



# WSSCC LGPS Employer Discretions Policy

## Aim

The Local Government Pension Scheme (LGPS) is a statutory scheme. The rules and regulations governing the scheme are laid down under Act of Parliament.

There are some provisions of the Scheme that are discretionary. Discretionary powers allow employers such as the County Council to choose how, or if, they apply certain provisions.

This document aims to summarise the discretions the County Council exercises as an employer in relation to the Local Government Pension Scheme and has been updated to reflect the new regulations from 1<sup>st</sup> April 2014 and as amended.

## Scope

This policy applies to all employees of West Sussex County Council who are in, or are eligible to join, or have been a member of the Local Government Pension Scheme.

## Who can help?

For any questions relating to this policy please contact Tara Atkins at [tara.atkins@westsussex.gov.uk](mailto:tara.atkins@westsussex.gov.uk)

## Principles

- We will apply the rules of the Local Government Pension Scheme fairly and in a timely fashion.
- We will keep employees informed about changes to their pension scheme.

**The pension discretions within this policy were approved by the Governance Committee on 9 September 2019.**

**All pension discretions will be reviewed at least on a 4 yearly basis, or as and when circumstances change.**

## **Joining West Sussex County Council**

### **How much will it cost?**

(Determination of Pension Contributions - Regulation 9(2) & 9(3) & 9(4) & A55 (9) of the LGPS regulations 2013)

You will pay between 5.5% and 12.5% of your actual pay which may include overtime. The rate you pay depends on the band you fall into.

Assessment of pay bandings normally takes place on an annual basis each April. Your pension contributions will however be reassessed during the course of the year if you have a change in employment, or where a material change which affects your pensionable pay takes place. If your contribution rate changes as a result, your contributions will be adjusted at the point at which the change occurs.

The decision regarding the timing of the review of the bandings will be reviewed from time to time.

You can find out how much you need to pay by using the LGPS contribution calculator by following the link below;

<https://www.lgpsmember.org/more/contscalculator.php>

### **Contributions – how much will it cost?**

<https://www.hants.gov.uk/hampshire-services/pensions/local-government/join-lgps/contributions>

### **When will my pension contributions be deducted?**

(Deduction of contributions from a member's pay - Regulation 85 (1) of the LGPS regulations 2013)

They will be collected from pay on your regular pay day.

### **What elements of my pay are pensionable?**

(Determination of elements of pay on which pension contributions should be assessed - Regulation 20 (1) (a) & (b) of the LGPS regulations 2013)

Pension contributions must be paid on all the salary, wages, fees and other payments you receive as an LGPS member and any benefit specified in your contract of employment as being pensionable.

Any element of pay that is being paid to you and complies with the definitions as described in the LGPS 2013 Regulations listed above including non-contractual overtime will be regarded as pensionable. Certain payments such as travel and subsistence expenses and pay in lieu of notice are excluded from this.

Only sums that are liable for income tax may be specified as pensionable. Your payslip will show which elements of your pay are pensionable with the letter (P).

### **What happens if my pay is reduced or I go on unpaid leave?**

(Whether a lump sum payment made in the previous 12 months is determined as a 'regular lump sum' for purposes of Assumed Pensionable Pay – Regulation 21(5) of the LGPS regulations 2013 or Whether, subject to qualification, to substitute a higher level of pensionable pay when calculating assumed pensionable pay (APP))

If you have a period of reduced contractual pay or no pay due to sickness or injury or you have a period of relevant child related leave (e.g. maternity/paternity/adoption leave) or reserve forces service leave, the County Council needs to provide the pension fund with the "assumed pensionable pay" you would have received during that time. We will calculate what your pay would have been for the period when you were on reduced contractual pay or no pay.

The assumed pensionable pay is calculated as the average of the pensionable pay you received for the 3 months before the pay period in which you went on to reduced pay or no pay. This figure is then grossed up to an annual figure and then divided by the period of time you were on reduced pay or no pay.

If you received a lump sum payment which was pensionable or the pensionable pay received in relation to employment within the 3-month period mentioned above, is materially lower than the level of pensionable pay you would have normally received, the Principal Pension Consultant (Administration & Employers) will decide whether or not this should be included (lump sum) in the assessment of, or a high level of pensionable pay should be used when calculating your assumed pensionable pay. Each case will be assessed on its merits to ensure that your assumed pensionable pay for the period concerned is not more than you would have received had you not had a period of absence.

