

APPENDIX A

Pension Discretions Policy

February 2015



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1. Introduction

Access to a pension scheme is an important part of the reward package available to all employees and is a key objective of current Government Policy. The Councils make a significant contribution in addition to that made by the employees, to ensure that adequate provision is made for retirement or in the event of unforeseen events such as permanent injury or illness. Employees are automatically entered into the Local Government Pension Scheme (LGPS) and are encouraged to remain in it and gain the benefit of this provision.

The LGPS 2014 gives each Council discretionary powers that need to be agreed and followed in relation to certain specific pension issues.

This statement sets out Councils' approach to the administration and management of pensions and retirement for employees who are members of the Local Government Pension Scheme or are eligible to join. It outlines the retirement and pensions options available to employees depending on individual circumstances.

It incorporates the requirements of the LGPS Regulations 2014 and confirms the Councils' policies on the exercise of its discretionary powers under the various regulations.

The discretion decisions are however made by the Council who is the employer.

2. Retirement Age

Employees are no longer subject to a general retirement date. Employment will, therefore, continue until their employment is ended either by the employee giving notice or until action is taken by the employer for a specified reason such as redundancy or dismissal for conduct or capability reasons. (See section 5 for further information on the age at which pensions become payable).

Under the LGPS Regulations 2014 the normal pension is aligned with State Pension Age (SPA). The State pension age is currently being increased and varies according to Date of Birth. (Further information can be found at www.gov.uk/changes-state-pension for details).

3. Supporting Employees thinking about Retirement

The Councils recognise that it is important for employees to make decisions about when they may wish to retire and to plan accordingly.

Employees should ensure they obtain the appropriate information about their financial position and pension benefits.

Employees are encouraged to discuss their retirement plans with their manager at an early stage so that the process can be managed effectively to the benefit of all parties.

We also recognise the importance for employees planning to retire of achieving a balance between work and other interests and encourage serious consideration of requests for flexible retirement, but reserve the right to refuse requests where there are sound business reasons to do so.

4. Pensions

4.1 General

This policy applies to all employees who are members of the LGPS or are eligible to join.

Employees with a contract for at least three months, and aged between 16 and 75 are brought into the LGPS automatically from their first day of employment in accordance with the Auto-enrolment regulations effective 1 April 2014. Those with a contract of less than three months and casual employees have a right to join and can opt in.

From the first day of employment employees will be able to elect not to be a member of the LGPS. It is not permitted to complete and return an opt-out form until after commencing employment, so all eligible employees are auto-enrolled but can then ask to be taken out of the Pension Scheme.

The Councils are legally required to auto-enrol certain employees into a pension scheme once every three years starting 1 April 2014 or when they meet certain criteria. Those affected will be informed in writing on enrolment.

4.2 Pensionable Pay

The Pension Scheme Regulations define which elements of pay are pensionable and which are not. In broad terms all salary and pay for work done is pensionable and certain other payments such as mileage or other expenses are not pensionable. Pay protection is pensionable if the protection arrangements began before 1 April 2014. If the protection payments began on or after 1 April 2014, the protection payments are non-pensionable.

4.3 Employee Contributions

Employee contribution rates will be assessed as outlined below.

4.3.1 Contribution Bands

With effect from 1 April 2014, the bands for employee pension contributions are as follows:

Band	Pensionable Pay	Percentage Contribution Rates	
		Main Scheme	50/50 Scheme ¹
1	Up to £13,500	5.5	2.75
2	£13,501 to £21,000	5.8	2.90
3	£21,001 to £34,000	6.5	3.25
4	£34,001 to £43,000	6.8	3.40
5	£43,001 to £60,000	8.5	4.25
6	£60,000 to £85,000	9.9	4.95
7	£85,001 to £100,000	10.5	5.25
8	£100,001 to £150,000	11.4	5.70
9	£150,001 or more	12.5	6.25

Bandings are assessed on actual pensionable pay received irrespective of hours worked. Bands are reviewed annually.

4.3.2 Assessment of Pay for Banding

An assessment in regard to individual contribution bands is made annually based on pensionable pay for the tax year. Contributions will be made each pay period by the deduction of the monthly contribution based on annualised salary, plus any pensionable payments and allowances made to determine the correct contribution rate.

4.3.4 Notification of Banding

The Councils will make available on the intranet applicable bandings so that staff are aware of their contribution rates, and will publicise any changes.

4.3.5 Multiple Employments

Employees with more than one job with the Councils will be assessed separately for each individual contract of employment.

