allocation required manual intervention and updating in approximately 300 of the 9000 payroll records. The risk of insufficient contributions being paid into the fund was calculated as de minimis, due to the range of earnings falling within each banding. However, It is intended that each April the payroll team will monitor and check those cases likely to fall into an incorrect band, and make any adjustments necessary.

Legal implications and risks:

There are no apparent Legal implications arising from this report

Human Resources implications and risks:

There are no direct Human Resource implications arising from this report.

Equalities implications and risks:

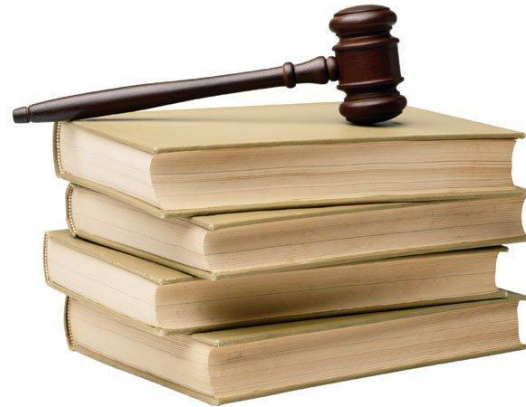
There is no direct Equalities Implications or risks arising from this report.

BACKGROUND PAPERS

The London Borough of Havering Employing Authority Discretions and Administration Authority Discretions Statement of Policy document

London Borough of Havering

Employing Authority Discretions and Administration Authority Discretions - Statement of Policy



1) Determination of contribution rate and how it will be determined (9(1) and 9(3))

- The employee contribution band will be reviewed each April.

Contributions are payable on all pay received such as non-contractual overtime or additional hours. Reductions in pay due to sickness, child related leave etc. are ignored. The salary used to determine the band will be assessed by taking into account the pensionable pay received in the previous financial year, not taking into account any reductions to pay due to child related absence, or sick pay, and equating to a full year if starting employment during the financial year.

2) Funding of additional pension contributions (16(2)(e) and 16(4)(d)) (LGPS 2013)

Where APCs are to be paid by regular contributions, whether to fund in whole or in part a member's additional pension contribution. The maximum additional pension which can be purchased from 1 April 2014 is £6,500. (16(2)(e))

Where APCs are to be paid by a lump sum contribution, whether to fund in whole or in part member's additional pension contribution. The maximum additional pension which can be purchased from 1 April 2014 is £6,500. (16(4)(d))

The Council will generally not contribute by either regular contributions or lump sum contribution towards a members additional pension contributions but may determine on a case by case basis if there has been any operational benefit gained by the employer and if so whether the APC should be wholly or partly funded. Strike action will not be funded

3) Flexible retirement (30(6)) (LGPS 2013)

Whether to allow an active member, who has attained the age of 55 or over, who reduces their working hours or grade, to receive immediate payment of all or part of their retirement pension to which the member is entitled to in respect of that employment, subject to an actuarial reduction.

The Council has decided to allow flexible retirement in cases where there is normally no or minimal cost to the Council on a case by case basis, ensuring the detailed merits of each individual case is taken into account. Employees can choose to draw all of their pension benefits or defer payment of all or part of their fund which has accrued since 1 April 2008. The following criteria will apply: there must be at least at 25% reduction in pay or hours; the member may not move to another promotion post with the Council and/or increase their hours following flexible retirement; will not be granted a 2nd or subsequent flexible retirement. Flexible retirement will normally result in an actuarial reduction of pension benefits. In exceptional circumstances the Council may consider waiving the actuarial reduction where it is in the Council's interest to do so.

4) Waiving actuarial reduction (30(8)) (LGPS 2013)

Whether to waive, in whole or in part, any reduction to a member's pension benefits as a result of a member who has not attained normal pension age but who has attained the age of 55 or over and has elected to receive immediate payment of a retirement pension.

