

## TRAFFORD COUNCIL

**Report to:** Employment Committee  
**Date:** 9 February 2022  
**Report for:** Information and Approval  
**Report of:** Angela Beadsworth, Interim Director of Human Resources

### Report Title

**Trafford Council – Local Government Pension Scheme Employers Discretions Policy Statement**

### Report Purpose

**To outline the refresh of the Council’s Local Government Pension Scheme Employers Discretions Policy Statement**

### Recommendations

**That the Employment Committee agree:**

**Approve the refreshed Council’s Local Government Pension Scheme Employers Discretions Policy Statement as set out in this report at Appendix 1.**

Contact person for access to background papers and further information:

Name: Sara Saleh  
Extension: x4146

Relationship to Corporate Priorities	The information provided within the report aligns with the council’s Corporate Priorities
Relationship to GM Policy or Strategy Framework	None
Financial	The report information ensures that we comply with LGPS regulations
Legal Implications	All discretions policy positions in line with the Local Government Pension Scheme (LGPS).
Equality/Diversity Implications	Compliance with all relevant legislation is a critical and a key component of this policy to ensure that our governance structure is robust
Sustainability Implications	None
Carbon Reduction	None
Staffing/E-Government/Asset Management Implications	None
Risk Management Implications	None

Health & Wellbeing Implications	None
Health and Safety Implications	None

## **1.0 BACKGROUND**

- 1.1 The Local Government Pension Scheme (LGPS) is a statutory pension scheme, and its rules are set out in Acts of Parliament. However, the LGPS regulations allow employers to make certain discretionary decisions. Whilst there are many employer discretions, in line with LGPS regulations, the Council must formulate, publish and keep under review a written Policy Statement concerning all the mandatory discretions.
- 1.2 In line with LGPS regulations the Council must provide the Greater Manchester Pension Fund's (GMPF) administering authority with a copy of its published Policy Statement.
- 1.3 The Council's current Discretions Policy Statement has been reviewed and updated to include all the current mandatory discretions which must be published.
- 1.4 In determining its Discretions Policy Statement, the Council must give due regard to the extent to which the exercise of its discretionary powers, unless properly limited, could lead to serious loss of confidence in public service. In addition, the Council must be satisfied that the policy is workable, affordable, and reasonable having due regard to the foreseeable costs.
- 1.5 In determining the Council's policy position in relation to the mandatory discretions in its Policy Statement, due regard has been given to the fact that where discretions are exercised employees have the right to appeal or raise a grievance in relation to decisions made about their pension.
- 1.6 In determining the Council's policy position in relation to the mandatory discretions in its Policy Statement, the Council has given due regard to the fact that from the point of joining the LGPS, in line with the LGPS Internal Dispute Resolution Procedure, members, including active members, deferred members and pensioners, and members' dependants, including widows, widowers, surviving civil partners, eligible co-habiting partners and eligible children, can raise a dispute in relation to decisions made about their pension.
- 1.7 To ensure compliance with LGPS and HMRC regulations, the Employer Support Team at GMPF have reviewed our Policy Statement.

## **2.0 BENCHMARKING**

- 2.1 In carrying out this review benchmarking data from a number of local authorities has been considered.

## **3.0 UPDATED POLICY STATEMENT**

- 3.1 The revised policy statement covers the mandatory discretions and is in line with GMPF's new discretions policy template. Some of the discretions are repeated under the different pension regulations.
- 3.2 The revised policy statement has been reviewed by the Director of Finance and has sign off from the Corporate Leadership Team (CLT).

#### **4.0 RECOMMENDATIONS**

- 4.1 It is recommended that Employment Committee approve the Council's updated Local Government Pension Scheme Employer Discretions Policy Statement found at Appendix 1.

## APPENDIX 1

### TRAFFORD COUNCIL

#### LOCAL GOVERNMENT PENSION SCHEME EMPLOYER DISCRETIONS POLICY STATEMENT GREATER MANCHSTER PENSION FUND

##### Introduction

The regulations governing the application of the Local Government Pension Scheme (LGPS) allow employers to determine how certain discretionary provisions of the scheme will be applied. There are many employer discretions, however only a relatively small number of employer discretions have to be published. This policy statement:

- Details all mandatory employer discretions, plus several non-mandatory discretions which the LGPS recommend employers also publish.
- Clarifies the Council's policy position in relation to the exercise of these discretions.

