

Appendix 5



Employers Local Government Pension Scheme Discretions Policy

DOCUMENT CONTROL

Organisation(s)	Cherwell District Council (CDC)
Policy title	Employers Local Government Pension Scheme Discretions Policy
Owner	Human Resources
Version	1.0
Date of implementation	10 July 2024

DOCUMENT APPROVALS

This document requires the following committee approvals:

Committee	Date of meeting pending approval
Personnel Committee	9 July 2024

DOCUMENT DISTRIBUTION

This document will be distributed to all employees of Cherwell District

DATE FOR REVIEW

No later than 1st June 2027 but sooner if impacted by legislative changes.

REVISION HISTORY

Version	Revision date	Summary of revision

INTRODUCTION

This policy has been prepared and approved by Cherwell District Council to satisfy the requirements of the Local Government Pension Scheme Regulations. This policy therefore meets the requirements of the appropriate discretionary LGPS regulations which states that each employing authority must formulate and keep under review its policy concerning the exercise of certain discretionary functions within these Regulations.

The Local Government Pension Scheme Regulations define the details of the scheme for members, employing authorities and the administering authority (Oxfordshire Pension Fund, as part of Oxfordshire Council).

However, the LGPS Regulations do allow both Oxfordshire Pension Fund and the employing authorities, discretion over various elements of the pension scheme; the first six of these should be outlined in an employer discretions policy.

1. Whether to grant additional pension
2. For the employer to part fund an Additional Pension Contribution (APC) contract for extra pension
3. Allowing a member to go on flexible retirement
4. Waiving actuarial reductions on flexible retirement
5. Waiving actuarial reductions on early retirement
6. Turning on the rule of 85 for members aged between 55 and 59
7. Whether to extend the 30 day deadline for members to elect for a shared cost APC

1: Summary of MANDATORY discretions affecting Active members and Leavers on and after 2 April 2014

Discretion & Regulation	Employer's decision
<p>Will the employer grant extra annual pension (up to £7,579 pa as at 2023)?</p> <p><u>2013 LGPS Regulation 31</u></p>	<p>Cherwell District Council will not grant extra annual pension.</p>
<p>Will the employer share the cost of purchasing additional pension (SCAPC) with a member?</p> <p><u>2013 LGPS regulation 16(2) and (4)</u></p>	<p>Cherwell District Council will not share the cost for a member's purchase for additional pension.</p>
<p>Will the employer permit flexible retirement?</p> <p><u>2013 LGPS regulation 30(6)</u></p>	<p>Cherwell District Council</p> <ul style="list-style-type: none"> a) will consider applications for flexible retirement subject to cost/ business case. b) will not waive any pension reductions. c) will permit member to choose which part of their pension to draw (subject to employer cost/ business need).
<p>Will the employer switch back on '85-year rule' protections?</p> <p><u>2014 Transitional Provisions regulations Sched 2</u></p>	<p>Cherwell District Council <i>will only agree to "switch on" the rule of 85 in exceptional circumstances following approval from the Executive Board after considering the costs that will apply. Each case will be considered on the merits of the financial and/or operational business case put forward.</i></p>
<p>When would the employer waive actuarial reductions to benefits being drawn on early voluntary retirement?</p> <p><u>2013 LGPS regulation 30(5)</u></p>	<p>Cherwell District Council will not consider applications to waive actuarial reduction for early voluntary retirement from active members.</p> <p>Cherwell District Council will not consider applications to waive actuarial reductions made by members with deferred pensions etc.</p>