There will normally be a reduction to the pension where employees retire before their normal pension age with insufficient service to qualify for a full pension, except in compassionate grounds. Compassionate is normally defined as:

- The applicant had to leave employment to care for a dependent who is suffering from long term illness/incapacity. For this purpose dependent normally includes a partner, child or parent; and
- That the dependant's need is for constant supervision for both day and night and that this is supported by confirmation from the Benefits Agency that an Attendance Allowance at the higher rate is payable; and
- That the dependant has no recourse to alternative means of support from his/her immediate family nor the financial resources to provide independent care support (for this purpose a certified statement of income and expenditure will be required); and
- That the applicant is suffering or facing severe financial hardship, that the applicant has no other significant source of income and that their personal financial circumstances are unlikely to improve. For this purpose the applicant will be required to submit a certified statement of income and expenditure covering both the applicant and any partner living with them; and
- That the applicant's opportunities for employment are severely limited by the nature of the care duties they are undertaking.

Flexible retirement will normally result in an actuarial reduction of pension benefits. In exceptional circumstances the Council may consider waiving the actuarial reduction where it is in the Council's interest to do so.

5) Award of additional pension (31) (LGPS 2013)

Whether to award additional pension up to a maximum of £6,500 to an active member or a member who was an active member who was dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency within 6 months of the date the member's employment ended.

The Council will not generally apply this discretion but in extreme cases consider on a case by case basis.

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6) Applying the rule of 85 (Transitional 2014)

'Switch on' the 85 year rule protection, allowing a member to receive fully or partly unreduced benefits subject to the Scheme employer paying a strain cost to the Pension Fund (Schedule 2 paragraph 1(1)(c) (Application of the 85 year rule between age 55 & 60) and that is correct).

The Council will not usually exercise discretion to fund additional costs applicable to the 85 Year Rule for 55 to 60 year olds. However in exceptional circumstances, to be considered on individual merits on a case by case basis, where this is of benefit to the Council then the Council may exercise discretion to pay the cost waiving actuarial reductions.

7) Regulation 30 (2) (Early retirement)

Whether to grant applications for the early payment of deferred pension benefits on or after age 55 and before age 60

NB: The rule of 85 currently applies for members who qualify for the rule and it cannot be turned off.

Elections made under this Regulation by members aged less than 60 are ineffective without employer consent of the employing authority or former employing authority. No employees will be permitted to receive early payment of benefits prior to age 60 except in compassionate cases. Applications may be granted on a case by case basis in circumstances where it may be considered to be to the Council's operational or financial advantage.

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8) Regulation 30 (5) (Waiving of actuarial reduction)

Whether to waive, on compassionate grounds, any actuarial reduction applying to a member's deferred benefits that are paid early

Elections made under this Regulation by members aged less than 60 are ineffective without employer consent of the employing authority or former employing authority. No employees will be permitted to receive early payment of benefits prior to age 60 except in compassionate cases. Applications may be granted on a case by case basis in circumstances where it may be considered to be to the Council's operational or financial advantage.

Local Government Pension Scheme Regulations 2013

Regulation	Description	Discretion application
9(1)	Determination of contribution rate and how it will be determined.	<p>For new employees - Where possible a reasonable assessment is made and the contribution rate relevant to that annual rate is applied. A review is undertaken annually. The contribution policy is: The employee contribution band will be reviewed each April.</p> <p>Contributions are payable on all pay received such as non-contractual overtime or additional hours. Reductions in pay due to sickness, child related leave etc. are ignored. The salary used to determine your band will be assessed by taking into account basic salary each April plus any additional hours or overtime that were paid for in the previous financial year.</p> <p>A review of the initial policy is periodically undertaken to ensure a reasonable contribution collection.</p>
9(3)	To determine a revised employee contribution rate where there is a change in employment or a material change affecting the member's pensionable pay in the course of a year.	<p>Contributions are payable on all pay received such as non-contractual overtime or additional hours. Reductions in pay due to sickness, child related leave etc. are ignored. The salary used to determine your band will be assessed by taking into account basic salary each April plus any additional hours or overtime that were paid for in the previous financial year.</p> <p>We will review the banding in the event of a material change where a member requests such a review.</p>