This policy does not confer contractual rights and the Council retains the right to review and amend it at any time. The terms of this Policy Statement reflect the Regulations at the time of writing. The statement will be updated in the event of future changes.

The Council has limited resources and must maintain a balanced budget. Any exercise of discretions must be contained within existing budgets. This being the case discretions will only be exercised in exceptional circumstances.

This policy statement applies to all members of staff employed by the Council who are eligible to be members of the LGPS, as defined in the regulations. It also applies to deferred members (people who are no longer active members of the LGPS)

**Discretions from 01.04.2014 in relation to post 31.03.2014 active members (excluding councillor members) and post 31.03.2014 leavers (excluding councillor members), being discretions under:**

- **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]
- the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [prefix T]
- the Local Government Pension Scheme Regulations 1997 (as amended) [prefix L]

<b>Discretions from 01.04.2014 in relation to post 31.03.2014 active members (excluding councillor members) and post 31.03.2014 leavers (excluding councillor members)</b>			
<b>Discretion</b>	<b>Regulation</b>	<b>Exercised by</b>	<b>Employer Policy Decision</b>
Whether, how much, and in what circumstances to contribute to a shared cost Additional Pension Contributions (APC) Scheme.	R16(2)(e) & R16(4)(d)	Employer	The Council will pay in part, meeting two-thirds of the cost of the arrangement, where as an employer we are required to do so under the LGPS regulations i.e., APCs to repay the loss of pension as a result of child related leave, the Council's Leave Purchase scheme or jury service. In the case of child related leave and leave as a result of jury service the employee must elect to make APCs within 30 days of returning to work. Where the APC is in relation to the Leave Purchase Scheme it will be outside of this timeframe instead once a year at a time agreed by the Council. If staff don't elect to do so at this point the Council will not pay two-thirds of the cost.
Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)	R30(6) & TP11(2)	Employer	The Council will consider applications for flexible retirement on a case by case basis giving due regard to the needs of the business and the financial implications to the Council. There will need to be a demonstrable benefit to the Council to take full account of any extra cost. Requests will only be considered if the employee is over the age of 55 and is making a permanent reduction in hours by at least

			40% or reducing their salary by at least two full bands. Decisions will be made in line with the Council's Scheme of Delegation
Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement.	<b>R30(8)</b>	Employer (or Admin. Authority where Employer has become defunct)	Unless there are exceptional circumstances, giving rise to clear financial or operational advantages the Council will not waive, in whole or in part, any reduction in benefits payable. Decisions will be made in line with the Council's Scheme of Delegation
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 31/3/14 membership)	<b>R30(8)</b>	Employer (or Admin. Authority where Employer has become defunct)	Unless there are exceptional circumstances giving rise to clear financial or operational advantages, the Council will not waive, in whole or in part, any reduction in benefits payable. Decisions will be made in line with the Council's Scheme of Delegation
Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of flexible retirement).	<b>TPSch 2, para 1(2) &amp; 1(1)(c)</b>	Employer (or Admin. Authority where Employer has become defunct)	Unless there are exceptional circumstances giving rise to clear financial or operational advantages, the Council will not "switch on" the 85 year rule. Decisions will be made in line with the Council's Scheme of Delegation
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) <ul style="list-style-type: none"> <li>a) on 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,</li> <li>b) on compassionate grounds (pre 1/4/14</li> </ul>	<b>TP3(1), TPsch 2, para 2(1), B30(5) and B30A(5)*</b>	Employer (or Admin. Authority where Employer has become defunct)	Unless there are exceptional circumstances giving rise to clear financial or operational advantages, the Council will not generally waive any actuarial reductions. Decisions will be made in line with the Council's Scheme of Delegation

<p>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 <b>not</b> be 60 by 31/3/16 and will <b>not</b> attain 60 between 1/4/16 and 31/3/20</p> <p>c) on 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) on 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 and will attain 60 between 1/4/16 and 31/3/20</p>			
<p>Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member whose employment was terminated by reason of redundancy or business efficiency (by up to £6,500 p.a. on 1 April 2014 - this figure is inflation proofed annually).</p>	<p>R31*</p>	<p>Employer</p>	<p>The Council will not exercise this discretion</p>

**Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 01.04.2008 and before 01.04.2014, being discretions under:**

- **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]**
- **the Local Government Pension Scheme (Transitional Provisions) regulations 2008 [prefix T]**
- **the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [prefix TP]**
- **the Local Government Pension Scheme Regulations 2013 [prefix R]**

