

## LEIGHTON-LINSLADE TOWN COUNCIL



### LOCAL GOVERNMENT PENSION SCHEME 2014 (LGPS) EMPLOYER DISCRETION - POLICY STATEMENT

The new pension scheme rules, which apply from 1 April 2014, require each scheme employer within the LGPS to publish a statement with regards to how the employer will respond to discretionary aspects of the scheme rules and regulations.

This statement will be published on the Leighton-Linslade Town Council website and will also be made freely available in other ways such as intranet sites, staff groups, trade unions and HR officers.

The date of this publication is: 30<sup>th</sup> June 2014

The effective date of this policy is: 1<sup>st</sup> April 2014

This is the formal employers policy in respect of the employer that is currently known as:

Leighton-Linslade Town Council

This policy applies to:

Prospective members, current contributory members, deferred members and pensioner members of the Local Government Pension Scheme (LGPS), and their dependants.

Where quoted regulations\* refer to:

The Local Government Pension Scheme Regulations 2013, or The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014.

\*For certain employers reference may also be contained to the following regulations:

- The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000
- The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)
- The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011

This statement will be reviewed and may change from time to time. You should obtain the latest version of this document before making any decisions in respect of your retirement provisions as the situation may have changed.

You are advised to read this statement in conjunction with the information provided in respect of the benefits provided by the LGPS – the occupational pension scheme provided by Leighton-Linslade Town Council

This policy does not convey any form of contractual rights for LGPS/staff members. The policy will be reviewed and may be subject to change, only the version of the policy that is 'current' at the time at which an event occurs will be the one applied for the purposes of LGPS benefits or membership.

In publishing this policy the scheme employer is required to pay due regard to the requirement that the formulated policy and its application and the extent to which the exercise of the discretions could lead to a serious loss of confidence in the public service;

Leighton-Linslade Town Council will not use this policy for any ulterior motive, it will ensure that such discretions will be exercised reasonably and where a cost is incurred it will only be used when there is a future benefit to the employer for incurring the extra costs that may arise or be associated with the discretion. It will ensure that where exercised any discretions that incur additional costs, will be applied and recorded as appropriate.

**Local Government Pension Scheme 2014 (LGPS) - Employer Policy Statement.**

**Employer discretions required under: The Local Government Pension Scheme Regulations 2013 [prefix R].**

**The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [prefix TP].**

**Regulation R16 (2) (e) & R16 (4) (d)**

Whether, how much, and in what circumstances to contribute to a shared cost APC scheme.

The Scheme employer may resolve to fund in whole or in part any arrangement entered into by an active scheme member to pay additional pension contributions by way of regular contributions in accordance with Regulation 16(2) (e), or by way of a lump sum in accordance with Regulation 16(4) (d).

The Scheme employer may enter into an APC contract with a Scheme member who is contributing to the MAIN section of the Scheme in order to purchase additional pension of not more than the additional pension limit (£6,500 from 1st April 2014 subject to annual increase in line with the Pensions (Increase) Act 1971).

The amount of additional contribution to be paid is determined by reference to actuarial guidance issued by the Secretary of State.

Consideration needs to be given to the circumstances under which the Scheme employer may wish to use their discretion to fund in whole or in part an employee's Additional Pension Contributions.

Leighton-Linslade Town Council's policy is: That the Council will not generally, during its normal course of business ordinarily consider this discretion due to financial pressures it is currently facing, at a time when there is a need to make significant savings via the public sector spending revenue.

**R30(6)\* & TP11(2)**

Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)

An active member who has attained the age of 55 or over and who with the agreement of their employer reduces their working hours or grade of employment may, with the further consent of their employer, elect to receive immediate payment of all or part of the retirement pension to which they would be entitled in respect of that employment as if that member were no longer an employee in local government service on the date of the reduction in hours or grade (adjusted by the amount shown as appropriate in actuarial guidance issued by the Secretary of State – separate policy required under Regulation 30(8)).

As part of the policy making decision the Scheme employer must consider whether, in addition to the benefits the member may have accrued prior to 1 April 2008 (which the member must draw), to permit the member to choose to draw all, part or none of the pension benefits they built up after 31 March 2008 and before 1 April 2014 and all, part of none of the pension benefits they built up after 1 April 2014.

Due consideration must be given to the financial implications of allowing an employee to draw all or part of their pension benefits earlier than their normal retirement age.