16(2)(e) and 16(4)(d)	Whether and how much and in what circumstances to contribute to a shared cost APC/SCAPC.	Generally this discretion will not be exercised but delegated authority is given to the Pensions Panel to determine on a case by case basis if there has been any operational benefit gained by the employer and if so whether the APC should be wholly or partly funded. As a general rule the Council will not contribute to a shared cost APC/SCAPC where the absence is due to an unauthorised absence such as strike action
17(1)	Establishment of a Shared Cost AVC (SCAVC) facility	The decision taken by the Investment Committee in 2001 is still relevant, therefore for the time being the Council does not set up a shared cost AVC facility.
19(2)	Right to a refund if member left due to offence of fraudulent character or grave misconduct	In the first instance withhold the return of contributions in all cases but each situation is considered on a case by case basis with delegated powers being given to the Pensions Panel
20(1)	Specify in an employee's contract benefits to be determined as pensionable	Where the Council wishes to specify in a contract of employment that other payments or benefits may also be pensionable it is determined by the Pension Panel on a case by case basis with the appropriate business case being presented
21(5)	Determine "regular lump sum" for Assumed Pensionable Pay	Where necessary the Transactional Manager (HR, Pensions and Payroll) is given delegated authority to make a determination on a case by case basis
22(7)(b)	Extension of time limit for deferred benefits to not be aggregated (concurrent employments).	Where a decision is required delegated authority is given to the Team Leader (Pensions Administration) to take account on a case by case basis of the relevant circumstances whether or not the 12 month time limit is to be extended and that the decision is communicated in writing to the scheme member within one month of the decision being made

22(8)(b)	Extension of time limit for deferred benefits to not be aggregated.	Where a decision is required delegated authority is given to the Team Leader (Pensions Administration) to take account on a case by case basis of the relevant circumstances whether or not the 12 month time limit is to be extended and that the decision is communicated in writing to the scheme member within one month of the decision being made
30(6) and 11(2) of the Transitional Provisions Regulations –	Flexible retirement and waiving any actuarial reduction that would apply.	<p>A business case is prepared for each request, ensuring that this includes the Fund cost and any costs of additional salaries for a new part-time post to fill the reduced capacity, as well as quantifying the benefits of agreeing to the flexible retirement.</p> <p>Any actuarial reduction will not be waived.</p>
30(8)	<p>To waive in whole or in part an actuarial reduction due for a member:</p> <ul style="list-style-type: none"> • who is allowed to take flexible retirement and is not protected by the 85 year rule • who having reached age 55 but not yet their normal retirement age and who is no longer working in the employment in relation to their accrued benefits elects to receive early payment of their benefits* 	<p>A business case is prepared for each request, ensuring that this includes the Fund cost and any costs of additional salaries for a new part-time post to fill the reduced capacity, as well as quantifying the benefits of agreeing to the flexible retirement.</p> <p>Any actuarial reduction will not be waived.</p>
31	Power of employing authority to grant additional pension to an active member.	The Council does not generally apply this discretion to award additional pension but may in extreme cases consider on a case by case basis where the full cost benefit is presented in a business case and agreed by the Pension Panel

37(3)	Recovery of payments following date of discontinuance of third tier ill health pension entitlement	Where pension payments have continued to be paid after the date of discontinuance they should be recovered in all cases with the individual being notified of the repayment procedure and timescales.
37(7)	Subsequent determination on level of ill health benefit following review of third tier ill health award as to whether tier two ill health benefits should apply.	Where in the opinion of the medical adviser and any other relevant information available in each individual case, if the member at the time of the review of their tier 3 ill health entitlement, satisfies the requirements of a tier 2 ill health pension the Council agrees and determines to put the increased ill health pension into payment. Where the member does not satisfy the requirements of a tier 2 ill health pension all the facts of the case are presented to the Pension Panel for a final determination.
38(6)	Decision whether a deferred and deferred pensioner member meets criteria for early payment due to permanent ill health	Where the Council is required to make a determination as to agreeing to the early payment of a deferred pension on the grounds of permanent ill health once the opinion has been received from the IRMP, all the facts of the case are presented to the Pension Panel for a final determination.
91 to 93	Forfeiture of pension rights as a result of offences or misconduct.	The Council will seek recovery of any loss it has suffered and any such cases are referred to the Pension Panel to be considered
95	Impact of forfeiture decision on surviving spouse or civil partner	The Council will seek recovery of any loss it has suffered and any such cases are referred to the Pension Panel to be considered.
98(1)(b)	Agreement to a bulk transfer	Each opportunity is determined on a case by case basis with delegated authority given to the Transactional Manager (Exchequer and Transactional) in consultation with the Fund actuary.