### **Can I combine my previous pension benefits to my current period of scheme membership?**

(Extension of period for scheme member to elect to un-aggregate former post 31<sup>st</sup> March 2014 (or combinations of pre and post March 2014) deferred Benefits -Regulation 22 (7)(b) and 22 (8)(b) and of the LGPS regulations 2013, Extension of period for Scheme member to elect to aggregate former Pre 1<sup>st</sup> April 2014 deferred benefits – Regulation 27 of the LGPS (Amendment) Regulations 2018)

If you have previous LGPS pension benefits (deferred benefits) from leaving employment Post 31<sup>st</sup> March 2014, when you re-join the LGPS you have 12 months from re-joining to ask to keep your deferred benefits separate from your new pensions account. If you do not ask to keep your deferred benefits separate, your benefits will be automatically joined with the benefits in your new pensions account (or, where the deferred benefits arose from the ending of another job you in which you were working in addition to your current job, your pension benefits will automatically be joined with the pension account from your on-going job).

If you have previous LGPS pension benefits (deferred benefits) from leaving employment pre 1<sup>st</sup> April 2014 (and have a five year gap), when you re-join the LGPS you have 12 months from re-joining to ask to aggregate (add together) your deferred benefits with your new pensions account. If you do not ask to aggregate your deferred benefits, your benefits will remain separate.

The Principal Pension Consultant (Administration & Employers) will consider an extension to the time limit on a case by case basis if it is clear that you were unable to meet the normal time period due to circumstances beyond your control.

Further information regarding combining your LGPS benefits can be provided by the Pensions Team.

### **Can I transfer my previous pension into the LGPS?**

(Extension of period for a scheme member to elect to transfer previous pension rights- Regulation 100 (6) of the LGPS regulations 2013)

You are allowed to transfer previous pension into the LGPS. Your request to move them must be made within 12 months of starting scheme membership.

The Principal Pension Consultant (Administration & Employers) will consider an extension on a case by case basis if it is clear that you were unable to meet the normal time period due to circumstances beyond your control.

Further information can be found by following the link below.

Transferring previous pension rights into the LGPS

<https://www.hants.gov.uk/hampshire-services/pensions/local-government/join-lgps/transferring-in>

### **During your employment with West Sussex County Council**

#### **Does the County Council have a shared cost Additional Voluntary Contribution (AVC) arrangement?**

(Establishment of a Shared Cost AVC (SCAVC) facility - Regulation 17(1) of the LGPS regulations 2013)

A shared cost AVC scheme is where the County Council contributes AVCs as well as yourself. The County Council will only exercise this discretion, in line with its corporate policy.

The West Sussex Pension Fund has an arrangement with an AVC provider (Standard Life) in which you can invest money. The money is deducted directly from your pay before your tax and National insurance contributions are worked out, so, if you pay tax and NI you receive tax and NI relief automatically. You have your own personal account and you decide how the money in your pot is to be invested.

<https://lgpsmember.org/arm/already-member-extra.php>

#### **Does the County Council have a shared cost Additional Pension Contribution (APC) arrangement?**

(Establishment of a Shared Cost APC (SCAPC) facility – Regulation 16(2)(e) & (4)(d) of the LGPS regulations 2013)

No, a shared cost APC scheme is where the County Council contributes APCs as well as yourself, when you have chosen to pay additional monies to increase your pension benefits. The County Council does not intend to exercise this discretion.

The LGPS operates an APC scheme where you can purchase extra pension for your retirement (but the County Council will not share the cost of this). If you are in the main section of the scheme, you can pay more in contributions to purchase up to £7,194.00 of extra pension. Any extra pension you purchase is payable each year in retirement and is payable on top of your normal LGPS benefits.

Any extra regular contributions are taken from your pay, which you will receive tax relief on.

You can also pay APCs by a one off lump sum.

For more information regarding APCs, including an online calculator please see the link below.

