

## **Employer Local Government Pension Scheme Discretions Policy: West Sussex County Council**

### **Policy Effective Date 1 April 2025**

This policy explains how WSCC, as an employer participating in the West Sussex Local Government Pension Scheme (LGPS) applies discretions in relation to if, and when, certain provisions of the LGPS will apply.

### **Statement of policy on the Local Government Pension Scheme Regulations (LGPS) 2013 and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014**

This document sets out the WSCC's policy on the operation of each of the mandatory discretions (and optional discretions where chosen) available under the LGPS Regulations. It states whether discretions will be operated and the circumstances and criteria for applying them.

In the exercise of any discretion, where a decision is required on any matter, by the county council as employer and also as scheme administrator, the decision for the administrator shall be dealt with by the Director of Finance & Support Services and the employer decision by the Chief Executive or such senior officer as the Chief Executive may determine.

### **Section 1: The following discretions decisions apply to members who were actively paying into the scheme as at 1 April 2014 onwards**

<b>1.1 Power to award additional pension.</b> Regulation 31
<b>Whether, at the full cost to the Scheme employer, to grant extra annual pension of up to £8,344 (figure as at 1 April 2024) to an active member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency [regulation 31 of the LGPS Regulations 2013]</b>
<b>Employer Policy Decision</b>
West Sussex County Council will consider this only in exceptional circumstances and where it is shown to be in the interests of the County Council.

<b>1.2 Shared cost additional pension contributions</b> Regulation 16(2e) (4d)
<b>Whether, how much, and in what circumstances to contribute to a Shared Cost APC scheme.</b>
Whether, where an active member wishes to purchase extra annual pension of up to £8,344 (figure as at 1 April 2024), by making additional pension contributions (APCs), to voluntarily contribute towards the cost of purchasing that extra pension via a shared cost additional pension contribution (SCAPC) [regulations 16(2)(e) and 16(4)(d) of the LGPS Regulations 2013].

This does not include instances where the employee is paying for lost pension via an APC where the election was made in the first 30 days (or longer if the employer allows) where the employer must pay two-thirds of the cost of such purchase.

### **Employer Policy Decision**

West Sussex County Council will not contribute Additional Pension Contributions in addition to a member's contribution to increase their pension benefits.

Where the employee's APC is to purchase lost pension following a period of unpaid leave the County Council must pay two-thirds of the cost of such purchase provided the election is made in the first 30 days. The 30-day period may be extended by agreement of the Director of Human Resources and Organisational Development (HR&OD) if there is evidence that the employee was unable to meet the 30-day period due to circumstances beyond their control.

### **1.3 Whether to allow flexible retirement**

(Regulation 30 (6)) & TP11(2) & R30(8)

Whether to allow flexible retirement for staff aged 55 or over who, with the agreement of the Scheme employer, reduce their working hours or grade [regulation 30(6) of the LGPS Regulations 2013] and, if so, as part of the agreement to allow flexible retirement:

- Whether, in addition to the benefits the member has built up prior to 1 April 2008 (which the member must draw), to allow the member to choose to draw:
  - I. All, part or none of the pension benefits they built up after 31 March 2008 and before 1 April 2014, and / or
  - II. All, part or none of the pension benefits they built up after 31 March 2014  
  
[regulations 11(2) and 11(3) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014], and
- Whether to waive, in whole or in part, any actuarial reduction which would otherwise be applied to the benefits taken on flexible retirement before Normal Pension Age (NPA) [regulation 3(5) of the LGPS Transitional Provisions, Savings and Amendment) Regulations 2014, regulation 18(3) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and regulations 30(6) and 30(8) of the LGPS Regulations 2013].

### **Employer Policy Decision**

#### **i) Whether to allow flexible retirement.**

The County Council will consider requests for flexible retirement on a case-by-case basis in accordance with the County Council's Flexible Retirement [Policy](#) and [Procedure](#).

Flexible retirement requests are considered by the County Council subject to certain qualifying criteria including that the member must:

- Be actively making contributions to the LGPS.
- Be aged 55 or over.