100(6)	Extension of time limit to accept a transfer value.	Where discretion needs to be exercised it is determined on a case by case basis with delegated authority given to the Team Leader (Pensions Administration).
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Government Pension Scheme (Transitional Provisions and Savings and Amendment) Regulations 2014

Regulation	Description	Discretion application
3(6), 4(6)(c), 8(4), 10(2)(a), 17(2) and 17(2)(b)	Agreement to member selecting final pay period for fees	Where a scheme member's final pay consists of fees then the use of a period of three years ending on 31st March in last ten will be permitted so as to have a fairer fee figure used in the calculation of benefits.
12(6)	Use of an ill health certificate produced under the 2008 scheme	Delegated authority is given to the Team Leader (Pensions Administration) to agree the use of a certificate produced under the 2008 scheme on a case by case basis.
	Continuing contribution in to a Shared Cost AVC (SCAVC) facility	The Council did not agree to the setting up of a Shared Cost AVC (SCAVC) facility so therefore this discretion does not apply.
15(1)(d)	Allow late application to convert scheme AVCs into membership credit	Where an election is received late then delegated authority is given to the Team Leader (Pensions Administration) to determine on a case by case basis.
Schedule 2	To allow the rule of 85 to apply for	<ul style="list-style-type: none"> If the member satisfies the 85 year rule, that part of the member's

<p>paragraph 1(1)(c) (previously para 2)</p>	<p>members (who otherwise qualify for the rule) electing to take early payment of their pension on or after age 55 and before age 60 under regulation 30(5) of the Local Government Pension Scheme Regulations 2013. i.e. Use of the discretion waives the actuarial reduction that would otherwise arise. NB: This applies only to members who were members of the LGPS after 1 April 2014.</p>	<p>benefits accrued under the Earlier Scheme(s) which is calculated by reference to any period of membership before the 1 April 2014 is reduced by reference to the period between the date of the request and age 60.</p> <ul style="list-style-type: none"> • If the member does not satisfy the 85 year rule, that part of the member's benefits accrued under the Earlier Scheme(s) which is calculated by reference to any period of membership before the 1 April 2014 is reduced by reference to the period between the date of the request and the date the member would satisfy the 85 year rule, or age 60 if later. <p>Each case be dealt with on a case by case basis and although generally the 85 year rule will be applied as above, where there may be a circumstance for a different application agreement is sought from the Pension Panel.</p>
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Discretions in relation to the Local Government Pension Scheme (Benefits Membership and Contributions) Regulations 2007

Regulation	Description	Discretion Application
11(2)	Final pay period to be used where a member's pay consists of fees	Where a scheme member's final pay consists of fees then the use of a period of three years ending on 31st March in last ten will be permitted so as to have a fairer fee figure used in the calculation of benefits.
12	Increase total membership for an active member (This will be spent after 30 September 2014)	For the remaining period for which this discretion will apply that the Council will not agree to the award of increased membership.

30(2)	Consenting to the immediate payment of benefits between age 55 and 60.	No applications are permitted to receive early payment of their unreduced benefits prior to age 60 except in compassionate cases. Applications may be granted on a case by case basis in circumstances where it may be considered to be to the Council's operational or financial advantage subject to a business case to the Pension Panel.
30(5)	Waiving an actuarial reduction to pension benefits on compassionate grounds.	<p>The waiving of an actuarial reduction on compassionate grounds will be considered on a case by case basis with the following criteria taken into consideration–</p> <ul style="list-style-type: none"> Leave employment to care for dependent Dependents need for constant supervision No recourse to alternative care <p>Suffering severe hardship Opportunity for employment severely limited</p> <p>If all the above criteria are met the Pension Panel will consider such cases, and that any costs that are incurred are paid by the relevant service/department. Any actuarial reduction that may apply will not be waived</p>
30A(3)	Consenting to application of payment for a suspended tier 3 ill health pension.	<p>Generally applications will not be agreed but may be granted on a case by case basis with all circumstances being taken account and to be determined by the Pension Panel.</p> <p>Where the Council is required to make a determination as to agreeing to the early payment of a deferred pension on the grounds of permanent ill health that once the opinion has been received from the IRMP, all the facts of the case will be presented to the Pension Panel for a final determination.</p>

30A(5)	To waive actuarial reduction on compassionate grounds.	The Pension Panel will determine each application on a case by case basis and that it will only agree to the waiving of an actuarial reduction in extreme circumstances where the application has been enforced on the member due to unforeseen circumstances or circumstances beyond their control.
Regulation 31(4) and 31(7)-	Determine payment of deferred pension on health grounds. Decision whether a deferred or deferred pensioner member meets criteria for early payment due to permanent ill health	Where the Council is required to make a determination as to agreeing to the early payment of a deferred pension on the grounds of permanent ill health once the opinion has been received from the IRMP all the facts of the case are presented to the Pension Panel for a final determination.