2. Summary of recommended discretions (not Mandatory) affecting Active members and Leavers on and after 2 April 2014

An employer has discretion to exercise in these areas	Employer's decision (to be completed by employer)
<p>Employer to determine who will join the scheme (Admitted and Designated Bodies)</p> <p><u>2013 LGPS regulation 2</u></p>	<p>Cherwell District Council employees are automatically eligible to be in the Local Government Pension Scheme (LGPS) if they are under age 75 and have a contract of employment of at least three months.</p>
<p>Employer to determine member contribution band and terms of review. This decides the member contribution rate.</p> <p><u>2013 LGPS regulations 9/10</u></p>	<p>Cherwell District Council will review employee contribution band every April and will not generally review mid-year following a material change to pay.</p>
<p>Will the employer extend time limits for member to make decision on transfer of pension rights from an approved pension scheme?</p> <p><u>2013 LGPS regulation 100(6)</u></p>	<p>Cherwell District Council will not extend time limits for transfer decisions.</p>
<p>Will the employer extend the time limit for members to NOT link (aggregate) their LGPS memberships?</p> <p><u>2013 LGPS regulation 22(7)+(8)</u></p>	<p>Cherwell District Council will not extend the time limits the member has to make an election to keep pension records separate.</p>
<p>Will the employer extend the time limit for members to link (aggregate) their LGPS memberships?</p> <p><u>Amendment LGPS regulations 2018 27 and TP 2014 Regulations 10</u></p>	<p>Cherwell District Council will not extend time limits for transfer decisions.</p>
<p>Will the employer contribute to Shared Cost Additional Voluntary Contributions (SCAVC)?</p> <p><u>2013 LGPS regulation 17</u></p>	<p>Cherwell District Council will not contribute to SCAVC arrangement.</p>
<p>Will the employer include regular lump sums when assessing value for Assumed Pensionable Pay (APP)?</p> <p><u>2013 LGPS regulation 21</u></p>	<p>Cherwell District Council will not, when appropriate, add back the regular lump sum payment to provide the assumed pensionable pay figure.</p>
<p>Will the employer substitute a higher value of pensionable pay when assessing APP ?</p> <p>2018 amendment regulations 7</p>	<p>Cherwell District Council will not consider substituting a higher value of pay in place of APP.</p> <p>.</p>
<p>Will the employer extend the time limit for a member to decide to restore lost pension by shared cost additional pension contributions (SCAPC) after a</p>	<p>Cherwell District Council will not extend deadlines beyond 30 days of return to work.</p>

An employer has discretion to exercise in these areas	Employer's decision (to be completed by employer)
period of no pay (other than due to sickness or paid child related leave.)? <u>2013 LGPS regulation 16(16)</u>	

3: Other MANDATORY provisions to be included in a policy, under different regulations and which can apply to active employees regardless of LGPS membership

An employer has discretion to exercise in these areas	Employer's decision
<p>Will the Employer make an injury award to compensate for loss of</p> <p>a) pay, or b) job, or c) death due to injury or disease sustained at work?</p> <p><u>Regulation 3-7 of the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 employers (LGPS employers)</u></p>	<p>Cherwell District Council will not set up an injury award scheme under these regulations.</p>
<p>Will the employer pay enhanced redundancy payments and /or compensation for loss of employment on redundancy?</p> <p><u>Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006</u></p>	<ol style="list-style-type: none"> 1) Cherwell District Council will base redundancy pay on actual pay when greater than the 'statutory week's pay' for a redundancy payment. 2) Cherwell District Council will not award termination compensation lump sum of 104 week's pay following redundancy.

4: Summary of MANDATORY discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to members (excluding councillor members) who ceased active membership between 1 April 2008 and 31 March 2014

Occasionally an employer will receive request from a former employee who left the employment and the LGPS under earlier pension scheme regulations. The following table shows the mandatory discretions under different regulations according to the leaving date. These are all mandatory.

An employer has discretion to exercise in these areas	Employer's decision
<p>Will employer switch on '85-year rule' protections for early payment of deferred benefit? Request made from May 2018</p> <p>LGPS Administration Regulations 2018 66 and sched 2 of 2014 TP Regulations</p>	<p>Cherwell District Council will not consider applications to switch on 85-year rule to provide early unreduced pension to former scheme members.</p> <p>Cherwell District Council will not consider applications to waive actuarial reductions made by members with deferred pensions under any circumstance etc.</p>
<p>Will you 'switch on' the 85-year rule upon the voluntary early payment of a suspended tier 3 ill health pension? from 14 May 2018</p> <p>LGPS Administration Regulations 2018 66 and sched 2 of 2014 TP Regulations</p>	<p>Cherwell District Council will not consider applications to switch on 85-year rule to provide unreduced pension paid early on request to former scheme members after the third-tier ill health pension has ceased, and voluntary request made for early payment between from age 55-60</p> <p>Cherwell District Council will not consider applications to waive actuarial reductions made by members with deferred pensions under any circumstance etc.</p>
<p>Will the employer waive actuarial reductions due to compassionate grounds for early payment of deferred pension - before age 65?</p> <p><u>LGPS regulations 2007 30(5)</u></p> <p>Sched 2 of TP regulations 2014</p>	<p>Cherwell District Council will not consider applications to waive actuarial reduction for early pension payments.</p>