- Have two years or more membership in the LGPS.
- Take at least a 20% reduction in hours and/or salary.

Flexible retirements approvals are subject to a business case which must set out the reason for supporting the flexible retirement and that addresses and mitigates any direct or indirect costs that may arise.

**ii) Whether to allow the member to choose to take:**

**a. part or none of the pension benefits they built up after 31 March 2008 and before 1 April 2014, and / or**

The County Council permits members to choose to draw all, some, or none of their 1st April 2008 to 31st March 2014 benefits subject to the business case.

**b. all, part or none of the pension benefits they built up after 31 March 2014.**

The County Council permits members to choose to draw all, some, or none of their post 31st March 2014 benefits.

**iii) Whether to waive, in whole or in part, any actuarial reductions which would otherwise be applied to the benefits taken on flexible retirement before Normal Pension Age.**

The County Council will not normally bear the cost of any actuarial reduction, but the County Council will exercise this discretion on a case-by-case basis in accordance with its Flexible Retirement [Policy](#) and [Procedure](#), which includes consideration of the financial implications of that decision.

**1.4 Switching on the 85-year rule**

[paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]

**Whether to “switch on” the 85-year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.**

Members are able to voluntarily retire between ages 55 and 60. If they were a member of the LGPS on 30 September 2006 then some of their benefits could be protected from reductions applied to early payment under the 85-year rule. This rule only applies automatically to members voluntarily retiring from age 60 but the employer has the discretion to “switch it on” for voluntary retirements between age 55 and 60.

**This discretion does not apply to flexible retirement (see [Regulation 30\(6\)](#)) whereby the 85-year rule is always switched on.**

Where the employer does not choose to “switch on” the rule, then:

- a) If the member has already met the 85 year rule, the member’s benefits are to be reduced in accordance with actuarial guidance issued by the Secretary of State (with the benefits from any pre 1 April 2008 membership for members who will not be 60 or more on 31 March 2016, and benefits from any pre 1 April 2016 membership for members who will be 60 or more on 31 March 2016, which would not normally have been subject to an actuarial reduction

nonetheless being subject to a reduction calculated by reference to the period between the date the benefits are drawn and age 60) [paragraphs 1(2) and 1(4) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014], or

- b) If the member has not already met the 85 year rule, the member's benefits are to be reduced in accordance with actuarial guidance issued by the Secretary of State (with the reduction on that part of the member's benefits subject to the 85 year rule being calculated by reference to the period between the date the benefits are drawn and age 60, or the date of attaining the 85 year rule, whichever is the later), and
- c) The Scheme employer can exercise a discretion to waive any actuarial reductions (including where an actuarial reduction may still be applied to a member's benefits after 'switching back on' the 85-year rule in full) (at cost to the Scheme employer, via an employer strain charge).

### **Employer Policy Decision**

West Sussex County Council will only exercise this discretion in exceptional circumstances in line with its [Access to Pensions Policy](#).

The County Council may choose to 'switch on' the 85 Year Rule. However, this will only be considered in exceptional circumstances, or on compassionate grounds. Such cases will be considered fairly, based on the circumstances and merits detailed in a business case which will be subject to the approval processes set out in the [Access to Pensions Policy](#).

### **1.5 Waiving of actuarial reductions**

Regulation 30(8), TP3(1), TPSch 2, para 2(1), B30(5) and B30A(5)

#### **Whether to waive, in whole or in part, any actuarial reductions on benefits which a member voluntarily draws before normal pension age (other than on the grounds of flexible retirement).**

Employers can agree to waive any actuarial reductions due in the case of employees retiring any time after age 55. For active members voluntarily retiring on or after age 55 and before Normal Pension Age (NPA), who elect under regulation 30(5) of the LGPS Regulations 2013 to immediately draw benefits, and for deferred members and suspended tier 3 ill-health pensioners who elect under regulation 30(5) of the LGPS Regulations 2013 to draw benefits (other than on ill health grounds) on or after age 55 and before NPA.