Discretions in relation to the Local Government Pension Scheme (Administration) Regulations 2008

Regulation	Description	Discretion application
Regulation 47(2)	Payment of a refund of contributions in misconduct cases	In the first instance the return of contributions will be withheld in all cases but each situation is considered on a case by case basis with delegated powers being given to the Pension Panel.
Regulation 72	Forfeiture of pension rights as a result of offences or misconduct	The Council seeks recovery of any loss it has suffered and any such cases are referred to the Pension Panel.

Discretions in relation to the Local Government Pension Scheme Regulations 1997 (The 1997 Pension Regulations) (some may continue to apply in relation to historical cases or councillors)

There are a number of regulations within the former 1997 Pension Regulations that apply to councillors who elect to join the LGPS. Where discretions are applicable in relation to active councillor members they should be applied as they are mirrored within the LGPS Regulations applicable from 1 April 2014.

Regulation	Description	Discretion Application
22(1)(b)	Allow post 31 March 1998 / pre 1 April 2008 member to select final pay period for fees to be a period of not less than 3 or more than 5 years back from date of leaving	Delegated powers have been given to the Pension Panel
23(4)	Issue a certificate of protection of pension benefits where eligible non-councillor member fails to apply for one (pay reduction / restrictions occurring pre 1 April 2008)	Delegated powers have been given to the Pension Panel
31(2)*	Whether to grant applications for the early payment of pension benefits on or after age 55 and before age 60. NB: The rule of 85 currently applies for members who qualify for the rule and it cannot be turned off.	No employees are permitted to receive early payment of benefits prior to age 60 except in compassionate cases, where the payment of such benefits would arise on a voluntary basis. Applications may be granted on a case by case

31(5)*	Whether to waive, on compassionate grounds, any actuarial reduction applying to a member's benefits that are paid before age 65.	Will be considered on a case by case basis.
31 (7A)	Whether to allow an employee who opted out to receive their benefits from their normal retirement date.	This to be allowed
34(1)(b)	Where a scheme member would be entitled to a pension or retirement grant under two or more regulations by reason of the same period of scheme membership, the employer can choose which benefit is to be paid if the member does not make a choice within 3 months of becoming entitled to elect.	Delegated powers have been given to the Pension Panel
71(7)(a)	Consent to a member's former employer assigning to the new employer rights under any SCAVC life assurance policy (pre 1 April 2008 non-councillor leavers)	No SCAVC payments are permitted.
88(2)	No right to return of contributions due to offence of a fraudulent character unless employer directs a total or partial refund is to be made (councillors and pre 1 April 2008 leavers)	Delegated powers have been given to the Pension Panel

92	Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund (councillor or pre 1 April 2008 leaver)	Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions will be recovered from the Pension Fund
111(2) & (5)	Forfeiture of pension rights on issue of Secretary of State's certificate (councillors and pre 1 April 2008 leavers)	Delegated powers have been given to the Pension Panel
112(1)	Where forfeiture certificate is issued, direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits (pre 1 April 2008 leavers)	Delegated powers have been given to the Pension Panel
113(2)	Recovery from Fund of monetary obligation owed by former employee or, if less, the value of the member's benefits (other than transferred in pension rights) (pre 1 April 2008 leavers)	Delegated powers have been given to the Pension Panel
115(2) & (3)	Recovery from Fund of financial loss caused by employee, or amount of refund if less (pre 1 April 2008 leavers)	Delegated powers have been given to the Pension Panel

Discretions in relation to the Local Government Pension Scheme Regulations 1995 (the “1995 Pension Regulations”)

There are some regulations within the former 1995 Pension Regulations that still apply to scheme members who ceased active membership before 1 April 1998. Where discretions are also applicable in relation to active members in the LGPS2014 Regulations they should be applied as they are mirrored within the LGPS Regulations applicable from 1 April 2014.