- the Local Government Pension Scheme Regulations 1997 (as amended) [prefix L]

<b>Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 01.04.08. and before 01.04.2014</b>			
<b>Discretion</b>	<b>Regulation</b>	<b>Exercised by</b>	<b>Employer Policy Decision</b>
Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.	TPSch 2, para 1(2) & 1(1)(c)	Employer (or Admin. Authority where Employer has become defunct)	Unless there are exceptional circumstances giving rise to clear financial or operational advantages, the Council will not “switch on” the 85 year rule. Decisions will be made in line with the Council’s Scheme of Delegation
Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under <b>B30</b> (member).	B30(5), TPSch 2, para 2(1)	Employer (or Admin. Authority where Employer has become defunct)	Unless there are exceptional circumstances giving rise to clear financial or operational advantages, the Council will not generally waive any actuarial reductions. Decisions will be made in line with the Council’s Scheme of Delegation
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)	Employer (or Admin. Authority where Employer has become defunct)	Unless there are exceptional circumstances giving rise to clear financial or operational advantages, the Council will not “switch on” the 85 year rule. Decisions will be made in line with the Council’s Scheme of Delegation
Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under <b>B30A</b> (pensioner member with deferred benefits).	B30A(5), TPSch 2, para 2(1)*	Employer (or Admin. Authority where Employer has become defunct)	Unless there are exceptional circumstances giving rise to clear financial or operational advantages, the Council will not generally waive any actuarial reductions. Decisions will be made in line with the Council’s Scheme of Delegation

**Discretionary policies in relation to:**

- a) active welsh councillor members, and
- b) councillor members who ceased active membership on or after 01.04.1998, and
- c) any other scheme members who ceased active membership on or after 01.04.1998 and before 01.04.2008.

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

LGPS Regulations 1997 [SI 1997/1612]

- The Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [SI 2008/238] [prefix T]
- The Local Government Pension Scheme (Administration) Regulations 2008 [SI 2008/239] [prefix A]
- LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] [TP]
- The Local Government Pension Scheme Regulations 2013 [SI 2013/2356] [prefix R]

<b>Discretions under the Local Government Pension Scheme Regulations 1997 (as amended)</b>			
<b>Discretion</b>	<b>Regulation</b>	<b>Exercised by</b>	<b>Employer Policy Decision</b>
Grant application for early payment of deferred benefits on or after age 50 and before age 55.	31(2)	Employer	The Council will not exercise this discretion.
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.	TPSch 2, para 1(2) & 1(1)(f) and R60	Employer (or Admin. Authority where Employer has become defunct)	Unless there are exceptional circumstances giving rise to clear financial or operational advantages, the Council will not “switch on” the 85 year rule. Decisions will be made in line with the Council’s Scheme of Delegation
Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early.	31(5) & TPSch 2, para 2(1)	Employer (or Admin. Authority where Employer has become defunct)	The Council will not exercise this discretion

Discretionary Policies in relation to:

- active welsh councillor members, and
- councillor members who ceased active membership on or after 1 April 1998, and
- any other scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008

**Discretions under the Local Government Pension Scheme Regulations 1995 (as amended) in relation to:**

- LGPS Regulation 1995 [SI 1995/1019]
- The Local Government Pension Scheme (Transitional Provisions) Regulations 1997 [SI 1997/1613] [prefix TL]
- The Local Government Pension Scheme Regulations 1997 {SI 1997/1612] (as amended) [prefix L]
- The Local Government Pension Scheme (Administration) Regulations 2008 [SI 2008/239] [prefix A]
- LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] [TP]
- The Local Government Pension Scheme Regulations 2013 [SI 2013/2356] [prefix R]

<b>Discretions under the Local Government Pension Scheme Regulations 1995 (as amended) for scheme members who ceased active membership before 1 April 1998</b>			
<b>Discretion</b>	<b>Regulation</b>	<b>Exercised by</b>	<b>Employer Policy Decision</b>
Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds.	TP3(5A)(vi) TL4 &	Employer	The Council will not exercise this discretion
Although the common provisions of the 1997 Transitional provisions regulations do not specify regulation D11(2)(c), there intention was that it should apply to this regulation.	L106(1) & D11(2)(c)		

**Discretionary policies in relation to employees of an employing authority that is defined under regulation 2 of The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)**

**The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended) [SI 2006/2914]**

<b>Discretionary policies in relation to employees of an employing authority that is defined under regulation 2 of The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)</b>			
<b>Discretion</b>	<b>Regulation</b>	<b>Exercised by</b>	<b>Employer Policy Decision</b>