<http://www.lgps2014.org/content/additional-pension-contributions-apcs>

### **Can I pay contributions following an authorised leave of absence on reduced or no pay?**

(Extension of period for a scheme member to elect to pay for 'lost pension' where the employer contributes two thirds of the cost in respect of a period of absence -Regulation 16(16) of the LGPS regulations 2013)

You can choose to pay Additional Pension Contributions (APCs) to purchase the amount of pension lost during a period of unpaid absence (up to a maximum of 36 months) and keep your full benefits in respect of the period you have paid. You can choose to do this at any point that you are contributing to the pension scheme.

You can obtain a quote and print off an application form to buy 'lost' pension at

<https://www.lgpsmember.org/more/apc/index.php>.

If you chose to purchase the amount of 'lost' pension and make the election within 30 days of returning to work the cost of the APC is split between you and the County Council. You will pay one third of the cost and the County Council will pay the rest. The 30 day limit may be extended if it is clear that you were unable to meet the normal time period due to circumstances beyond your control.

You can request an extension from the Principal Pension Consultant (Administration & Employers) who will consider each request on a case by case basis. If the extension is approved they will forward your request together with their agreement to pension services.

### **What happens if I have an industrial injury?**

(Local Government (Discretionary Payments) (Injury Allowances) Regulations, Regulation 3 (Reduction in Remuneration), 4 (Loss of employment through permanent incapacity), 6 (Allowances for pensioners), 7 (Death benefits) and 8 (Considerations in determining amount of allowances) 2011)

<http://theintranet.westsussex.gov.uk/HelpMe/Pages/helpmecontent.aspx?module=wsc&topic=human-resources/hr-policies/health-and-safety&k=Where can I find the the Industrial Injury Allowance Policy and Guidance?&entryid=ind-injury-allowance-policy>

If you have an industrial injury during the course of your work and suffer a (temporary) reduction in pay or loss of employment through permanent incapacity you may be entitled to receive an industrial injury allowance. Each case will be looked at on a case by case basis. You do not have to be a member of the LGPS to receive the allowance.

The County Council does not intend to exercise the above discretion in the event you die as a result of an injury or disease sustained during employment. However if you die in service and are a member of the Local Government Pension Scheme, the LGPS ensures that your family is supported. It provides:

- a lump sum death grant of three years pay, no matter how long you have been a member of the LGPS, provided you are under 75 at the date of death. For part-time employees, it is three times your actual part-time pay;

- an ongoing pension for your husband, wife, civil partner or nominated co-habiting partner. This increases every year in line with the cost of living and is payable for the rest of their life; and
- children's pensions for your eligible children. These increase every year in line with the cost of living.

If you sustain a bodily injury during the course of your work which results in death, an amount of money or benefit may be payable to you under the West Sussex County Council Personal Accident Insurance. Further information can be found in the Insurance Guide on the intranet.

## **Leaving your employment with West Sussex County Council**

### **Can I receive a refund of my contributions?**

(Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund – Regulation 92 of the LGPS Regulations 1997 and Regulation A49(1) & (2) of the Administration Regulations 2007)

If you are entitled under the scheme to receive a refund of contributions, this will be subject to deduction of fund tax and a Contribution Equivalent Premium (CEP) which is the payment to reinstate you into the state scheme as if you had never paid into the LGPS.

This is due to you paying a lower rate of tax and National Insurance contributions whilst paying into the LGPS.

### **Can I convert scheme AVCs into membership credit?**

(Regulation 15(1) (b) of the LGPS (Transitional Provisions and Savings) Regulations 2014 and Regulation 66(9) (b) of the 1997 Regulations)

In certain circumstances you can use your AVC fund to buy membership in the pension scheme. An application should be made within 30 days of leaving. However the Principal Pension Consultant (Administration & Employers) will consider an extension on a case by case basis if it is clear there was no fault on your part for not being able to meet the normal time period.

### **Can I request to take partial/flexible retirement?**

(Whether all or some benefits can be paid if an employee reduces their hours or grade Regulation 30(6) of the LGPS Regulations 2013 and Regulation 11(2) of the (Transitional Provisions and Savings) Regulations 2014 and Flexible retirement and waiving of any actuarial reduction -Regulation 30(8) of the LGPS Regulations 2013)

You can request to take partial/flexible retirement. The County Council will consider your request on a case by case basis. The County Council has a flexible retirement policy to help you phase into your retirement. Partial/flexible retirement lets you continue working on a reduced hours, or reduced grade basis and, depending on when your membership of the LGPS commenced, draw all, part or none of your accrued pension benefits subject to certain qualifying criteria.

