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**CITY OF ELY COUNCIL
EMPLOYER'S DISCRETIONS POLICY STATEMENT ON LOCAL GOVERNMENT PENSION SCHEME**

PURPOSE

The Local Government Pension Scheme Regulations give employers a significant amount of choice regarding how they choose to apply regulations. This Policy Statement sets out how the City of Ely Council will comply with its duties regarding the discretionary powers available to the Council.

CITY OF ELY COUNCIL DISCRETIONS UNDER LOCAL GOVERNMENT PENSION SCHEME REGULATIONS

The Council's Discretion Policy Statement addresses current employer discretions within the following regulations:

- the Local Government Pension Scheme Regulations 2013 (prefix **R**)
- the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (prefix **TP**)
- the Local Government Pension Scheme (Administration) Regulations 2008 (prefix **A**)
- the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) (prefix **B**)

Each case will be considered separately, and in exceptional circumstances, a different discretion may be applied. This will particularly apply where there is no other option to resolve an issue not of an individual making.

The discretions listed below are the main discretions which apply to all employers and regularly affect scheme members. There are also several other minor discretions, not all of which apply to all employers and most of which are rarely used. These are not included within the Policy Statement.

Discretions from 1.4.14 in relation to post 31.2.14, active members (excluding councillor members) and post 31.3.14 leavers (excluding councillor members)

R = LGPS Regulations 2013 and

TP = LGPS (Transitional Provisions, Savings and Amendments) Regulations 2014

	Discretion Description	Regulation	Exercised by	Policy
Granting 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 (for up to £6822 pa – figure at 1.4.18)	R31	Employer	The City of Ely Council would not normally grant additional pension, however, it will consider each case on its own merits
Shared Cost APCs	Whether, where an active Scheme member wishes to purchase extra annual pension of up to £6500 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)	R16(2)(e) & R16(4)(d)	Employer	The City of Ely Council would consider contributing to a SCAPC only in circumstances where there is a financial or practical reason for them to do so
	Whether to extend 30 day deadline for member to elect for a shared cost APC upon return from a period of absence from work with permission with pensionable pay (otherwise than because of illness or injury, relevant child-related leave or reserve forces service leave)	R16(16)	Employer	The City of Ely Council will only exercise this discretion in exceptional circumstances. This discretion will only be exercised with the expressed position of the Personnel, Finance & Governance Committee after consideration of the costs that would apply.

Flexible retirement	Whether all or some benefits can be paid if an active member of staff aged 55 or over and with at least 2 years qualifying service reduces their hours or grade (flexible retirement)	R30(6) & TP11(2)	Employer	The City of Ely Council would accept applications for flexible retirement on a case by case basis and may agree to the member receiving immediate payment of all or part of their retirement pension where there is no cost to the City of Ely Council from the Pension Fund and no detrimental impact on service resulting from the reduction in hours and/or grade
	Whether to waive, in whole or in part, actuarial reduction to benefits paid on flexible retirement	R30(8)	Employer (or Admin Authority where Employer has become defunct)	The City of Ely Council will not normally waive any actuarial reduction on benefits paid on flexible retirement, but will consider each case on its own merits
	Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31 March 2014 membership)	R30(8)	Employer (or Admin Authority where Employer has become defunct)	The City of Ely Council will not normally waive any actuarial reduction on benefits paid on flexible retirement, but will consider each case on its own merits
85 Year Rule	Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits at or after age 55 and before age 60 (other than on the grounds of flexible retirement)	TPSch 2 paras 1(1)(c), 1(2)	Employer (or Admin Authority where Employer has become defunct)	The City of Ely Council will not normally “switch on” the 85 year Rule for any employee voluntarily drawing benefits on or after age 55 and before 60, unless there are specific circumstances or there is a case where there considered to be reasonable grounds for allowing a member to have more time to make an election