5: Summary of MANDATORY discretions to be exercised on and after 1 April 2014 (for requests made from 14 May 2018) in relation to members (including councillor members) who ceased active membership between 1 April 1998 and 31 March 2008

An employer has discretion to exercise in these areas	Employer's decision
Will the employer waive reductions on compassionate grounds for an early voluntary payment of pension?	Cherwell District Council will not waive reductions on compassionate grounds for an early voluntary payment of pension?
Will the employer switch on the 85-year rule for early payment of DBs requested between ages 55-60?	Cherwell District Council will not consider applications to switch on 85-year rule for early payment of DBs requested between ages 55-60.
Will the employer permit early payment of benefit from age 50 and under 55 (always check on the tax situation as may result in unauthorised payment charge)?	Cherwell District Council will not permit early payment of benefit from age 50 and under 55 (always check on the tax situation as may result in unauthorised payment charge).

6: Summary of the MANDATORY discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to members (excluding councillor members) who ceased active membership before 1 April 1998

An employer has discretion to exercise in these areas	Employer's decision
Will the employer grant early payment of deferred benefit on compassionate grounds? LGPS regulations 1995 (Transitional Provisions 1997 2)	Cherwell District Council will not grant early payment of deferred benefit on compassionate grounds?

7: Summary of the MANDATORY discretions to be exercised under the 2000 Discretionary Regulations

These regulations still apply as benefits have been awarded in the past for certain leavers before 1 April 2007. Employers, (most likely to be County, District Councils and Oxford City) using these in the past should maintain mandatory policies on:

- Reduction or suspension of annual compensation (added years) during periods of re employment in local government and after leaving and having opportunity to re-join the LGPS (even if doesn't) what level of pension abatement to apply
- If survived by more than one civil partner or spouse how will the pension be apportioned
- Whether to suspend spouse or civil partner pension during periods of re marriage/ partnership or cohabitation

- Whether to reinstate spouse or civil partnership added year's compensatory pension after remarriage etc has ended
- Would children's pension be payable under compensatory regulations when not under LGPS main scheme?

Discretions under Local Government (Early Termination of Employment) (discretionary Compensation) (England and Wales) Regulations 2000

DISCRETION & REGULATION

Some discretions under the above Regulations continue to be relevant as they apply to pension scheme members who have added years pensions in payment under the Regulations. The relevant discretions are as follows:-

Regulation 17 - The Effect of New Employment on Part IV Compensation

If a member who is receiving a compensatory added years pension in accordance with Part IV of these Regulations is re-employed by a LGPS employer then the annual pension resulting from the award of a credited period will be reduced, or suspended, if the combined total of earnings from the new employment and pensions in payment exceed the value of the current rate of pay of the member's former employment.

It should be noted that this adjustment is in addition to any adjustment that may be made to the basic LGPS pension as a result of re-employment with a LGPS employer. Oxfordshire County Council has a policy, which it is required to make under other Regulations as the administering Authority for the Oxfordshire LGPS fund, which is as follows: -

- (a) no abatement to be applied to pensions of less than £1500 a year or when awarded to someone retiring on their own benefits (ie without added years)
- (b) in other cases abatement will apply if new earnings and pension in payment exceed 125% of leaving pay, increased by the appropriate pension increases.

Regulation 19 - The effect of Cessation of New Employment on Part IV Compensation

After ceasing the re-employment the credited period will be adjusted or stopped altogether if the resulting pension from the re-employment and the basic LGPS pension from the first employment exceed the value of the pension which could have been paid if the member had remained in the first employment until age 65.

Regulation 21 - Awards to Surviving Spouses and Children

Where more than one current, legal spouse has survived a deceased person, the annual compensatory added years pension will be divided equally.

A spouse's pension will continue to be paid even if the spouse remarries or co-habits, unless at 1.4.98 a pension was already suspended due to remarriage.

In the very rare event of a children's compensatory added years pension being payable in circumstances not covered by the main Pension Regulations full details will be supplied to the appropriate officer for a determination.