To be eligible to make a request for Flexible Retirement under the LGPS regulations, you must:

- Be actively making contributions to the LGPS.
- Be aged 55 or over.
- Have two years or more membership in the local government pension scheme.

- Be taking at least a 20% reduction in your hours and/or your salary.

Flexible Retirement will have a cost attached to it and a business case must be made setting out the reason for supporting the flexible retirement

Further information can be found by following the link below.

Flexible retirement policy;

<http://theintranet.westsussex.gov.uk/HelpMe/Pages/helpmecontent.aspx?module=wsc&topic=human-resources/hr-policies/working-practices&k=Does the County Council allow employees to retire flexibly?&entryid=reduce-hours-before-i-retire>

### **Can I retire early without my employers consent?**

(Whether to 'switch on' the 85 Year Rule for a member voluntarily drawing benefits on or after age 55 and before age 60- Schedule 2, para 2(2) of the (Transitional Provisions and Savings) Regulations 2014) and Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits pre 1<sup>st</sup> April 2014 membership where the employer has 'switched-on' the 85 Year Rule – Schedule 2, para 2(3)

Yes. The scheme now allows you to retire from age 55 without the need for our consent. However if you retire between 55 and 60 and had protection under what is called the "85 year rule" (i.e. if you add your age and length of service in whole years and this equates to 85) this will not automatically apply in full and your benefits might therefore be subject to actuarial reduction as you will be receiving them earlier than you would have done. The regulations allow us as your employer to 'switch on' the 85 year rule. Your benefits may still be subject to an actuarial reduction, however it may be less than if the 85 year rule was not 'switched on'.

As the County Council would have to meet the cost of 'switching on' the 85 year rule if you chose to retire between age 55 and 60, it will only consider doing so if there are exceptional or compassionate grounds for doing so.

If the County Council chooses to switch on the 85 year rule in your case it then has the discretion on compassionate grounds (as defined in the new regulations) to waive the pre 1<sup>st</sup> April 2014 reduction.

Where this is the case, it would be subject to the approval of the S.151 Officer (and also the Cabinet Member of Finance where there is a cost to the pension fund).

Any costs incurred will be paid for by your service unit.

Further information can be found by following the link below.

Access to Pension on Retirement;

<http://theintranet.westsussex.gov.uk/HelpMe/Pages/helpmecontent.aspx?module=wsc&topic=pensions&k=Where can I find the Access to Pension on Retirement Policy?&entryid=access-to-pension-policy>

### **Will my pension be reduced if I receive my pension benefits early?**

(Whether to waive, in whole or part, actuarial reduction on benefits which a member voluntarily draws before normal pension age – Regulation 30(8) of the LGPS Regulations 2013)

Yes. The County Council does not normally agree to waive the costs of your actuarial reduction, and your pension and lump sum will therefore be reduced as you will be receiving your pension earlier than you would have done.

However, there may be exceptional or compassionate grounds that may justify the County Council waiving the actuarial reduction. Where this is the case, the grounds for doing so must be included in the business case for the early release of pension and is subject to the relevant approval processes.

The County Council will treat each case fairly based on the circumstances and merits of the case.

Any costs incurred will be paid for by your service unit.

Further information can be found by following the link below.

Benefits reduction table;

<http://www.lgps2014.org/content/when-can-i-take-it>

### **If I am made redundant what payments will I be entitled to?**

Regulation 5, 6 – Discretion under the local Government (Early Termination of Employment) (Discretionary Payments) (England & Wales) Regulations 2006

If you are made redundant aged 55 and over, and have at least two years' service you will be entitled to receive immediate payment of your LGPS retirement benefits. These benefits will be made without reduction. If you are aged below 55 when you are made redundant, you cannot receive the immediate payment of your LGPS benefits. They will instead be deferred and will be increased annually in line with the cost of living increase and will become payable from your scheme's normal retirement age (State Retirement Age with a minimum age of 65).

Regardless of your age, the County Council provides an enhanced redundancy payment, to compensate you for loss of earnings if you have two or more years' continuous service (as defined by the Redundancy Payments Modification Order).

Further information can be found by following the link below.

