Template Policy Statement for the Exercise of Employer Discretions

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**TABLE OF CONTENTS**

[Introduction 3](#_Toc97303857)

[Discretions under the 2014 Regulations 5](#_Toc97303858)

[1. Power to grant extra annual pension 5](#_Toc97303859)

[2. Contributing to the cost when an employee purchases extra pension 5](#_Toc97303860)

[3. Flexible retirement for active member aged 55 or over 5](#_Toc97303861)

[4. 85 Year Rule 6](#_Toc97303862)

[5. Discretion to Waive Reductions on Early Retirement 7](#_Toc97303863)

[6. Contributing to a Shared Cost Additional Voluntary Contribution 7](#_Toc97303864)

[7. Aggregating benefits – When a concurrent employments ends 8](#_Toc97303865)

[8. Aggregating Deferred Benefits – Deferred Member again becomes Active 8](#_Toc97303866)

[9. Determining contribution rates for employees 8](#_Toc97303867)

[10. Calculating Assumed Pensionable Pay – Regular Lump Sums 10](#_Toc97303868)

[11. Whether to substitute a revised pensionable pay in calculating APP 10](#_Toc97303869)

[12. Time limit for elections to cover lost pension due to an absence with permission 11](#_Toc97303870)

[Discretions exercised from 1 April 2015 in relation to members who ceased active membership between 1 April 2009 and 31 March 2015 12](#_Toc97303871)

[13. Waiving reduction to deferred benefits 12](#_Toc97303872)

[14. Application of 85 year rule for deferred members 12](#_Toc97303873)

[Discretions to be exercised from 1 April 2015 in relation to scheme members who ceased active membership between 1 February 2003 and 31 March 2009 13](#_Toc97303874)

[15. Waiving reduction to deferred benefit 13](#_Toc97303875)

[16. Application of 85 year rule for deferred members 13](#_Toc97303876)

[Discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (NI) 2007 14](#_Toc97303877)

[17. Redundancy payment 14](#_Toc97303878)

[18. Enhanced compensation 14](#_Toc97303879)

[Discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (NI) 2003 15](#_Toc97303880)

[19. Abatement of annual compensatory added years pension 15](#_Toc97303881)

[20. Survivor compensatory added years apportionment 15](#_Toc97303882)

[21. Annual compensation suspension rules 15](#_Toc97303883)

[22. Annual compensation suspension rules - reinstatement 16](#_Toc97303884)

[Consideration of requests on compassionate grounds 17](#_Toc97303885)

[Policy Review 18](#_Toc97303886)

[Suggested text below – please amend as appropriate to your organisation]

Introduction

**[Name of Employer]** is required by the Regulations governing the Local Government Pension Scheme for Northern Ireland (the “Scheme Regulations”) to prepare a written policy statement setting out how it will exercise certain discretions under

* Local Government Pension Scheme Regulations (NI) 2014
* Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (NI) 2014
* Local Government Pension Scheme (Administration) Regulations (NI) 2009, in respect of leavers between 1 April 2009 and 31 March 2015
* Local Government Pension Scheme Regulations (NI) 2002 -in respect of leavers between 1 February 2003 and 31 March 2009.
* Regulation 66 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (NI) 2007, effective from 1 October 2006; and
* Regulation 25 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (NI) 2003, operative from 24 March 2003 for terminations of employment on redundancy or efficiency grounds that occurred prior to 1 April 2007. [**DELETE** this point if you are not including discretions 19-22 – see below for more guidance]

The policy for the discretions for which **[Name of employer]** must have a policy statement are set out at sections 1-5; 13; 15; [and] 17-18[.][; and 19-22] [IF INCLUDED]

**[Name of Employer]** also has a written policy statement in respect of certain other discretions. The policy in respect of these discretions is set out in the remaining sections.

[Please amend as appropriate for your organisation.] [Decisions under this policy will be taken by [INSERT NAME OR POSITION] and will be subject to review by [INSERT]].