There are 4 member groups which the discretions policy must address. The below covers in what circumstance reductions can be waived and to which benefits these would apply:

#### **Group 1 - Members joined before 1 October 2006 and who reached 60 before 1 April 2016**

- To waive on compassionate grounds, any actuarial reductions applied to benefits built up before 1 April 2016, and/or
- To waive, in whole or in part, on any grounds, actuarial reductions applied to benefits built up after 31 March 2016.

**Group 2** - Members joined before 1 October 2006 and who reach age 60 between 1 April 2016 and 31 March 2020 and also meet their critical retirement age before 1 April 2020 (date member meets the 85-year rule).

- To waive on compassionate grounds, any actuarial reductions applied to benefits built up before 1 April 2020, and/or
- To waive in whole or in part on any grounds, actuarial reductions applied to benefits built up after 31 March 2020.

**Group 3** - Members joined before 1 October 2006 and who reach age 60 after 31 March 2020 (or who would reach age 60 between 1 April 2016 and 31 March 2020 and don't meet their critical retirement age before 1 April 2020 (date member meets the 85-year rule)

- To waive on compassionate grounds, any actuarial reductions applied to benefits built up before 1 April 2014, and/or
- To waive, in whole or in part on any grounds, actuarial reductions applied to benefits built up after 31 March 2014.

**Group 4** - Members joined after 1 October 2006

- To waive on compassionate grounds, any actuarial reductions applied to benefits built up before 1 April 2014, and/or
- To waive, in whole or in part on any grounds, actuarial reductions applied to benefits built up after 31 March 2014.

The strain cost of any such retirements would need to be met by the employer and paid into the Pension Fund at the appropriate time.

### **Employer Policy Decision**

**Whether to waive any actuarial reductions for a member voluntarily drawing benefits before NPA (other than on the grounds of flexible retirement), as outlined above.**

West Sussex County Council will only exercise this discretion in exceptional circumstances in line with its [Access to Pensions Policy](#).

Where there are exceptional, or compassionate grounds to waive the actuarial reduction this will be considered within a business case explaining how associated costs can be met and justified. The business case will be subject to the approval process set out in the [Access to Pensions Policy](#).

**Section 2: The following discretions decisions are applicable to members who left the scheme between 1 April 2008 and 31 March 2014.**

**2.1 Whether to “switch on” the 85-year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60**  
[paragraph 1(1)(c) & 1(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]

Whether to “switch on” the 85-year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60.

A member with a deferred benefit who left the scheme voluntarily between 1 April 2008 – 31 March 2014 and who has subsequently become a deferred pensioner may now claim their benefits from age 55 without their employer’s consent. However, these benefits will be reduced for early payment.

Where a member has reached the 85-year rule at the point of retirement, an employer can consent to switching on the 85-year rule. Any ‘strain’ to the Fund will be payable immediately by the employer.

**Employer Policy Decision**

West Sussex County Council will not exercise this discretion.

**2.2 Whether to ‘switch on’ the 85-year rule upon the voluntary early payment of a suspended tier 3 ill health pension?**

[paragraph 1(1)(c) & 1(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]

Whether to “switch on” the 85-year rule for a member with a suspended tier 3 ill-health pension voluntarily drawing benefits (on or after 14 May 2018) on or after age 55 and before age 60.

Where a member has reached the 85-year rule at the point of retirement, an employer can consent to switching on the 85-year rule. Any ‘strain’ to the Fund will be payable immediately by the employer.

**Employer Policy Decision**

West Sussex County Council will not exercise this discretion.

**2.3 Whether to waive upon the voluntary early payment of deferred benefits any actuarial reduction on compassionate grounds?**

[regulation 30(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]

A member with a deferred benefit who left the scheme voluntarily between 1 April 2008 – 31 March 2014 may now claim their benefits from age 55 without their employer’s consent. However, these benefits will be reduced for early payment.

An employer can consent to waiving any reductions, on compassionate grounds, that would normally be applied to deferred benefits which are paid before age 65.