Redundancy Policy and Key Facts;

<http://theintranet.westsussex.gov.uk/HelpMe/Pages/helpmecontent.aspx?module=wsc&topic=human-resources/hr-policies/organisational-change&k=Where can I find the Redundancy Policy and guidance documents?&entryid=redundancy-policy>

### **If my employment is terminated on the grounds of the efficiency of the service will I be entitled to compensation?**

Regulation 6 – Discretion under the Local Government (Early Termination of Employment) (Discretionary Payments) (England and Wales) Regulations 2006

The County Council may choose to pay a lump sum payment, to compensate you, in the event that your employment is terminated on the grounds of the efficiency of the service. The amount of payment will be determined in accordance with the scheme policy and conditions and will not be any more than you would be entitled to if your employment was terminated on the grounds of redundancy.

Full details of the scheme can be found by following the link below.

Compensation for Early Termination of Employment Policy;

<http://theintranet.westsussex.gov.uk/HelpMe/Pages/helpmecontent.aspx?module=wsc&topic=human-resources/leavers&k=In what circumstances do we compensate someone for terminating their employment early?&entryid=contract-compensation>



### **What happens if my lump sum compensation payment is incorrect?**

(Power to enable employers to decide the steps taken to recover overpayments on lump sum compensation - Regulation 8 Early Terminations of Employment (Discretionary Compensation) Regulations 2006)

If the County Council makes an over, or underpayment of your lump sum compensation, we will let you know. If an underpayment has been made immediate steps will be taken to make the appropriate payment. The Council will also seek to recover any overpayment. In the case of an overpayment the County Council will consider a reasonable time limit for the overpayment to be repaid.

### **How is final pay for fee earners calculated?**

(Final pay period to be used where a member's pay consists of fees Regulation 22(1)(b) of the LGPS Regulations 1997 and Regulation B11 (2) of the Benefit Regulations 2007 and Regulation 3(6), 4(6)(c), 8(4), 10(2)(a) and 17(2)(b) of the (Transitional Provisions and Savings) Regulations 2014

In a few cases the calculation of final pay in the LGPS is based on fees (rather than standard rates of pay). This can apply to scheme members such as Returning Officers who oversee Council elections. The level of fees however can vary over a number of years, which can lead to an unfairly low level of pay if the fees in the final 3 years prior to leaving, or retirement, are lower than those received in previous years.

The S.151 Officer will consider, on a case by case basis, final pay being calculated as the average of all such fees for any three consecutive years ending 31<sup>st</sup> March within the period of ten years ending with the last day you were an active member.

### **If I have a drop in pay is my pension protected?**

(Issue a certificate of protection of pension benefits where eligible non-councillor member fails to apply for one (drop in pay/restrictions occurring pre 1<sup>st</sup> April 2008 – Regulation 23(4) of the LGPS 1997 Regulations)

Your final year's pay when you leave the LGPS will still be used to work out your benefits built up before 1 April 2014. This means that any future pay increases will be included in the final pay used to work out these benefits.

The definition of final pay for benefits built up before April 2014 remains the same as it was before the Scheme changed. Your final pay is normally the pay in respect of your final year of scheme membership on which you paid contributions, or one of the previous 2 years if this is higher. This remains so from April 2014.

In addition if your pay is reduced, or increases to your pay are restricted in your last 10 years of continuous employment with us, you continue to have the option to have all your pre April 2014 membership based on the average of any 3 consecutive years' pay in the last 13 years (ending on a 31 March).

If you have a certificate of protection which was issued by us for a reduction or restriction in pay beyond your control before 1 April 2008 and you leave the LGPS within 10 years of the reduction or restriction, then this protection continues to apply after April 2014 for benefits built up in the final salary scheme.

If you failed to apply for a certificate of protection but have subsequently realised that you should have done so, the Principal Pension Consultant (Administration & Employers) will consider issuing a certificate of protection on a case by case basis if it is clear that you were unable to apply at the time due to circumstances beyond your control.

## **Can I receive additional pension?**

(Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency - Regulation 31 of the LGPS Regulations 2013)

Awarding additional pension may be used in exceptional circumstances and only where there are likely to be significant benefits to the County Council.

The County Council can choose to award you an additional pension up to the value of £7,316.00.

Further information can be found by following the link below.