Regulation	Description	Discretion Application
D11(2)(c)	Grant application from a pre 1 April 1998 leaver for early payment of deferred benefits on or after age 50 on compassionate grounds.	Delegated powers have been given to the Pension Panel
D10	Decide in the absence from a pre 1 April 1998 leaver of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership	Delegated powers have been given to the Pension Panel

Discretions in relation to the Local Government (early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006

Regulation	Description	Discretion application
In respect of a person who is eligible to be a LGPS member and whose employment is terminated by reason of redundancy, or in the interests of the efficient exercise of the employing authority's functions, or in the case of a joint appointment because the other post holder has left.		
5 (Increase of statutory redundancy payments)	To increase statutory redundancy payments so that they are based on an actual weeks pay where this exceeds the statutory week's pay limit.	The Council agrees to increase the minimum statutory redundancy payment by removing the weekly pay cap under the Employment Rights Act 1996 and basing the payment on the employee's actual weekly pay.
6 (Award of lump sum compensation)	To award lump sum compensation payments of up to 104 weeks pay within six months of the termination date and where no additional benefits have been awarded under the LGPS.	The Council does not apply this discretion.

Discretions in relation to the Local Government (early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000

Regulation	Description	Discretion Application
17 (Reduction of annual compensation)	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 whether or not they join the LGPS (unless the person is re-employed by an admitted body in which case it would only apply if they joined the LGPS).	The Council will abate the pension payable on account of re-employment when the pensioner could re-enter the LGPS and the pensioner's overall income upon commencement of re-employment by way of re-employed earnings and annual retirement benefits otherwise payable exceeds the level of pensionable earnings of the relevant former employment.
19 (Effect of cessation of new employment)	How to reduce the member's annual compensatory added years payment following the cessation of a new employment in local government whether or not they join the LGPS (unless the person was re-employed by an admitted body in which case it would only apply if they had joined the LGPS).	The Council will abate the pension payable on account of re-employment when the pensioner could re-enter the LGPS and the pensioner's overall income upon commencement of re-employment by way of re-employed earnings and annual retirement benefits otherwise payable exceeds the level of pensionable earnings of the relevant former employment.
21 (4) (Apportionment of surviving spouse or civil partner)	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 such	On an individual basis, based on the merits of the case.

pension)	person.	
21 (5) (Entitlement to survivor pension after a new relationship)	If, under the following decision, (under 21(7)), your policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual compensatory added years payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation.	On an individual basis, based on the merits of the case.
21 (7) (Continuation of survivor pensions during a new relationship)	Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998, the normal pension suspension rules should be dis-applied during a period of re-marriage, new civil partnership or cohabitation after 1 April 1998 i.e. whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid.	On an individual basis, based on the merits of the case.
21 (7) (Continuation of survivor pensions during a new relationship where both	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	On an individual basis, based on the merits of the case.

<p>have a compensation pension)</p>	<p>who is also entitled to a spouse's or civil partner's annual compensatory added years payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or cohabitation lasts, should be dis-applied i.e. whether the spouses' or civil partners' annual compensatory added years payments should continue to be paid to both of them.</p>	
<p>25 (2) (Recipients and apportionment of eligible children's pension)</p>	<p>How you 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.</p>	<p>On an individual basis, based on the merits of the case.</p>

Local Government Injury Regulations

Regulation	Description	Discretion application
14 (Use of Injury legislation)	Whether you will adopt a discretionary injury benefit scheme under the Injury Regulations.	No, the Council will not adopt an injury benefit scheme.

Regulatory requirements As An Administering Authority

The Local Government Pension Scheme Regulations 2013

Regulation	Description	Discretion application
30 (8)	<p>To waive in whole or in part an actuarial reduction due for a member:</p> <ul style="list-style-type: none"> • who is allowed to take flexible retirement and is not protected by the 85 year rule • who having reached age 55 but not yet their normal retirement age and who is no longer working in the employment in relation to their accrued benefit selects to receive early payment of their benefits* 	<p>Any actuarial reduction will not be waived except for those cases under the Voluntary Release Scheme</p>

The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014

Regulation	Description	Discretion application
Schedule 2, paragraph 1(1)(c) (Application of the 85 year rule between age 55 & 60)	To allow the rule of 85 to apply for members (who otherwise qualify for the rule) electing to take early payment of their pension on or after age 55 and before age 60 under regulation 30(5) of the Local Government Pension Scheme Regulations 2013. i.e. Use of the discretion waives the actuarial reduction that would otherwise arise. NB. This applies only to members who were members of the LGPS after 1 April 2014.	The Council will not generally apply this discretion but in extreme cases consider on a case by case basis.

