



# North East Lincolnshire Council

## Local Government Pension Scheme

### Discretionary Policy Statement

DRAFT STATEMENT OF POLICY ON:-  
THE LOCAL GOVERNMENT PENSION SCHEME REGULATIONS 1997 (as amended)  
and  
THE LOCAL GOVERNMENT (EARLY TERMINATION OF EMPLOYMENT)  
(DISCRETIONARY COMPENSATION) (ENGLAND AND WALES) REGULATIONS 2006  
(as amended)  
and  
THE LOCAL GOVERNMENT PENSION SCHEME (BENEFITS, MEMBERSHIP AND  
CONTRIBUTIONS) REGULATIONS 2007

The Council is committed to ensuring that no-one is treated in any way less favourably on the grounds of personal differences such as race; colour; national, ethnic or social origin; gender (including reassigned gender); sexual orientation; religious belief; age; disability; marital status; caring responsibilities or political or other personal beliefs.

The Council will implement all necessary action and training to ensure its commitments with regard to equality of treatment and outcome are fulfilled and will regularly monitor and review progress made in this respect.

#### **1. AIM**

1.1 The policy sets out the arrangements for:

1.1.1 The key Local Government Pension Scheme discretions

1.1.2 Discretionary compensation to staff who are leaving employment due to redundancy or efficiency, including:

- Employees who are dismissed on the grounds of redundancy
- Employees who are retiring early in the interests of the efficiency of the service
- Employees whose employment is terminated in the interests of the efficiency of the service

#### **2. SCOPE**

2.1 Under the above Regulations, Local Government employers are required to publish this Policy and provide a copy to the administering authority (East Riding Pension Fund) by 30 June 2008.

- 2.2 The provisions of this policy apply to all members of staff who are currently employed by North East Lincolnshire Council irrespective of their membership of the Local Government Pension Scheme.
- 2.3 Local Authorities must agree, publish and keep under review a policy on compensation using these regulations. Policies should be transparent and fair in their application and must take account of value for money. Each case of compensation must be considered on its merits as a compensation for loss of employment.

The following set out North East Lincolnshire Council policy decisions

### **3. FORMULATION OF THE POLICY IS COMPULSORY**

#### **3.1 REGULATION 12 – Power of employing authority to increase total membership of active members**

An employer may resolve to increase the total membership of an active member. The maximum award (including additional membership in respect of different employments) must not exceed 10 years.

**Policy Decision** - All requests for augmentation of pension benefits from a member or former member are submitted to the Appointments Committee for consideration.

It is the Council's policy NOT to increase total membership of active members, however consideration will be given in each case as to whether there are particular reasons why the Council should exercise this discretion.

The following considerations will be applied to such applications:

- the member's personal circumstances
- the interests of the Council
- the potential savings to be made by the exercise of this discretion
- other options that are, from time to time, available under any other schemes for interests of efficiency and redundancy retirements
- the funding position of the Council within the East Riding Pension Fund, in particular the impact on future employer contribution rates and the ability of the Council to meet the cost of granting such an award

#### **3.2 REGULATION 13 - Power of employing authority to award additional pension**

An employer may resolve to award a member additional pension of not more than £5,000 a year payable from the same date as his LGPS pension. This award may be paid in addition to any increase of total membership awarded to that member under Regulation 12 above.

**Policy Decision** - All requests for augmentation of pension benefits from a member or former member are submitted to the Appointments Committee for consideration.

It is the Council's policy NOT to award additional pension, however consideration will be given in each case as to whether there are particular reasons why the Council should exercise this discretion.

The following considerations will be applied to such applications:

- the member's personal circumstances
- the interests of the Council
- the potential savings to be made by the exercise of this discretion
- other options that are, from time to time, available under any other schemes for interests of efficiency and redundancy retirements
- the funding position of the Council within the East Riding Pension Fund, in particular the impact on future employer contribution rates and the ability of the Council to meet the cost of granting such an award

### **3.3 REGULATION 18 – Flexible Retirement**

Employers may allow a member from age 55 onwards (or age 50 onwards if the member was a member on 31 March 2008 and makes a request before 31 March 2010) 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 or a member has protected rights.

**Policy Decision** – All flexible retirement applications will be dealt with under the North East Lincolnshire Council Flexible Retirement Policy.

### **3.4 REGULATION 30 - Early payment of Pension Benefits at the request of the member**

Employers can allow voluntary early retirement to members of the LGPS between the ages of 55 and 59 (or age 50 and 59 if the member was a member on 31 March 2008 and makes a request before 31 March 2010). In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights.

Employers can also allow the early payment of deferred benefits to former members of the LGPS between the ages of 55 and 59 (or age 50 and 59 if the member was a member on 31 March 2008 and makes a request before 31 March 2010). In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights.

**Policy Decision** - That all requests for early payment of pension benefits from a member or former member are submitted to the Appointments Committee for consideration.

The following considerations will be applied to such applications:

- The operating requirements of the Council

- The Council's ability to meet the cost of granting such a request. A capital payment may be required by the fund under Regulation 80(5) where the employer consents to the early payment of pension or deferred benefits.
- Whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place from time to time can be made
- The member's personal circumstances
- Whether any existing schemes for interests of efficiency and redundancy retirements are inappropriate.