Throughout this policy statement, and unless otherwise stated, employee should also be taken to mean an active member of the LGPS NI; and **[Name of Employer]** should be considered to be the employer.

**[Name of Employer]** in exercising the discretions set out, will at all times

* exercise the discretions reasonably
* have regard to all relevant factors and no irrelevant factors
* record any decision taken in relation to the exercise of the discretions
* shall not act in a way that is likely to lead to a serious loss of confidence in the public sector

This policy statement sets out **[Name of Employer]**’s general policy in relation to each discretion. However, **[Name of Employer]**’s discretion shall not be fettered by this Policy Statement. **[Name of Employer]** will consider each case on its merits and may take into account exceptional circumstances.

Where relevant and reasonable, **[Name of Employer]** may request further information from an employee who is applying for a discretion to be exercised in the employee’s favour. The member may refuse to provide the information, in which case **[Name of Employer]** may proceed to make the decision without that information.

Discretions under the 2014 Regulations

1. Power to grant extra annual pension

2014 Regulations, Reg 32

The employer has the power to grant extra annual pension to an active scheme member or to a member within 6 months of the date of a dismissal, or termination by mutual consent, for reasons of redundancy or business efficiency. The award is limited to an annual amount of £8,131 (2023/24 rates).

Note: The employer may also contribute in whole or in part to an APC arrangement under Regulation 18 subject to relevant limits – please see 2 below

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **A** as referred to at Guidance Note 1]

1. Contributing to the cost when an employee purchases extra pension

2014 Regulations, Regs 18(2)(e) and 18(4)(d)

Members can decide to purchase extra annual pension of up to £8,131 (figure at 1 April 2023) by making Additional Pension Contributions (APCs). Under this discretion the employer can choose to contribute in whole or in part to the cost of the APC arrangement, which is known as a Shared Cost Additional Pension Contribution or SCAPC.

Note: This discretion does not relate to cases where a member has a period of authorised unpaid leave of absence and elects within 30 days of return to work to cover the amount of pension ‘lost’ during that period of absence with an APC. In those cases, the employer must contribute 2/3rds of the cost (regulation 18(16) if the member makes the election in that 30 day period. The employer has a discretion in relation to extending time – please see Discretion 10 below.

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **B** as referred to at Guidance Note 2]

1. Flexible retirement for active member aged 55 or over

2014 Regulations, Reg 31(6), and Transitional Regulations, Regs 10(2) and (3)

An employee aged 55 or over, who reduces working hours or grade, may take flexible retirement with the employer’s consent.

The employer has the discretion to decide

* whether to consent to an employee taking flexible retirement
* whether to waive, in whole or in part , any actuarial reduction of benefits where flexible retirement is taken before Normal Pension Age (NPA)

An employee who takes flexible retirement must take all benefits accrued prior to 1 April 2009 and may choose to take

* all, part or none of the benefits accrued after 31 March 2009 and before 1 April 2015, and
* all, part or none of the pension benefits they accrued after 31 March 2015

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **C** as referred to at Guidance Note 3]

1. 85 Year Rule

Schedule 3 of the Transitional Regulations

Whether, as the 85 year rule does not (other than on flexible retirement) automatically apply to members who would otherwise be subject to it and who choose to voluntarily draw their benefits on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members.

Notes:

* If the employer does agree to switch back on the 85 year rule in full, 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 would meet it before age 60.
* The 85 year rule is satisfied if the person was a member of Scheme on 30 September 2006 and the member’s age at the date they draw their benefits and their scheme membership (each in whole years) add up to 85 or more. If they are part-time, their membership counts towards the 85 year rule at its full calendar length.

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **D** as referred to at Guidance Note 4]

1. Discretion to Waive Reductions on Early Retirement

2014 Regulations, Reg 31 and Transitional Regulations, Schedule 3

Under Regulation 31(5) of the 2014 Regulations active members can choose to retire and take their pension early and deferred members can choose to draw their benefits early, between age 55 and NPA.