Leighton-Linslade Town Council's policy is: We will seek to take advantage of the flexibility. Where a member either reduces their gross pay by more than 49.999% of contractual hours worked, or where the reduction in duties leads to a drop in contractual gross pay by more than £5,000 per annum (to be reviewed from the date of the effective policy by CPI annually) or where gross pay is reduced by more than 20% as a result of a reduction in duties performed. Leighton-Linslade Town Council will take account of any bonus payments in place and adjust the requirements accordingly in the above figures.

**R30(8)\***

Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement. Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age.

Where a Scheme employer's policy under regulation 30(6) (flexible retirement) is to consent to the immediate release of benefits in respect of an active member who is aged 55 or over, those benefits must be adjusted by an amount shown as appropriate in actuarial guidance issued by the Secretary of State (commonly referred to as actuarial reduction or early payment reduction).

A Scheme employer (or former employer as the case may be) may agree to waive in whole or in part and at their own cost, any actuarial reduction that may be required by the Scheme Regulations.

Due consideration must be given to the financial implications of agreeing to waive in whole or in part any actuarial reduction.

Leighton-Linslade Town Council's policy is:

We will seek to take advantage of the flexibility.

Where a member receives benefits early and circumstances are described as exceptional, we will retain the right to examine the full circumstances surrounding the early payment of benefits, and where relevant, as decided by the Council, with supportive information provided by the pension fund, either specific or of a general nature the funds advisors and if relevant the staff representative or other body such as the LGA, a trade union representative or other interested party, waive some or all of any actuarial reduction that should be applied.

If the circumstances surrounding

payment are not deemed to be exceptional or where the member simply wishes to take benefits early then any actuarial reduction will be applied in full.

**TP Sch 2 para 2(2)**

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

Where a scheme member retires or leaves employment and elects to draw their benefits at or after the age of 55 and before the age of 60 those benefits will be actuarially reduced unless their Scheme employer agrees to meet the full or part cost of those reductions as a result of the member otherwise being protected under the 85 year rule as set out in previous Regulations.

So as to avoid the member suffering the full reduction to their benefits the Scheme employer can 'switch on' the 85 year rule protections thereby allowing the member to receive fully or partly unreduced benefits but subject to the Scheme employer paying a strain (capital) cost to the Pension Fund.

Leighton-Linslade Town Council's policy is:

That the Council will not generally, during its normal course of business ordinarily consider this discretion due to financial pressures it is currently facing, at a time when there is a need to make significant savings via the public sector spending revenue.

**TP Sch 2 para 2(3)**

Whether to waive on compassionate grounds the actuarial reduction applied to benefits from pre 1/4/14 membership where the employer has switched on the 85-year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.

So as to avoid the member suffering the full reduction to their benefits the Scheme employer can 'switch on' the

85 year rule protections thereby allowing the member to receive fully or partly unreduced benefits but subject to the Scheme employer paying a strain (capital) cost to the Pension Fund.

Leighton-Linslade Town Council's policy is:

That the Council will not generally, during its normal course of business ordinarily consider this discretion due to financial pressures it is currently facing, at a time when there is a need to make significant savings via the public sector spending revenue.

### **R31**

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 (by up to £6,500 p.a.)

A Scheme employer may resolve to award

- (a) an active member, or
- (b) a member who was an active member but dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency,

additional annual pension of, in total (including any additional pension purchased by the Scheme employer under Regulation 16), not more than the additional pension limit (£6,500 from 1st April 2014 subject to annual increase in line with the Pensions (Increase) Act 1971).

Any additional pension awarded is payable from the same date as any pension payable under other provisions of the Scheme Regulations from the account to which the additional pension is attached.

In the case of a member falling within sub-paragraph (b) above, the resolution to award additional pension must be made within 6 months of the

date that the member's employment ended.

Leighton-Linslade Town Council's policy is:

That the Council will not generally, during its normal course of business ordinarily consider this discretion due to financial pressures it is currently facing, at a time when there is a need to make significant savings via the public sector spending revenue.

**Employer discretions required under: The Local Government Pension Scheme Regulations 2007 (as amended) [prefix B]**

### **B12**

Whether, for a member leaving on the grounds of redundancy or business efficiency on or before 31st March 2014, to augment membership (by up to 10 years). The resolution to do so would have to be made within 6 months of the date of leaving. Hence this discretion is spent entirely after 30th September 2014.

Leighton-Linslade Town Council's policy is:

That the Council will not generally, during its normal course of business ordinarily consider this discretion due to financial pressures it is currently facing, at a time when there is a need to make significant savings via the public sector spending revenue.