That each application from a member or former member for the payment of unreduced retirement benefits on the grounds of compassion be thoroughly investigated by officers of the council and reported to the Appointments Committee together with a report on the full costs to the pension fund and any revenue saving to the Council for consideration. The following considerations will be applied to such applications:

- Special extenuating circumstances surrounding the application, along with the supporting evidence provided to justify approval
- the Council's ability to meet the cost of granting such a request

#### **4. WHERE FORMULATION OF THE POLICY IS NOT COMPULSORY**

##### **4.1 REGULATION 3 – Contributions payable by active members**

Employers determine the contributions payable by members by attributing each member to one of the contribution bands set out in Regulation 3. Employers have the capacity to re-attribute the specific pay band (upwards or downwards) where there is a material change in a member's contractual terms.

**Policy Decision** - Contributions bands will be determined by basic salary plus any contractual allowances that are paid at an agreed rate every month. The contribution bands will be reviewed annually on 1 April each year. Adjustments to employees' contribution bands will not be made mid-year, unless there is a reduction in contractual pay.

##### **4.2 REGULATION 16(4) (b) (ii) (LGPS (Admin) Regulations 2008) - Facility to extend time limits for active members to aggregate deferred periods of LGPS membership**

Where a deferred member becomes an active member, then the member can elect to aggregate his deferred membership with his active membership. The election to aggregate must be made by the member within 12 months of becoming an active member and the member must be active at the date of election. Employers may allow a longer period than 12 months.

**Policy Decision** - This discretion will not be exercised unless there is evidence of maladministration by the Council or the Administering Authority.

#### **4.3 REGULATION 83 (8) (LGPS (Admin) Regulations 2008) - Facility to extend time limits for active members to request a transfer of previous pension rights into the LGPS**

Where an active member requests to transfer previous pension rights into the LGPS, the member must make a request within 12 months of becoming an active member. Employers may allow a longer period than 12 months

**Policy Decision** - This discretion will not be exercised, unless:

- a) There is evidence of maladministration by the Council or the Administering Authority
- b) If within 12 months of appointment / election an individual can show to the satisfaction of the Council an impediment to a decision on appointment / election, the Council may extend the period of 12 months
- c) A transfer request from a third party pension scheme has been commenced in good time within the 12 month period allowable, but cannot be completed within the 12 months for reasons totally outside of the control of the member (e.g. difficulty in tracking the current administrators of an employer's pension fund where that employer is no longer in business)

#### **5.0 WHERE FORMULATION IS UNDERTAKEN BY EAST RIDING PENSION FUND, AS THE ADMINISTERING AUTHORITY**

##### **5.1 REGULATION 70 - Policy statement concerning the abatement of retirement pension in new employment**

Where a scheme member retires and seeks re-employment, if they choose to remain outside the local government sphere, their pension continues. If they return to an employer who participates in the local government pension scheme, their pension is reduced or stopped

The administering authority is able to decide to change the current practice and determine how it wishes to treat re-employed scheme members who retire after 31<sup>st</sup> March 1998

**Policy Decision** - Where the re-employment started before 1 April 2007, then the policy approved is:

- (a) That any ill health pension should cease in the event of re-employment subject to the protection afforded to members who were subject to the 1995 Regulations;
- (b) That with regard to other retirement pension no abatement be applied where the statutory pension in payment is £5,000 per annum or less, this amount to be increased in line with the annual index linking from April 1999 and thereafter; and
- (c) That where an annual statutory pension exceeds £5,000 per annum then the statutory pension in excess of this amount be abated subject to the protection afforded to members who were subject to the 1995 Regulations

Where the re-employment started on or after 1 April 2007, there will be no abatement of the retirement pension.

## **6.0 OTHER - THE LOCAL GOVERNMENT (EARLY TERMINATION OF EMPLOYMENT) (DISCRETIONARY COMPENSATION) (ENGLAND AND WALES) REGULATIONS 2006**

As a result of the Employment Equality (Age) Regulations 2006, changes have been made to the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 that remove (subject to transitional arrangements) the ability to award additional compensatory added years to employees whose employment is being terminated early on the basis of redundancy or in the interest of efficiency of the service. Instead employers have a discretionary power to make a lump sum payment of up to 2 years' salary. The changes in Regulations directly affect the Council's Policy on Early Retirement.

### **6.1 Power to increase statutory redundancy payments**

Compensation may be paid in accordance with this regulation to a person who is entitled to a redundancy payment under the 1996 Act on the termination of his employment.

The amount which may be paid must not be more than the difference between the redundancy payment to which he is entitled under Part 11 of the 1996 Act; and 104 weeks pay.

The power to pay compensation is exercisable by the employing authority.

**Policy Decision** - The current practice is to pay compensation in accordance with the redundancy pay calculation table, using actual weekly pay at the time of redundancy (i.e. such that weekly earnings not capped to the Statutory Redundancy Pay Weekly Limits).

There are no plans to change this practice.

## **7. OTHER NON-COMPULSORY DISCRETIONS**

There are a number of other less significant, non-compulsory discretions available for North East Lincolnshire Council to consider. Cases where such discretions may arise in the future will be considered on an individual case by case basis. The merits of each case being fully investigated.

The Council in exercising the discretionary powers available under the above Regulation 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.

## SUMMARY DETAIL

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**Date Created:** 01/10/2007

**Last Updated:** 07/04/2009

**Last Reviewed:** 03/06/2008

**Review Frequency:** Annual or when revised Pension Regulations become available if sooner