The Local Government Pension Scheme (Administration) Regulations 2008

Where a member left between 1 April 2008 and 31 March 2014 and their former employer has ceased to be a Scheme employer, exercise of the following discretions fall to the administering authority. Regulation 66 requires that an employing authority prepare and publish a policy for these discretions.

Regulation	Description	Discretion Application
LGPS (Benefits, Membership & Contributions) Regulations 2007, regulation 30 (2) (Early retirement)	Whether to grant applications for the early payment of deferred pension benefits on or after age 55 and before age 60. NB: The rule of 85 currently applies for members who qualify for the members who qualify for the rule.	To be considered on a case by case basis, taking into account its merits.
LGPS (Benefits, Membership & Contributions) Regulations 2007, regulation 30 (5) (Waiving of actuarial reduction)	Whether to waive, on compassionate grounds, any actuarial reduction applying to a member's deferred benefits that are paid early.	To be considered on a case by case basis, taking into account its merits.

<p>LGPS (Benefits, Membership & Contributions) Regulations 2007, regulation 30A (3)</p>	<p>Whether to grant applications for the early payment of a suspended tier 3 ill health pension on or after age 55 and before age 60.</p>	<p>To be considered on a case by case basis, taking into account its merits.</p>
<p>LGPS (Benefits, Membership & Contributions) Regulations 2007, regulation 30A (5) (Waiving of actuarial Reduction</p>	<p>Whether to waive, on compassionate grounds, any actuarial reduction applying to a member's suspended tier 3 ill health pension benefits which are brought back into payment before age 65.</p>	<p>To be considered on a case by case basis, taking into account its merits.</p>
<p>70(1)</p>	<p>Whether to reduce, and by how much, a pension in respect of pre 1 April 2014 service upon re-employment with a Scheme employer.</p>	<p>The Council has decided not to abate a pension in payment where a member receiving a pension based on pre 1 April 2014 membership, subsequently enters employment with a scheme employer.</p>

The Local Government Pension Scheme Regulations 1997

Where a member left between 1 April 2008 and 31 March 2014 and their former employer has ceased to be a Scheme employer, exercise of the following discretions fall to the administering authority. Regulation 66 requires that an employing authority prepare and publish a policy for these discretions.

Regulation	Description	Discretion application
109 (1) (Abatement of retirement pensions in new employment)	Whether to reduce and by how much a pension in respect of pre 1 April 2008 service upon re-employment with a Scheme employer.	The Council has decided not to abate a pension in payment where a member receiving a pension based on pre 1 April 2008 membership, subsequently enters employment with a scheme employer

SCHEME EMPLOYER CONFIRMATION

The Investment and Accounts Committee (6 April 2016) delegated to the Director of Financial Sustainability, the Director of Human Resources and Organisational Development, and the Council's Monitoring Officer, acting jointly, the setting of the discretion decisions and Policy Statement.

It is understood that the discretions contained within this statement of policy are applicable to all eligible members of the Scheme. The Scheme rules allow for a revised statement to be issued at least one month in advance of the date that any new policy takes effect. The revised statement must be sent to the administering authority and the employer must publish its statement as revised in a place that is accessible to all of its eligible scheme members.

The policies made above:

- *Have regard to the extent to which the exercise of the discretions could lead to a serious loss of confidence in the public service;*
- *Will not be used for any ulterior motive;*
- *Will be exercised reasonably;*
- *Will only be used when there is a real and substantial future benefit to the employer for incurring the extra costs that may arise;*
- *Will be duly recorded when applied.*

Agreed on behalf of the Scheme Employer by the Director of Financial Sustainability, the Director of Human Resources and Organisational Development, and the Council's Monitoring Officer, acting jointly.

Scheme Employer's Name: The London Borough of Havering

Date:

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