Pension benefits are reduced for early payment (except in the case of ill-health retirement) by the amount shown in actuarial guidance issued by the Department. The amount of the reduction will vary in accordance with the age of the member, membership in the Scheme and the extent to which the transitional provisions with regard to the 85 Year Rule (Schedule 3 to the Transitional Regulations) apply to the individual member (if at all). Different parts of membership may have different reductions applied.

The employer has a discretion

* under Regulation 31(8) to waive any relevant reduction under Regulation 31(5) in whole or in part in respect of membership from 1 April 2015. No ground is stipulated by the Regulations.
* under earlier Regulations to waive on compassionate grounds any relevant reduction in respect of membership before 1 April 2015
* under Paragraph 2(1) of Schedule 3 to the Transitional Regulations to determine on compassionate grounds to waive in full any relevant reduction calculated in accordance with Schedule 3, in respect of membership before 1 April 2015.

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **E** as referred to at Guidance Note 5]

1. Contributing to a Shared Cost Additional Voluntary Contribution

2014 Regulations, Reg 19

Whether, how much, and in what circumstances to contribute to a shared cost Additional Voluntary Contribution (SCAVC) arrangement entered into on or after 1 April 2015 and whether, how much, and in what circumstances to continue to contribute to any shared cost Additional Voluntary Contribution (SCAVC) arrangement entered into before 1 April 2015.

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **F** as referred to at Guidance Note 6]

1. Aggregating benefits – When a concurrent employments ends

2014 Regulations, Reg 24(7)(b)

When a member has concurrent employments and one of them ceases with an entitlement to a deferred pension, the deferred benefits from that employment must be aggregated with the pension account for the member’s ongoing employment unless the member elects to keep the deferred benefits separate. The member has 12 months to make this election or such longer period as the employer in relation to the ongoing employment permits.

The employer has the discretion to agree to extend time.

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **G** as referred to at Guidance Note 7]

1. Aggregating Deferred Benefits – Deferred Member again becomes Active

2014 Regulations, Reg 24(8)(c)

When a deferred member becomes an active member again, the member may elect to aggregate the benefits in the deferred pensions account with those in the new active member’s pension account. The member must make the election within 12 months.

The employer has a discretion to extend time and allow the member to elect to aggregate benefits after the 12-month period has elapsed.

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **H** as referred to at Guidance Note 8]

1. Determining contribution rates for employees

2014 Regulations, Reg 11

The regulations set out the rates of contributions that members must pay and these are divided into bands according to the pensionable pay of the member.

The employer must decide

* how it will determine an employee’s contribution band/rate on joining the Scheme and at each subsequent April; and
* if there is a material change to the member’s terms and conditions of employment affecting pensionable pay during a Scheme year (1 April to 31 March), in what circumstances it will review that member’s contribution band/rate.

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **I** as referred to at Guidance Note 9]

1. Calculating Assumed Pensionable Pay – Regular Lump Sums

2014 Regulations, Reg 23(5)

Employers must provide NILGOSC with a member’s Assumed Pensionable Pay (APP) when a member:

* is absent due to illness or injury and on reduced contractual pay or no pay
* is absent on child-related leave (as defined) and the actual pay received is not greater than APP would be for that period
* is absent on reserve forces service leave
* where an ill-health retirement or death has occurred

APP is calculated in accordance with Regulation 23. The annual rate of APP must include any regular lump sum payment received by the member in the 12 months prior to the relevant event, as set out above (Reg 23(4)(a)(iv) and 23(5)(a)(iv)). Regulation 23(5)

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **J** as referred to at Guidance Note 10]

1. Whether to substitute a revised pensionable pay in calculating APP

2014 Regulations, Reg 23(5A) and (5B)

This discretion allows the employer to substitute a revised pensionable pay, instead of APP, where the pay received by the member during the reference period was materially different to the pensionable pay the member usually received.