<https://www.westsussex.gov.uk/about-the-council/strategies-plans-and-policies/corporate-policies/pay-policy/>

## **Adjustments to your pension following ill health**

If your employment is being terminated for reasons of ill health and you are in the pension scheme, we must decide whether or not you are entitled to an ill health retirement pension. To help us decide this we need to obtain a certificate from an independent registered medical practitioner who will assess whether "as a result of "ill health or infirmity of mind or body", you are permanently incapable of "discharging efficiently the duties of the employment you were engaged in" and, if so, whether you are not "as a result of ill health or infirmity of mind or body", immediately capable of undertaking any "gainful employment" (see definition below).

The LGPS has 3 tiers of ill-health provision.

- Tier 1: If you are unlikely to be capable of undertaking gainful employment before your Normal Pension Age. (State Retirement Age with a minimum age of 65)
- Tier 2: A) If you are not entitled to Tier 1 benefits. B) are unlikely to be capable of undertaking any gainful employment within three years of leaving your employment; but c) are likely to be able to undertake gainful employment before reaching Normal Pension Age.
- Tier 3: If you are likely to be capable of undertaking gainful employment within three years of leaving their employment, or before Normal Pension Age.

The following discretions relate to the LGPS ill-health provisions.

## **What happens if I am able to work again or the medical advisor deems me fit to work?**

(Determine whether a person in receipt of a Tier 3 ill health pension has started gainful employment – Regulation 37(3) & (4) of the LGPS Regulations 2013 and Recovery of payments following commencement of gainful employment - Regulation 37(3) of the LGPS Regulations 2013)

If you have received an award under tier 3 the County Council has to review your award after 18 months. We cannot continue to pay you a tier 3 award for more than 3 years, (provided you are not in "gainful employment", or considered capable of undertaking such employment).

You must inform the County Council immediately if you obtain 'gainful employment' at any time between your tier 3 ill health pension award commencing and the expiry of the three years.

For the purposes of a tier 3 award, "gainful employment" is considered to be paid employment for at least 30 hours each week for a contract period of at least 12 months.

As part of a review of a tier 3 ill health award, the County Council may cease payment of the award from the date you gain obtained gainful employment, or were considered by an independent medical adviser as capable of undertaking gainful employment.

Additionally if you are still receiving your tier 3 ill health pension after you have obtained gainful employment, or where a medical advisor has determined you as capable of undertaking gainful employment, the County Council will seek to recover any overpayment made to you.

### **What if my condition has not improved or has deteriorated?**

(Determine whether a person in receipt of Tier 3 ill health pension following review is unlikely to be capable of undertaking gainful employment before normal pension age because of ill health – Regulation 38(3) of the LGPS Regulations 2013)

If you are have a tier 3 ill health pension and your condition has not improved, or has deteriorated, the County Council will decide whether you have an entitlement to a tier 2 ill health pension. A decision to convert your tier three award to a tier two award can be taken at any time and must be no later than 3 years of the date that payment of your benefits under tier 3 has stopped, or before you reach your normal retirement age.

### **Can I receive my pension benefit early?**

(Whether to 'switch on' on the 85 year rule upon the voluntary early payment of a suspended tier 3 ill health pension -24(a), 30(a), 30(c), 30€ and 30(f) of the GPS (Amendment) Regulations 2018 , Determine whether a tier 3 member is permanently incapable of undertaking any gainful employment - B31(7) of the Benefits Regulations 2007 and Choice of payment of pension: pensioner member with deferred benefits-B30A(3) of the Benefits Regulations 2007 and Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid under B30A – Regulation B30A (5) of the Benefit Regulations 2007)

This only applies if you stopped paying into the pension scheme on or after 1<sup>st</sup> April 2008 but before 1<sup>st</sup> April 2014.

If your tier 3 ill health pension has been stopped, you can voluntarily request payment of your benefits on or after age 55 without the need for our consent.

However if you voluntarily request payment between 55 and 60 and had protection under what is called the "85 year rule" (i.e. if you add your age and length of service in whole years and this equates to 85) this will not automatically apply in full and your benefits might therefore be subject to actuarial reduction as you will be receiving them earlier than you would have done. The regulations allow us as your previous employer to 'switch on' the 85 year rule. Your benefits may still be subject to an actuarial reduction, however it may be less than if the 85 year rule was not 'switched on'.