### Employer Policy Decision

West Sussex County Council will only exercise this discretion in exceptional circumstances in line with its [Access to Pensions Policy](#).

Where there are exceptional, or compassionate grounds to waive the actuarial reduction this will be considered within a business case explaining how associated costs can be met and justified. The business case will be subject to the approval process set out in the [Access to Pensions Policy](#).

### 2.4 Whether to waive upon the voluntary early payment of a suspended tier 3 ill health pension, any actuarial reduction on compassionate grounds?

[regulation 30A(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]

A member with a suspended tier 3 ill health pension and who left the scheme between 1 April 2008 – 31 March 2014 may now claim for their pension to be brought back into payment from age 55 without their employer's consent. However, these benefits will be reduced for early payment.

An employer can consent to waiving any reductions, on compassionate grounds, that would normally be applied to deferred benefits which are paid before age 65.

### Employer Policy Decision

West Sussex County Council will not exercise this discretion.

## Section 3: The following discretions decisions apply to members who left the scheme between 1 April 1998 and before 1 April 2008

### 3.1 Whether to 'switch on' the 85-year rule upon the voluntary early payment of deferred benefits

[paragraph 1 (1) (f) & 1 (2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) regulations 2014]

**Whether, as the 85-year rule does not automatically fully apply to members who would otherwise be subject to it and who choose to voluntarily draw their deferred benefits (on or after 14 May 2018) on or after age 55 and before age 60, to switch the 85-year rule back on in full for such members.**

Deferred members who left the scheme after 1 April 1998 are now able to voluntarily retire between ages 55 and 60. If they were a member of the LGPS on 30 September 2006 then some of their benefits could be protected from reductions applied to early payment under the 85-year rule. This rule only applies automatically to members voluntarily retiring from age 60 but the ceding employer has the discretion to "switch it on" for voluntary retirements between age 55 and 60.

Where the employer does not choose to "switch on" the rule, then benefits built up would be subject to reduction in accordance with actuarial guidance issued by the Secretary of State regardless of whether a member meets the rule or not.

If the employer does agree to "switch on" the 85-year rule, the employer will have to meet the cost of any strain on fund resulting from the payment of benefits before



age 60 i.e. where the member has already met the 85-year rule or will meet it before age 60.

#### **Employer Policy Decision**

West Sussex County Council will only exercise this discretion in exceptional circumstances in line with its [Access to Pensions Policy](#).

Where there are exceptional, or compassionate grounds to waive the actuarial reduction this will be considered within a business case explaining how associated costs can be met and justified. The business case will be subject to the approval process set out in the [Access to Pensions Policy](#).

### **3.2 Whether to grant applications for the early payment of pension benefits on or after age 50 and before age 55**

[regulation 31(2) of the LGPS Regulations 1997].

A member with a deferred benefit who left the scheme between 1 April 1998 – 31 March 2008 can claim their benefits from age 50 with their employer's consent.

However, these benefits may be reduced for early payment and/or be subject to an unauthorised payment charge under the Finance Act 2004.

#### **Employer Policy Decision**

West Sussex County Council will not exercise this discretion

### **3.3 Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to benefits**

[regulation 31(5) of the LGPS Regulations 1997 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014].

Whether to waive any actuarial reduction on compassionate grounds which would normally be applied to benefits which are paid before age 65.

Employers should note that the strain cost of any such retirements would need to be met by the employer and paid into the Pension Fund at the appropriate time.

#### **Employer Policy Decision**

West Sussex County Council will only exercise this discretion in exceptional circumstances in line with its [Access to Pensions Policy](#).

Where there are exceptional, or compassionate grounds to waive the actuarial reduction this will be considered within a business case explaining how associated costs can be met and justified. The business case will be subject to the approval process set out in the [Access to Pensions Policy](#).



**Section 4: The following discretions decisions apply to members who ceased active membership before 1 April 1998**

**4.1 Whether to grant applications for the early payment of deferred pension benefits on or after age 50 and before NRD on compassionate grounds**  
[regulation D11(2)(c) of the LGPS Regulations 1995].