The employer must have regard to the level of pensionable pay received by the member in the previous 12 months

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **K** as referred to at Guidance Note 11]

1. Time limit for elections to cover lost pension due to an absence with permission

2014 Regulations, Regs 17(5) and 18(16)

If a member who has been absent with permission (other than on child-related leave, sick leave or reserve forces service leave) elects within 30 days of returning to work to take out an additional pension contract to cover the pension lost during the absence, the employer must pay two-thirds of the cost. The employer has the discretion to extend the 30 day period.

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **L** as referred to at Guidance Note 12]

Discretions exercised from 1 April 2015 in relation to members who ceased active membership between 1 April 2009 and 31 March 2015

1. Waiving reduction to deferred benefits

Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009, Reg 30(5)

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

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **M** as referred to at Guidance Note 13]

1. Application of 85 year rule for deferred members

Transitional Regulations, Schedule 3

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

Notes:

* If the employer does agree to switch back on the 85 year rule in full, the employer will have to meet the cost of any strain on the fund resulting from the payment of benefits before age 60 i.e. where the member has already met the 85 year rule, or would meet it before age 60.
* The 85 year rule is satisfied if the person was a member of the LGPS (NI) on 30 September 2006 and the member’s age at the date they draw their benefits and their scheme membership (each in whole years) add up to 85 or more. If they are part-time, their membership counts towards the 85 year rule as its full calendar length

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **N** as referred to at Guidance Note 14]

Discretions to be exercised from 1 April 2015 in relation to scheme members who ceased active membership between 1 February 2003 and 31 March 2009

**Note: Employers who were participating in the Scheme on 31 March 2009 MUST have a policy on the discretions at 15 and 16 below**

1. Waiving reduction to deferred benefit

Local Government Pension Scheme Regulations (Northern Ireland) 2002, Reg 33(5)

When a deferred member applies for early payment of pension under the 2002 Regulations, it is usually reduced in accordance with guidance.

The employer can choose on compassionate grounds to waive any actuarial reduction that would normally be applied to deferred benefits paid before age 65.

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **O** as referred to at Guidance Note 15]

1. Application of 85 year rule for deferred members

Transitional Regulations, Schedule 3

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

Notes:

* If the employer does agree to switch back on the 85 year rule in full, the employer will have to meet the cost of any strain on the fund resulting from the payment of benefits before age 60 i.e. where the member has already met the 85 year rule, or would meet it before age 60.
* The 85 year rule is satisfied if the person was a member of the LGPS (NI) on 30 September 2006 and the member’s age at the date they draw their benefits and their scheme membership (each in whole years) add up to 85 or more. If they are part-time, their membership counts towards the 85 year rule as its full calendar length

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **P** as referred to at Guidance Note 16]

Discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (NI) 2007

1. Redundancy payment

Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (NI) 2007, Reg 4

The employer can choose to base a redundancy payment on an employee’s actual weeks’ pay where this exceeds the statutory week’s pay limit of, currently, £669 per week (as at April 2023).

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **Q** as referred to at Guidance Note 17]

1. Enhanced compensation

Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (NI) 2007, Reg 5

The employer may make a termination payment (inclusive of any redundancy payment) of up to a maximum of 104 weeks’ pay to employees whose employment is terminated on the grounds of redundancy or business efficiency.

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **R** as referred to at Guidance Note 18]

Discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (NI) 2003

Note: Employers MUST have a policy on the 3 items below, but ONLY IF the employer has awarded compensatory added years under these, or earlier, Regulations

If you have never awarded compensatory added years, you do not need to include these discretions

1. Abatement of annual compensatory added years pension

Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (NI) 2003, Regs 16 and 18

The employer can decide whether it will apply abatement to annual compensatory added years pension previously awarded to an employee, where that person is re-employed in local government employment, regardless of whether or not the employee chooses to re-join the Local Government Pension Scheme NI.

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **S** as referred to at Guidance Note 19]

1. Survivor compensatory added years apportionment

Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (NI) 2003, Reg 20(4)

Where a member is survived by more than one spouse or civil partner and there is a surviving spouse's or civil partner’s annual compensatory added years pension, the employer must choose how it will be apportioned.