As the County Council would have to meet the cost of 'switching on' the 85 year rule if you chose to voluntarily request payment of your stopped tier 3 ill health pension between age 55 and 60, it will only consider doing so if there are exceptional or compassionate grounds for doing so.

The County Council may choose to waive, on compassionate grounds, the actuarial reduction applied to benefits payable where your tier 3 ill health pension was stopped, and you have voluntarily requested payment before age 65.

Each case will be considered fairly based on its circumstances and merits and is subject to approval by the S.151 Officer and Cabinet Member for Finance.

Any cost to the pension fund will be met by the relevant service.

### **Early payment of Deferred Benefits**

You can choose to take your deferred benefits early from age 55 without the need for the County Council's consent.

#### **Can I receive my deferred pension early?**

(Whether to 'switch on' on the 85 year rule upon the voluntary early payment of deferred benefits -24(a), 30(a), 30(c), 30€ and 30(f) of the LGPS (Amendment) Regulations 2018, Whether to grant pre 1<sup>st</sup> April 1998 leavers early payment of their deferred benefits on or after age 50 on compassionate grounds – Regulation D11(2)(C) of the LGPS Regulations 1995)

Yes. The scheme now allows you to request payment of your deferred pension from age 55 without the need for our consent. However if you retire between 55 and 60 and had protection under what is called the "85 year rule" (i.e. if you add your age and length of service in whole years and this equates to 85) this will not automatically apply in full and your benefits might therefore be subject to actuarial reduction as you will be receiving them earlier than you would have done. The regulations allow us as your previous employer to 'switch on' the 85 year rule. Your benefits may still be subject to an actuarial reduction, however it may be less than if the 85 year rule was not 'switched on'.

As the County Council would have to meet the cost of 'switching on' the 85 year rule if you chose to request payment of your deferred benefits between age 55 and 60, it will only consider doing so if there are exceptional or compassionate grounds for doing so.

The County Council may choose to waive, on compassionate grounds, the actuarial reduction applied to benefits payable where you have requested payment of your deferred pension before age 65.

Where this is the case, it would be subject to the approval of the S.151 Officer (and also the Cabinet Member of Finance where there is a cost to the pension fund).

Any costs incurred will be paid for by your service unit.

If you left before 1<sup>st</sup> April 1998, the LGPS allows for you to apply to the County Council for payment of your pension on compassionate grounds between age 50 and 55.

Under the Finance Act 2004, any pension paid before the minimum pension age of 55 (unless on the grounds of ill health) are subject to an unauthorised payment charge.

The County Council will not therefore agree to bring your deferred benefits into pay early, before age 55 on compassionate grounds.

### **Can I receive my deferred pension early due to my poor health?**

(Decide whether a deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria – Regulation 31(4) of the Benefits Regulations 2007 and 38(3) of the LGPS Regulations 2013)

The Principal Pension Consultant (Administration & Employers) will decide whether or not you can receive your deferred pension early. To help him/her make this decision he/she has to obtain a certificate from an independent registered medical practitioner to determine:

Pre 31<sup>st</sup> March 2014 leavers

Whether you are suffering from a condition that renders you “permanently incapable of discharging efficiently the duties of the relevant employment because of ill-health or infirmity of mind or body” and, if so, whether as a result of that condition you have “a reduced likelihood of being capable of undertaking any gainful employment” before reaching normal retirement age, or for at least three years, whichever is the sooner.

Post 31<sup>st</sup> March 2014 leavers

Whether you are suffering from a condition that renders you “permanently incapable of discharging efficiently the duties of their former employment because of ill-health or infirmity of mind or body” and, if so, whether as a result of that condition you are “unlikely to be capable of undertaking any gainful employment “before reaching normal pension age, or for at least three years, whichever is the sooner.

### **Internal Dispute Resolution Procedure (IDRP)**

#### **What do I do if I don't agree with a decision that has been made regarding my pension?**

(Decide procedure to be followed by adjudicator when exercising stage one IDRP functions – Regulation 74(4) of the LGPS Regulations 2013) (Whether to extend six month period to lodge stage on IDRP appeal – Regulation 74(6) of the LGPS Regulations 2013)

If we have taken a decision in relation to your membership of the LGPS which you are not satisfied with you have the right to use the Internal Dispute Resolution Procedure (IDRP). Similarly, if you believe that we should have taken a decision in relation to your membership of the scheme and that our failure to do so, means that you have been adversely affected, you have the right to use the IDRP.