Whether to grant early payment of a deferred benefit on compassionate grounds, on or after age 50 and before NRD.

If granted, these benefits may be reduced for early payment and/or be subject to an unauthorised payment charge under the Finance Act 2004.

**Employer Policy Decision**

West Sussex County Council will not exercise this discretion.

- These policies may be subject to review from time to time. Any subsequent change in this Policy Statement will be notified to affected employees.
- If the employer decides to amend the policy, no change can come into effect until one month has passed since the date the amended policy statement was published.
- Any changes to this policy will be notified to the Hampshire Pension Services within 1 month of the change.

For the full list of discretions policies go to:  
<http://lgpslibrary.org/assets/gas/ew/DISCLv1.6c.pdf>

**Signed on behalf of:**

**Completed by**

**Position:**

**Signature:**


**Date:**


## Section 5: Optional Discretions.

<b>5.1 Membership Aggregation</b> Regulation 22 (7)(b),(8)(b)
Whether to extend the 12 month option period for a member to elect to join deferred benefits to their current employment/membership.  The election to keep separate pension benefits must be made within 12 months of becoming an active member, who must be active at the date of election.  An employer may allow a period longer than 12 months.
<b>Employer Policy Decision</b>
The Director of HR & Organisational Development and Director of Finance & Support Services will consider a longer period on a case-by-case basis and may agree a longer time where the employee was unable to meet the normal time period due to circumstances beyond their control.
<b>5.2 Transfers of Pension Rights</b> Regulation 100(6)
Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS.  Where an active member requests to transfer previous pension rights into the LGPS, the member must make a request within in 12 months of becoming an active member.  An employer may allow a longer period than 12 months.
<b>Employer Policy Decision</b>
The Director of HR & Organisational Development will consider a longer period on a case-by-case basis and may agree a longer time where the employee was unable to meet the normal time period due to circumstances beyond their control.
<b>5.3 Time limit for a member to elect to purchase additional pension by way of a shared cost additional pension contribution (SCAPC) upon return from a period of absence</b> Regulation 16(16) of the LGPS Regulations 2013.
Whether to extend the 30-day deadline for member to elect for a SCAPC upon return from a period of absence from work with permission with no pensionable pay (otherwise than because of illness or injury, relevant child-related leave or reserve forces service leave)
<b>Employer Policy Decision</b>
West Sussex County Council will not contribute Additional Pension Contributions in addition to a member's contribution to increase their pension benefits.  Where the employee's APC is to purchase lost pension following a period of unpaid leave the County Council must pay two-thirds of the cost of such purchase provided the election is made in the first 30 days. This period may be extended by agreement of the Director of HR&OD and Director of Finance and Support Services if it is clear

that employee was unable to meet the normal time period due to circumstances beyond their control.

**5.4 Shared Cost Additional Voluntary Contribution arrangements**  
Regulation 17 of the LGPS Regulations 2013 and regulation 15(2A) of the LGPS (Transitional Provisions and Amendment) Regulations 2014.

Whether to allow a Shared Cost Additional Voluntary Contribution (SCAVC) arrangement. To determine how much will be allowed to be contributed to the SCAVC arrangement. To define in what circumstances contribution to a SCAVC arrangement will be allowed.

**Employer Policy Decision**

West Sussex County Council allows active members of the LGPS to make additional voluntary contributions by salary sacrifice. Employees elect to reduce their salary with West Sussex County Council making SCAVC contributions equivalent to the amount of salary reduction. The salary sacrificed will be a pensionable emolument and will not affect the employee's pension accrual in the main scheme. Employees are not permitted to reduce their salary below the level of the national minimum wage

- These policies may be subject to review from time to time. Any subsequent change in this Policy Statement will be notified to affected employees.
- If the employer decides to amend the policy, no change can come into effect until one month has passed since the date the amended policy statement was published.
- Any changes to this policy will be notified to the Hampshire Pension Services within 1 month of the change.

**Signed on behalf of:**

**Completed by:**  **Position:**

**Signature:**  **Date:**