4.3.6 Review of Banding Decision

If you have a query about the contribution band you have been placed in you should contact Human Resources in the first instance to resolve it. If you still consider that your contribution rate has not been correctly assessed you must write to Human Resources for a review of the assessment. Human Resources will respond in writing. If you still consider that the policy has not been properly applied you may submit a written application for a review of the decision under the Pensions Internal Disputes Resolution Procedure outlined in Paragraph 11.

¹ Employees have an option to pay half normal contributions and build up half the normal pension

4.4 Discretions to Increase Pension Benefits

The Councils have discretion to increase pension benefits as outlined below. The Councils will **not** use discretion to award additional pension to:-

- active scheme members, or
- a member who was an active scheme member who was dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on the grounds of business efficiency.

Active scheme members may enter into an arrangement to pay additional pension contributions (APCs). The Councils will not contribute to the funding of additional pension contributions other than when it is required to do so because the APC arrangement is to make up for pension rights lost during a period of authorised unpaid absence. In these cases the request must be received by HR within 30 days of the end of the authorised unpaid absence, otherwise the employee will be required to meet the full cost.

The Councils will **not** enter into a shared cost additional voluntary contribution (SCAVC) scheme unless required to do so (for example, the purchase of lost pension when on unpaid maternity leave).

5. Retirements

Employees may choose to retire before normal pension age. The earliest age that an employee can choose to draw their pension paid is 55, but it will be actuarially reduced in accordance with the LGPS Regulations, on a sliding scale according to age and gender.

LGPS pension benefits must be put into payment by age 75 and the LGPS provides for an actuarial increase in pension benefits if they are not put into payment until after normal pension age.

In some appropriate circumstances employees may be dismissed by the Council and receive pension payments before age 65.

These retirements are explained below.

5.1 Voluntary Retirement

An employee who is aged 55 or older may choose to leave employment by giving notice of their resignation and draw their pension by giving our Pension Scheme Administrators, Suffolk County Council, the appropriate notice of their request for payment of their pension benefits. A minimum of three months' notice is required for early payment of pension benefits.

If the scheme member requests immediate payment of their pension before age 60 then all pension benefits payable (whether built up in the scheme before or after April 2014) will be subject to a full reduction. The Councils will **not** use their discretion to waive all or any part of the reduction that may apply in the early payment of a pension under this Regulation unless there is a sound compassionate or financial case to do so. In this case approval from the Head of Human Resources, Legal and Democratic Services is required, in consultation with the Head of Resources and Performance.

A sound financial benefit means that the cost of waiving the reduction is recovered within two financial years of the retirement.

The Councils **may** exercise discretion to approve 'switching on' the 85 Rule² protection, only when it is in the Councils' interests to do so. Managers will have to provide a proposal for all requests they support demonstrating how it meets both Councils' business objectives, employee relations benefits, service delivery benefits, financial and funding considerations.

Employees should ensure they obtain information about the amounts of their pension benefits and the amounts of any reductions that apply to them before formally resigning from employment. This information is available upon request from pensions@suffolk.gov.uk.

5.2 Flexible Retirement

An employee who is aged between 55 and 75 may request "flexible retirement" under the LGPS Regulations. This involves continuing to work and either reducing his/her hours of work or accepting a lower paid job within the Council while receiving an immediate payment of pension benefits. These benefits may be reduced or unreduced depending on entitlement. The Council may use its discretion to waive any reduction that may apply in the early payment of a pension under this section. Requests for payment of part benefits will **not** be agreed.

In response to written requests from eligible employees for flexible retirement the Council will:-

- Give consideration to the impact that the request will have upon other Council policies, particularly the Organisational Change and Redundancy Policy.
- Approve requests only when it is in the Councils' interests to do so. Managers will have to provide a proposal report for all requests they support demonstrating how it meets the Councils' business objectives, employee relations benefits, service delivery benefits, financial and funding considerations.

² The 85 year rule is satisfied if your age at the date you draw your benefits and your scheme membership (in whole years) add up to 85 or more; levels of protection under this rule are complex.

- Approve requests only where the cost of the waiver is paid back in terms of financial benefit within two years.
- Approve requests only where the income of the employee (pension plus salary) is not increased as a result of the flexible retirement.

A request must involve a reduction in gross salary of at least 40%, either through reduced hours or level of responsibility (grade).

Once the Council has agreed to a request for flexible retirement it will not consider any requests from the employee to increase their hours or grade in the position for which flexible retirement has been agreed. No further requests for flexible retirement will be considered.