### **B30(2)\***

Whether to grant application for early payment of deferred benefits on or after age 55 and before age 60

Leighton-Linslade Town Council's policy is:

That the Council will not generally, during its normal course of business ordinarily consider this discretion due to financial pressures it is currently facing, at a time when there is a need to make significant savings via the public sector spending revenue.

**B30(5)\***

Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30

Leighton-Linslade Town Council's policy is:

That the Council will not generally, during its normal course of business ordinarily consider this discretion due to financial pressures it is currently facing, at a time when there is a need to make significant savings via the public sector spending revenue.

**B30A(3)\***

Whether to grant an application for early payment of a suspended tier 3 ill health pension on or after age 55 and before age 60

Leighton-Linslade Town Council's policy is:

That the Council will not generally, during its normal course of business ordinarily consider this discretion due to financial pressures it is currently facing, at a time when there is a need to make significant savings via the public sector spending revenue.

**B30A(5)\***

Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A

Leighton-Linslade Town Council's policy is:

That the Council will not generally, during its normal course of business ordinarily consider this discretion due to financial pressures it is currently facing, at a time when there is a need to make significant savings via the public sector spending revenue.

**Employer discretions required under: The Local Government Pension Scheme Regulations 1997 (as amended) [prefix L]**

**L31(2)**

Grant application from a post 31.3.98. / pre 1.4.08. leaver or from a councillor for early payment of benefits on or after age 50/55 and before age 60

Leighton-Linslade Town Council's policy is:

That the Council will not generally, during its normal course of business ordinarily consider this discretion due to financial pressures it is currently facing, at a time when there is a need to make significant savings via the public sector spending revenue.

**L31(5)**

Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31.3.98. / pre 1.4.08. leaver or a councillor leaver

Leighton-Linslade Town Council's policy is:

That the Council will not generally, during its normal course of business ordinarily consider this discretion due to financial pressures it is currently facing, at a time when there is a need to make significant savings via the public sector spending revenue.

**L31(7A)**

Councillor optants out and pre 1.4.08. employee optants out only to get benefits paid from NRD if employer agrees

Leighton-Linslade Town Council's policy is:

That the Council will not generally, during its normal course of business ordinarily consider this discretion due to financial pressures it is currently facing, at a time when there is a need to make significant savings via the public sector spending revenue.



**The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000]**

**Regulation 21(4)**

How any surviving spouse's or civil partner's annual compensatory added years is to be apportioned where the deceased person is survived by more than one spouse or civil partner.

Leighton-Linslade Town Council's policy is:

That any benefits to be paid will be shared equally amongst the relevant parties/beneficiaries.

**Regulation 25(2)**

How it will decide to whom any children's annual compensatory added years payments are to be paid where children's pensions are not payable under the LGPS (because the employee had not joined the LGPS) and in such case how the annual added years will be apportioned amongst the eligible children

Leighton-Linslade Town Council's policy is:

That any benefits to be paid will be shared equally amongst the relevant parties/beneficiaries.

**Regulation 21(7)**

Whether in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouses or civil partner remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal pension suspension rules should be disapplied i.e. whether the spouse's or civil partners annual compensatory added years payments should continue to be paid.

Leighton-Linslade Town Council's policy is:

That the normal pension suspension rules, will be disapplied.

**Regulation 21(5)**

*{If the decision in 21(7) is to apply suspension of benefits.}*

...whether the spouses or civil partners pension should be reinstated after the end of the remarriage, new civil partnership or co habitation.

Leighton-Linslade Town Council's policy is:

As suspension of pensions will not be applied under Regulation 21(7) this discretion will not be relevant to the authority and is therefore redundant.

**Regulation 21(7)**

Whether, in respect of the spouses or civil partner of a person who ceased employment before 1 April 1998 and where the spouses or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouses or civil partners annual CAY payment, the normal rules requiring one of them to forgoe payment whilst the period of marriage, civil partnership or co habitation lasts, should be disapplied i.e. whether the spouses or civil partners annual CAY payments should continue to be paid to both of them.

Leighton-Linslade Town Council's policy is:

That the normal pension suspension rules will be disapplied.

**Regulation 17**

Whether to 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.

Leighton-Linslade Town Council's policy is:

That the normal pension suspension rules, will be disapplied.

### Regulation 19

How to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment.

Leighton-Linslade Town Council's policy is:

That the normal pension suspension rules, will be disapplied.