Waive Reduction	<p>Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1/4/14 and post 31/3/14 membership) on</p> <p>a) compassionate grounds (pre 1/4/14 membership) and in whole or in part on any grounds (post 31/3/14 membership) if the member was not in the Scheme before 1/10/06,</p> <p>b) compassionate grounds (pre 1/4/14 membership) and in whole or in part on any grounds (post 31/3/14 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will not attain 60 between 1/4/16 and 31/3/20</p> <p>c) compassionate grounds (pre 1/4/16 membership) and in whole or in part on any grounds (post 31/3/16 membership) if the member was in the Scheme before 1/10/06 and will be 60 by 31/3/16</p> <p>d) compassionate grounds (pre 1/4/20 membership) and in whole or in part on any grounds (post 31/3/20 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16</p>	<p>TP3(1), TPSch2, para 2(1), B30(5) and B30A(5)</p>	<p>Employer (or Admin Authority where Employer has become defunct)</p>	<p>The City of Ely Council will not normally waive any actuarial reduction on pre/and or post April 2014 benefits, however each case will be looked at on its own merits, or if there are exceptional circumstances/compassionate grounds</p>
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	and will attain 60 between 1/4/16 and 31/3/20			
Waive Reduction	Whether to waive, in whole or part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31/3/14 membership)	R30(8)	Employer (or Admin Authority where Employer has become defunct)	The City of Ely Council will not normally waive, in whole or part, actuarial reduction on benefits which a member voluntarily draw before normal pension age, however it will consider each case on its own merits
Extend APC Deadline	Whether to extend 30 day deadline for member to elect for a shared cost APC 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)	R16(16)		The City of Ely Council will only exercise this discretion in exceptional circumstances. This discretion will only be exercised with the expressed position of the Personnel, Finance & Governance Committee after consideration of the costs that would apply.
Variable APC employer contributions	Whether, how much, and in what circumstances to contribute to a share cost APC scheme	R16(2) & R16(4)(c)	Employer	The City of Ely Council would consider contributing to a SCAPC only in circumstances where there is a financial or practical reason for them to do so

Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1.4.08 and before 1.4.14.

B = LGPS (Benefits, Memberships and Contributions) Regulations 2007

Waive reduction	Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30 and B30A	B30A(5), TPSch2, para 2(1)	Employer (or Admin Authority where Employer has become defunct)	The City of Ely Council will only exercise this discretion in exceptional circumstances. This discretion will only be exercised with the expressed position of the Personnel, Finance & Governance Committee after consideration of the costs that would apply.
	Whether to extend the 12 month option period for aggregation of deferred benefits	A16(4)(b)(ii)		The City of Ely Council will not normally extend the 12 month limit for any LGPS member, however it will consider each case on its own merits
	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	A83(8)		The City of Ely Council will not normally extend the 12 month limit for any LGPS member, however it will consider each case on its own merits
85 year rule	Whether to “switch on” the 85 year rule for a pensioner member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60	TPSch 2, para 1(2) & 1(1)(c)		The City of Ely Council will not normally “switch on” the 85 year rule for any employee voluntarily drawing benefits on or after age 55 and before 60, however it will consider each case on its own merits

Discretions under the Local Government Pension Scheme Regulations 1997 (as amended) in relation to:

a) active councillor members, and

b) councillor members who ceased active membership on or after 1.4.98, and

c) any other scheme members who ceased active membership on or after 1.4.98 and before 1.4.08

Employer consent retirement	Grant application for early payment of deferred benefits on or after age 50 and before age 55	31(2)	Employer	The City of Ely Council will consider each case on its own merits, but will only be granted in exceptional circumstances
85 year rule	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. Note: TPSch2, para 2(2) does not reference para 1(1)(f) so there is strictly speaking no requirement to publish a policy under this regulation or R60. LGSS recognises this is a regulatory omission and the employer should publish a policy accordingly	TPSch 2, para 1(2) & 1(1)(f) & R60	Employer	The City of Ely Council will not normally “switch on” the 85 year rule for any employee voluntarily drawing benefits on or after age 55 and before 60, however it will consider each case on its own merits
Waive reduction	Waive on compassionate grounds, the actuarial reduction applied to deferred benefits paid early	31(5)	Employer (or Admin Authority where the employer has become defunct)	The City of Ely Council will consider each case on its own merits, but will only be granted in exceptional circumstances
Employer consent at NRD for optant out	Optants out only to get benefits paid from Normal Retirement Date if employer agrees	31(7A)	Employer	The City of Ely Council will consider each case on its own merits, but will only be granted in exceptional circumstances

Discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)

Under regulation 7 of the Discretionary Compensation Regulations, each authority (other than the Admitted Body) is required to formulate and keep under review a policy which applies in respect of exercising their discretion in relation to:-

Redundancy pay on actual Weeks pay	To base redundancy payments on actual weeks pay where this exceeds the statutory weeks pay limit	5	Employer	The City of Ely Council will only exercise this discretion in exceptional circumstances. This discretion will only be exercised with the expressed position of the Personnel, Finance & Governance Committee after consideration of the costs that would apply.
Lump sum compensation	To award lump sum compensation of up to 104 weeks pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment	6	Employer	The City of Ely Council will only exercise this discretion in exceptional circumstances. This discretion will only be exercised with the expressed position of the Personnel, Finance & Governance Committee after consideration of the costs that would apply.

Discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended)

These Regulations still apply to any Compensatory Added Years previously awarded by a Scheme Employer before 1 April 2007. Scheme employers (other than admission bodies) who made awards of Compensatory Added Years are required to have a policy on the following:-

	Discretion	Regulation	Exercised by	Policy
Abatement during re-employment	Whether and to what extent to reduce or suspend the member's annual compensatory added years payment during any period of re-employment in local government	17	Employer	The City of Ely Council will consider each case on its own merits
Reduction following cessation of re-employment	How to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment in local government	19	Employer	The City of Ely Council will consider each case on its own merits
Appointment of survivor benefit	How to apportion any surviving spouses' or civil partner's annual compensatory added years payment where the deceased person is survived by more than one spouse or civil partner	21(4)	Employer	The City of Ely Council will consider each case on its own merits

Effects of remarriage, new civil partnership or co-habitation on survivor's compensation payments	Whether, in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal pension suspension rules should be disapplied ie; whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid	21(7)	Employer	The City of Ely Council will consider each case on its own merits
	If under the preceding decision, the authority's policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual compensatory added years payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation	21(5)	Employer	The City of Ely Council will consider each case on its own merits

Discretions under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011

	Discretion	Regulation	Exercised by	Policy
Injury Allowances	Whether to grant an injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.	3(1)	Employer	The City of Ely Council will consider each case on its own merits
	Account of injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job	3(4) and 8	Employer	The City of Ely Council will consider each case on its own merits
	Determine whether person continues to be entitled to an injury allowance awarded under regulation 3 (1) (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job)	3(2)	Employer	The City of Ely Council will consider each case on its own merits
	Whether to grant an injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job	4(1)	Employer	The City of Ely Council will consider each case on its own merits
	Amount of injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job	4(3) and 8	Employer	The City of Ely Council will consider each case on its own merits
	Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity)	4(2)	Employer	The City of Ely Council will consider each case on its own merits

	Whether to suspend or discontinue injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity) if person secures paid employment for not less than 30 hours per week for a period of not less than 12 months	4(5)	Employer	The City of Ely Council will consider each case on its own merits
	Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a regulation 3 payment (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job) was being made at date of cessation of employment, but regulation 4 (loss of employment through permanent incapacity) does not apply	6(1)	Employer	The City of Ely Council will consider each case on its own merits
	Determine amount of any injury allowance to be paid under regulation 6(1) (payment of injury allowance following the cessation of employment)	6(1)	Employer	The City of Ely Council will consider each case on its own merits
	Determine whether and when to cease payment of an injury allowance payable under regulation 6(1) (payment of injury allowing following the cessation of employment)	6(2)		
	Whether to grant an injury allowance to the spouse, civil partner, co-inhabiting partner or dependent of an employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job. <i>The requirement to nominate a co-habiting partner has ceased entirely under these regulations due to the outcome of Elmes v Essex CC high court judgement</i>	7(1)	Employer	The City of Ely Council will consider each case on its own merits

	Determine amount of any injury allowance to be paid to the spouse, civil partner, nominated co-habiting partner (for awards made on or after 1 April 2008 the requirement to nominate a cohabiting partner has ceased due to the outcome of Elmes v Essex CC high court judgement) or dependent under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job)	7(2) and 8	Employer	The City of Ely Council will consider each case on its own merits
	Determine whether and when to cease payment of an injury allowance payable under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job)	7(3)	Employer	The City of Ely Council will consider each case on its own merits

APPLYING FOR A DISCRETION

To apply for a discretion to be used you should write to the Clerk to the Council, Sessions House, Lynn Road, Ely, Cambs, CB7 4EG, setting out the reasons why the City of Ely Council should decide to allow this.

COST OF DISCRETIONS

The City of Ely Council has agreed to decide how to pay Capital Costs on an individual case basis.

REVIEW OF POLICY STATEMENT

This Policy Statement will be reviewed on an annual basis.

Reviewed and approved 22nd May 2023

Signed
Cllr C Phillips - Chairman