The employee's contract of employment will be amended by mutual agreement to reflect the new hours or grade, as agreed, and continuity of service will be preserved for terms and conditions purposes.

Flexible retirement is an easing into retirement, and where pension commences payment, there is an expectation that a plan is mutually agreed in relation to when the retirement will take place, in order to ease and support the move into retirement for the individual, and enable succession planning in the service.

5.3 Retirement as a result of Redundancy or on the Grounds of Efficiency of the Service

Early retirement may be granted for employees aged 55 years and over with at least two years membership in the LGPS in the circumstances outlined below, taking into consideration the full cost to the Councils and best interest of the Councils.

The Council may find it necessary to dismiss an employee on the grounds of redundancy. The pension is paid without any actuarial reduction³. Payment of pension benefits is in addition to any redundancy compensation.

Alternatively, there may not be a redundancy situation, but it may be necessary to dismiss an employee or mutually agree a termination of employment for other reasons on the grounds of the efficiency of the service. The pension can be paid with or without any actuarial reduction as appropriate in the circumstances and as approved by the Head of Human Resources, Legal and Democratic Services.

These cases will normally be subject to a settlement agreement.

As specified in 4.4 above the Councils will not use discretion to award additional pension in these cases.

³ A reduction that is made to the pension to reflect the fact that the pension is being paid early

5.4 Ill Health Retirement

Where an employee, with at least two years membership of the LGPS, has been certified by an Independent Registered Medical Physician (approved by the Council) as being permanently incapable of discharging their duties by reason of ill health or infirmity of body or mind and having a reduced likelihood of undertaking other gainful employment, the Council will consider awarding early retirement with immediate payment of pension benefits. Ill health retirement may occur at any age. This authorisation will only be given after all alternatives have been explored.

Further information on ill health retirement is available in the Pensions Booklet available on the staff intranet, or from Human Resources.

5.5 Deferred Pension Members⁴

If an ex-employee suffers deterioration in their health, such that they consider they meet the LGPS criteria for ill health retirement, they can make a request for early payment of pension benefits on health grounds. The Council will consider such requests in accordance with the appropriate LGPS regulations and, if it is satisfied that the criteria are met, early payment of pension benefits will be authorised.

Members with deferred benefits under the LGPS Regulations 2014 may request payment of their deferred pension from age 55 without needing employer consent. As previously stated, the Council will not, in any circumstance, use its discretion to waive all or any part of the reduction that may apply in the early payment of a pension under this Regulation. The Council will not use its discretion to 'switch on' the 85 Rule for deferred pension members.

Under previous Scheme Regulations, deferred pension members require employer consent for early payment of pension benefits before the age of 60. Ex-employees may make a request for early payment of pension. The Council will only consider requests on compassionate grounds, but is unlikely to agree a request if there is a cost to the Council.

The Council will not use its discretion to waive any reduction that may apply for the early payment of a pension unless approved by the Portfolio Holder for Resources in exceptional circumstances.

5.6 Re-employment in Local Government

Employees who retire from the Councils may seek re-employment with the Councils through the Councils normal recruitment procedures. If an employee is in receipt of a pension from one of the West Suffolk Councils then re-employment with a West Suffolk Council or any LGPS employer may affect the pension payment. All re-employed pensioners are required

⁴ Deferred member is an ex-employee who has now left the Pension Scheme

to tell the Authority who pays their pension of any new employment and their pension may be reduced in accordance with LGPS and Discretionary Compensation Regulations.

If an employee is made redundant, they will forfeit their right to a redundancy payment if they are offered and take up other employment with a body covered by the Redundancy Payments (Continuity of Employment in Local Government etc.) (Modification) Order within four weeks of leaving the Council. There must be a clear break of not less than 4 weeks between such employment.

Any employee who receives an enhanced pension or redundancy package by virtue of the fact they have left the Council's employment will not normally be re-employed to work for a West Suffolk Council in any capacity for a period of three years.⁵

Exceptions to this will be made only, and exceptionally, where a business case is made and approved by the Head of Human Resources, Legal & Democratic Services, for example in a situation where there is an identified skills shortage that would justify a temporary appointment.

6. Injury Allowance Regulations

The Councils will **not** provide a compensation scheme under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011.

7. Administrative Regulations

7.1 Deferred Members who become Active Members again

If a deferred member again becomes an active member, the deferred pension account is aggregated with the active pension account, unless the member makes an election to retain the deferred pension account. This election must be made within 12 months of the opening of the active member account. The Councils will **not** extend the 12-month limit unless there are exceptional circumstances.