### The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)

**Note:** For the purposes of the above, 'local government' means employment with an employer who offers membership of the LGPS to its employees, regardless of whether or not the employee chooses to join the LGPS (except where the employer is an Admitted Body). Technically, an employee of an Admitted Body (i.e. a body that has applied to the administering authority to allow its employees to join the LGPS and has entered into a formal admission agreement) is only employed in 'local government' if he / she is a member of the LGPS.

### Regulation 5

To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks pay limit.

Leighton-Linslade Town Council's policy is:

That it will base redundancy pay on actual pay where the actual pay exceeds the statutory maximum.

### Regulation 6

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.

Leighton-Linslade Town Council's policy is:

That the Council will base the number of weeks compensation in cases of redundancy on the statutory redundancy scheme. In some exceptional circumstances the Council may consider cases of early retirement in the efficient interest of the service.

In these circumstances, the provisions and detail set out in the local conditions of service, as agreed by Council, will prevail in this respect.

### The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011

Formulating and publishing a policy under the Injury Allowances Regulations 2011 Each LGPS employer (other than an Admitted Body) is required to formulate, publish and keep under review the policy that it will apply in the exercise of its discretionary powers to make any award under the Injury Allowances Regulations.

### Regulation 3(1)

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.

Leighton-Linslade Town Council's policy is:

That the authority has, after due regard to the facility, determined not to adopt the discretionary powers in respect of the injury allowance regulations as it cannot be satisfied that such a policy would be workable, affordable and reasonable having regard to the foreseeable cost and the use of public funds.

Notwithstanding the above the authority may have other insurance arrangements in place that may be more appropriate for such circumstances and will look towards these products when relevant.



**Regulation 3(4) and 8**

Amount 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.

Leighton-Linslade Town Council's policy is:

That the discretion is redundant as it will not operate an injury allowance scheme.

**Regulation 3(2)**

Determine whether person continues to be entitled to an injury allowance awarded under regulation 3(1).

Leighton-Linslade Town Council's policy is:

That the discretion is redundant as it will not operate an injury allowance scheme.

**Regulation 4(1)**

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.

Leighton-Linslade Town Council's policy is:

That the discretion is redundant as it will not operate an injury allowance scheme.

**Regulation 4(3) and 8**

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.

Leighton-Linslade Town Council's policy is:

That the discretion is redundant as it will not operate an injury allowance scheme.

**Regulation 4(2)**

Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1).

Leighton-Linslade Town Council's policy is:

That the discretion is redundant as it will not operate an injury allowance scheme.

**Regulation 4(5)**

Whether to suspend or discontinue injury allowance awarded under regulation 4(1) if person secures paid employment for not less than 30 hours per week for a period of not less than 12 months.

Leighton-Linslade Town Council's policy is:

That the discretion is redundant as it will not operate an injury allowance scheme.

**Regulation 6(1)**

Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a reg 3 payment was being made at date of cessation of employment but reg 4 does not apply.

Leighton-Linslade Town Council's policy is:

That the discretion is redundant as it will not operate an injury allowance scheme.

**Regulation 6(1)**

Determine amount of any injury allowance to be paid under regulation 6(1)

Leighton-Linslade Town Council's policy is:

That the discretion is redundant as it will not operate an injury allowance scheme.

**Regulation 6(2)**

Determine whether and when to cease payment of an injury allowance payable under regulation 6(1)

Leighton-Linslade Town Council's policy is:

That the discretion is redundant as it will not operate an injury allowance scheme.

**Regulation 7(1)**

Whether to grant an injury allowance to the spouse, civil partner, nominated co-habiting 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.

Leighton-Linslade Town Council's policy is:

That the discretion is redundant as it will not operate an injury allowance scheme.

**Regulation 7(2) and 8**

Determine amount of any injury allowance to be paid under regulation 7(1)

Leighton-Linslade Town Council's policy is:

That the discretion is redundant as it will not operate an injury allowance scheme.

**Regulation 7(3)**

Determine whether and when to cease payment of an injury allowance payable under regulation 7(1)

Leighton-Linslade Town Council's policy is:

That the discretion is redundant as it will not operate an injury allowance scheme.

## Further Employer Discretions – in accordance with the Local Government Pension Scheme Regulations 2013

**Regulation R9(1) & (3) – Contributions**

Where an active member changes employment or there is a material change which affects the member's pensionable pay during the course of a financial year, the Scheme employer may determine that a contribution rate from a different band (as set out in Regulation 9(2)) should be applied.

Where the Scheme employer makes such a determination it shall inform the member of the revised contribution rate and the date from which it is to be applied.