The formal complaint procedure has two stages. Many complaints are resolved at the first stage. Any complaint you make is treated seriously, and considered thoroughly and fairly.

At any stage during the formal complaint procedure you can contact the Pensions Ombudsman for information and advice.

Please remember that, before going to the trouble of making a formal complaint, the Pensions Team will welcome the opportunity to try to resolve the matter about which you are dissatisfied in an informal way. It may be worth checking again that they know you are concerned, and why.

If you have been unable to resolve the situation with the Pensions Team and need to make a formal complaint you should make it in writing, within six months of the day you were told the decision you want to complain about, to the Principal Pension

Consultant (Administration & Employers) if the decision was taken by us, and The Pensions Operations Manager for a decision that was taken by the Pensions Team.

The Principal Pension Consultant (Administration & Employers) will consider an extension to the time limit on a case by case basis if it is clear that you were unable to meet the normal time period due to circumstances beyond your control.

For further details of the Pensions Ombudsman and a copy of the Internal Dispute Resolution Procedure (IDRP) please see the following link.

<https://www.westsussex.gov.uk/about-the-council/pensions/local-government-pension-scheme-lgps/compliments-and-complaints-about-lgps-membership-and-benefits/>

## **Loss of pension rights as a result of a fraudulent offence of grave misconduct**

### **Is my pension benefit affected if I leave employment due to a fraudulent offence or grave misconduct?**

(Payment of a refund of contributions in misconduct cases and Forfeiture of pension rights as a result of offences or misconduct – Regulation 88(2), 111(2) & (5), 112(1), 113(2), 115(2) & (3) of the LGPS 1997 Regulations and Regulation A47(2), A72(1) (3), A73(1) (2), A74(2), A76 (2) (3) of the Administrations Regulations 2008 and – Regulation 19(2), 91(1) (4) (8), 92(1) (2), 93(2), 95 of the LGPS 2013 Regulations)

If you leave your employment with West Sussex County Council due to a fraudulent offence, grave misconduct, negligence, or any work related criminal offence that results in financial loss to the County Council, the County Council will, in exceptional circumstances, seek to reduce the value of your pension benefits commensurate with the offence.

There is no automatic entitlement to a refund on your pension contributions, if you leave your employment with less than 3 month's scheme membership, as a result of a fraudulent offence or grave misconduct and the County Council would seek to withhold any such amount where considered appropriate.

Each case will be referred to the S.151 Officer for consideration with advice provided by the Head of Human Resources.

## **Following your death**

### **If I received compensatory added years how will my surviving spouse's compensatory added years be paid?**

(Joint entitlement to spouse's compensation (polygamous marriages). Regulation 21(4) Early Termination of Employment (Discretionary Compensation) Regulations 2000

Surviving spouses or civil partners annual compensation payments will be split on an equal share basis in the event that you are survived by more than one spouse or civil partner.

### **Will my spouse receive annual compensation on re-marriage or cohabitation?**

(Suspension of spouse's compensation during a period of remarriage or Cohabitation. Regulation 21(5) & (7) Early Termination of Employment (Discretionary Compensation) Regulations 2000)

The County Council will continue payment of a spouse's compensation to existing pensioners, as well as to new pensioners, who remarry or cohabit after 31<sup>st</sup> March 1998.

**How will my children's compensation payment pension be paid?**

(Payment and apportionment of children's compensation -Regulation 25(2) Early Termination of Employment (Discretionary Compensation) Regulations 2000)

Eligible children's annual compensation payments will be paid on an equal share basis.

**Will the extra contributions I was making between 1972 to 1988 count towards my widower's pension?**

(Women with membership before 6th April 1988. Regulation 9 LGPS (Transitional provisions) Regulations 1997).

Women who were making extra contributions to update their service from 1972 to 1988 for widower's pension purposes we will count this period in full without any further contributions. Women who marry after 31<sup>st</sup> March 1998 who have 1972-1988 service will also be allowed to count the relevant period in full for this purpose.

WSCC LGPS Employer Discretions Policy

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