7.2 Concurrent Employments

In the case of members who have concurrent (more than one at the same time) employments and one employment ends, the deferred pension account will be aggregated with the on-going active account. If the member has more than one on-going active account they may choose which of the active accounts to join it with. The member can elect to retain the deferred pension account within 12 months of the date the concurrent employment ended, unless the account was for less than two years, ie

⁵ Re-employment for the purposes of running an election is not restricted by this policy.

deferred refund account which must be aggregated. The Councils will not extend the 12-month limit unless there are exceptional circumstances.

7.3 Inward Transfer of Pension Rights

The Councils will not consider allowing requests of transfers of previous pensions outside of the 12-month time limit, unless there are exceptional circumstances. If any such requests are agreed they will, also, be subject to the agreement of the Administering Authority.

8. Authorisation

All retirements that require the Councils' authorisation will be subject to the approval of a business case by the Head of Human Resources, Legal & Democratic Services.

Exceptions to this requirement are:-

- Flexible Retirements, in accordance with the policy, which require Head of Service and Head of Human Resources, Legal & Democratic Services (or nominated deputy) approval of business case.

Requests for early payment of deferred benefits on compassionate grounds, which may involve a cost, require the approval of the Head of Human Resources, Legal & Democratic Services and the Head of Resources and Performance.

The Head of Human Resources, Legal & Democratic Services will determine:-

- Waiving the time limit for inward transfers (7.3 applies)
- Waiving of time limit to separate membership for re-joining deferred members and concurrent employments. (7.1.& 7.2 applies)

9. Employees who are not in the LGPS

An employee who has chosen not to contribute to the LGPS (ie not an active scheme member) will not receive pension benefits from the scheme upon retirement. If an employee has deferred pension scheme benefits from previous LGPS membership, they should contact the administrators of that pension scheme for details of the benefits they have and when they might become payable. Employees may, however, choose to retire by giving the appropriate notice.

Employees who are not in the pension scheme may also apply for flexible retirement.

The Councils will apply the same criteria as set out in the policy statement on flexible retirement, except that there will not be any pension benefits to put into payment.

10. Financial Considerations and Further Information

Employees are advised to seek guidance about the financial implications of drawing their local government pension or any other pension benefits they may have, either when considering retirement or a flexible retirement (ie where they continue to work and draw a pension).

Further information about the LGPS is available on these websites:-

- Pension Services – www.suffolkpensionfund.org
- www.LGPS2014.org

and information about the State Pension is available at:-

- <https://www.gov.uk/browse/working/state-pension>

If you have queries about your LGPS pension benefits please contact:-

- Pension Services

By email - pensions@suffolk.gov.uk

By telephone – 08456 053000 (option 4)

*By post – Pensions, Suffolk County Council, 2nd Floor, Constantine House,
5 Constantine Road, Ipswich, Suffolk
IP1 2DH*

or

- Human Resources

By email - human.resources@westsuffolk.gov.uk

By telephone - 01284 757007

*By post - Human Resources, West Suffolk House, Western Way, Bury St
Edmunds, Suffolk IP33 3YU*

11. Dispute Resolution Procedure

If a member of the LGPS has a dispute regarding a decision made in respect of their pension benefits, they may wish to refer to the Pension Scheme Internal Disputes Resolution Procedure. Complaints under this procedure must be made within six months of the date that the pension decision was made.

Complaints should be made to a Director. If the member is not satisfied with this decision, they may refer the complaint to the Administering Authority's Adjudicator within six months of receiving the decision.

If an employee wishes to raise a concern not relating to pension benefits, referral to the Grievance Procedure may be appropriate.

12. **Review of Policy**

In formulating and reviewing its policy, the Council:

- a. has regard to the extent to which the exercise of its discretionary powers (in accordance with the policy), unless properly limited, could lead to a loss of confidence in the public service; and
- b. is satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

The Regulations require the Councils to keep this policy under regular review. This policy will, therefore, normally be reviewed every three years or earlier if deemed necessary.

If the Councils decide to change its policy, it will publish a statement of the amended policy within one month of the date of its decision.

This document is not a full statement of the law. The West Suffolk Councils retain the right to change policies at any time. This policy confers no contractual rights and the policy that is current at the time that a relevant event occurs to an employee will be the one applied to that employee.

Revisions

Date of review or revision	Reason	Author
February 2015	Requirement to provide written policy on further to Pension Scheme Changes 2014.	Karen Points