Leighton-Linslade Town Council's policy is:

That the Town Council, having taken due regard to the administrative functions required to ensure an effective and legitimate payroll function is present that fulfills all legal requirements, had determined that any variations to the rate of contribution will be applied from 1<sup>st</sup> of April each year following any re-assessment of bandings.

Any further assessment will only be carried out, during the year when the variance in the total annual remuneration is more than 25% of the existing total annual remuneration, and would be subject to the agreement of the Town Clerk in conjunction with the Leader of the Council.

### **Regulation R17(1) – Additional Voluntary Contributions**

An active member may enter into arrangements to pay additional voluntary contributions (AVCs) or to contribute to a shared cost additional voluntary contribution arrangement (SCAVCs) in respect of an employment. The arrangement must be a scheme established between the appropriate administering authority and a body approved for the purposes of the Finance Act 2004, registered in accordance with that Act and administered in accordance with the Pensions Act 2004.

The Scheme employer needs to determine whether or not it will make contributions to such an arrangement on behalf of its active members.

Leighton-Linslade Council's policy is:

That the Council will not generally, during its normal course of business ordinarily consider this discretion due to financial pressures it is currently facing, at a time when there is a need to make significant savings via the public sector spending revenue. It will not therefore, establish a SCAVC scheme at this point in time.

### **Regulation R21(5) – Assumed Pensionable Pay**

A Scheme employer needs to determine whether or not to include in the calculation of assumed pensionable pay, any 'regular lump sum payment' received by a Scheme member in the 12 months preceding the date that gave rise to the need for an assumed pensionable pay figure to be calculated.

Leighton-Linslade Town Council's policy is:

That it will take all reasonable and necessary steps to ensure that in individual cases, it will establish a fair, equitable and justifiable way to identify what the members likely pay would have been, had the absence not occurred, and in cases where this pay

is to be used for future benefits, whether that level of pay would have been received every year to normal retirement age.

### **Regulation R22 - Merging of Deferred Member Pension Accounts with Active Member Pension Accounts**

A deferred member's pension account is automatically aggregated with their active member's pension account unless the member elects within the first 12 months of the new active member's pension account being opened to retain their deferred member's pension account.

A Scheme employer can, at their discretion, extend the 12 month election period.

Leighton-Linslade Town Council's policy is:

Where a member's previous pension account is not automatically aggregated – due to a written request from a member.

The employer may, at their discretion, extend the 12-month election period and ask the member to re elect, to amalgamate.

The member should provide written instructions to the effect, along with the reasons why they wish the initial election to be revoked.

The employer may then at his point take account of any further information provided by the Administering Authority, including any associated costs.

This information will be reviewed by the trustees/finance committee/chair of governors and the member notified accordingly of the decision reached in the matter.

### Regulation R74 Adjudication

Each Scheme employer must appoint a person (“the adjudicator”) to consider applications from any person whose rights or liabilities under the Scheme are affected by:

- (a) a decision under regulation 72 (first instance decisions); or
- (b) any other act or omission by a Scheme employer or administering authority, and to make a decision on such applications.

Responsibility for determinations under this first stage of the Internal Disputes Resolution Procedure (IDRP) rests with “the adjudicator” as named below by the Scheme employer:

Leighton-Linslade Town Council’s ‘Adjudicator’s’ details are:

Name:

Councillor G Perham

Title: Adjudicator/Leader

Full Address:

The White House  
Hockliffe Street  
Leighton Buzzard  
Bedfordshire

Post Code:

LU7 1HD

Tel No:

01525 631920

Fax No:

01525 853073

Email Address:

g.perham@hotmail.co.uk

### Regulation R100(6) –Transfers of Pension Rights into the LGPS

A request from an active member to transfer previously attained pension rights into the LGPS must be made in writing to the administering authority and the Scheme employer before the expiry of the period of 12 months beginning with the date on which the employee first became an active member in an employment (or such longer period as the Scheme employer and administering authority may allow).

Leighton-Linslade Town Council’s policy is:

Where a request from an active member to transfer previously attained pension rights into the LGPS is made in writing to the administering authority and the Scheme employer after the expiry of the period of 12 months, beginning with the date on which the employee first became an active member in an employment, a transfer will only be allowed where there has been a delay in receiving/obtaining information from the transferring scheme, or where other exceptional circumstances beyond the member’s control can be demonstrated by the member.

This excludes any errors or omissions on behalf of the payroll contractor, the administering authority or the employer.

These instances will be dealt with by discretion in extending the 12-month timeframe in accordance with the discovery of the error or omission.