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **T** as referred to at Guidance Note 20]

1. Annual compensation suspension rules

Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003, Reg 20(5)

The employer can choose whether to suspend a surviving spouse’s or civil partner’s annual compensatory added years pension, where the survivor remarries, forms a civil partnership or cohabits. This applies to the surviving spouse or civil partner of a member who ceased employment before 1 February 2003.

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **U** as referred to at Guidance Note 21]

1. Annual compensation suspension rules - reinstatement

Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (NI) 2003, Reg 20(9)

Whether, where a spouse’s or civil partner’s annual compensatory added years pension is suspended as a result of remarriage, entering into a new civil partnership or cohabitation, the spouse’s or civil partner’s annual compensatory added years pension should be reinstated after the end of the period of remarriage, new civil partnership or cohabitation.

[Name of Employer]’s policy is:

[Insert your chosen wording – this is **V** as referred to at Guidance Note 22]

[Note – if your policy is not to suspend annual compensation under discretion 21, then you do not need a policy for reinstatement and discretion 22 can be omitted]

[Suggested text below – please amend as appropriate to your organisation and ensure appropriate cross-references in your policy statement, where relevant]

Consideration of requests on compassionate grounds

Each request on compassionate grounds will be considered on its own merits regardless of cost.

The main criteria [Name of Employer] will consider as compassionate grounds are

• to allow employees or former employees to care for a sick spouse, civil partner, co-habiting partner, parent, child, sibling or other dependant as that person’s sole or main carer; and/or

• on grounds of long-term severe financial hardship.

Proven long-term severe financial hardship means that the member’s long-term expenditure on basic living requirements (e.g. food, heat, electricity, rent or mortgage, clothing) exceeds the member’s income from all sources and the member has either no or minimal savings. Long-term means greater than 12 months.

The member must provide [Name of Employer] with relevant information and evidence supporting the application. If the member refuses to provide information to [Name of Employer], then [Name of Employer] may proceed to make a decision without that information.

Relevant information and documents may include (without limitation):

* Where the member wishes long-term severe financial hardship to be considered:
* Full details of long-term severe financial hardship.
* Details of all employments held since leaving the [Name of Employer]’s employment.
* Details of all income, pensions deferred or in payment and any other benefits receivable including state benefits and crisis loans.
* Details of savings accounts or savings-type insurance policies.
* Copies of bank statements.
* Detailed list of expenditure.
* Where the member wishes caring responsibilities to be considered:
* Medical reports, if appropriate, to support a case of retirement to look after an elderly or infirm spouse, civil partner, co-habiting partner, child, parent, sibling or other dependant.
* Evidence that the member is the sole or main carer.

[Name of Employer] may also request any such other information and evidence as may be relevant to the decision, where it is reasonable to request same from the member.

Policy Review

[Name of Employer]’s Policy Statement on Employer’s Discretions was last reviewed in [DATE]. The next review will be due in [DATE].

**Glossary**

“2014 Regulations” means the Local Government Pension Scheme Regulations (NI) 2014

“Child -related leave” is defined in Schedule 1 to the 2014 Regulations and includes

* ordinary adoption leave
* ordinary maternity leave
* additional maternity or additional adoption leave during which the member receives some pensionable pay
* paternity leave
* shared parental leave during which the member receives some pensionable pay
* parental bereavement leave during which the member receives some pensionable pay

It does not include unpaid additional maternity leave, unpaid additional adoption leave, unpaid shared parental leave or unpaid parental bereavement leave.

“Discretionary Compensation Regulations 2007” means the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007

“Earlier Regulations” means the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 and the Local Government Pension Scheme Regulations (Northern Ireland) 2002 and, where relevant, any previous regulations governing the Scheme.

“LGPS (NI)” means the Local Government Pension Scheme for Northern Ireland

The “Scheme” means the LGPS (NI)

“Transitional Regulations” means the Local Government Pension Scheme (Transitional Provisions and Amendments) Regulations (NI) 2014