To base redundancy payments on an actual week's pay where this exceeds the statutory week's pay limit	5	Employer	The Council will exercise this discretion
To award lump sum compensation of up to 104 week's pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment.	6	Employer	The Council will not exercise this discretion

**Discretionary policies in relation to employees of an employing authority that is defined under regulation 2 of The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)  
The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended) [SI 2000/1410]**

<b>Discretionary policies in relation to employees of an employing authority that is defined under regulation 2 of The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)</b>			
<b>Discretion</b>	<b>Regulation</b>	<b>Exercised by</b>	<b>Employer Policy Decision</b>
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 Council will normally apportion any surviving spouses' annual compensatory added years' payment equally between spouses or civil partners. However, given that this is a rare occurrence each case will be considered on its individual merits taking into account any express wishes of the deceased person and representations from the surviving spouses or partners.
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 a case, how the annual added years will be apportioned amongst the eligible children.	25(2)	Employer	The Council would normally split any payment equally between any eligible dependent children. However, this is a rare occurrence and each case will be considered on its individual merits taking into account any express wishes of the deceased person.
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	21(7)	Employer	The Council would generally look to disapply the normal pensions suspension scheme rules.

partnership or cohabits after 1 April 1998, the normal pension suspension rules should be disapplied i.e. whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid			
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	Not applicable as 21(7) applies
Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse 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 spouse's or civil partners annual CAY payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or cohabitation lasts, should be disapplied i.e. whether the spouses' or civil partners' annual CAY payments should continue to be paid to both of them	21(7)	Employer	The Council would generally look to disapply the normal pensions suspension scheme rules.
To what extent to reduce or suspend the member's annual compensatory added year's payment during any period of re-employment in local government.	17	Employer	The Council reserves the right to reduce or suspend the payment and will look at cases on an individual basis
How to reduce the member's annual compensatory added year's payment following the cessation of a period of re-employment in local government.	19	Employer	When determining to what extent a member's annual compensatory added year's payment is reduced or suspended the Council will make decisions on a case by case basis having due regard to the appropriate deductions referred to in the regulations

**Discretionary policies each employing authority may apply in the exercise of its discretionary powers to make any award in respect of leavers, deaths and reductions in pay that occurred post 15 January 2012**  
**The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 [SI 2011/2954]**

<b>Discretionary policies each employing authority may apply in the exercise of its discretionary powers to make any award in respect of leavers, deaths and reductions in pay that occurred post 15 January 2012</b>			
<b>Discretion</b>	<b>Regulation</b>	<b>Exercised by</b>	<b>Employer Policy Decision</b>
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 Council has decided not to adopt an Injury Allowance Scheme therefore will not exercise this discretion
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.	3(4) & 8	Employer	The Council has decided not to adopt an Injury Allowance Scheme therefore will not exercise this discretion
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 Council has decided not to adopt an Injury Allowance Scheme therefore will not exercise this discretion
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 Council has decided not to adopt an Injury Allowance Scheme therefore will not exercise this discretion
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) & 8	Employer	The Council has decided not to adopt an Injury Allowance Scheme therefore will not exercise this discretion
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 Council has decided not to adopt an Injury Allowance Scheme therefore will not exercise this discretion
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 Council has decided not to adopt an Injury Allowance Scheme therefore will not exercise this discretion

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 Council has decided not to adopt an Injury Allowance Scheme therefore will not exercise this discretion
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 Council has decided not to adopt an Injury Allowance Scheme therefore will not exercise this discretion
Determine whether and when to cease payment of an injury allowance payable under regulation 6(1) (payment of injury allowance following the cessation of employment).	6(2)	Employer	The Council has decided not to adopt an Injury Allowance Scheme therefore will not exercise this discretion
Whether to grant an injury allowance to the spouse, civil partner, cohabiting partner (the requirement to nominate a co-habiting partner has ceased entirely under these regulations due to the outcome of the Elmes v Essex high court judgement) 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.	7(1)	Employer	The Council has decided not to adopt an Injury Allowance Scheme therefore will not exercise this discretion
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 co-habiting partner has ceased due to the outcome of the Elmes v Essex high court judgement) or dependent of an employee 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) & 8		The Council has decided not to adopt an Injury Allowance Scheme therefore will not exercise this discretion

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)		The Council has decided not to adopt an Injury Allowance Scheme therefore will not exercise this discretion
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