

**LONDON BOROUGH OF WALTHAM FOREST**

**PENSION FUND**

**STATEMENT OF EMPLOYING AUTHORITY DISCRETIONS**  
**POLICIES**

## Employing Authority statement of policy on discretions – effective 31 March 2015

### Introduction

Waltham Forest Council, as an employing authority in the London Borough of Waltham Forest Pension Fund, has determined their discretionary policies in accordance with the Local Government Pension Scheme Regulations 2013, as amended and related legislation, and these are outlined in this statement. We will apply these policies to all current members in the Pension Fund who are employed by Waltham Forest. Where relevant, these policies equally apply to members who left pensionable service prior to 1 April 2014 (albeit only in relation to discretions exercised since the effective date of these policies), to councillor members and to pension credit members.

We reviewed and updated the content of these policies in line with legislation changes effective since 1 April 2014. These amended policies were approved at the Waltham Forest Council Staffing Committee on 26<sup>th</sup> March and are effective from 1 April 2015 unless stated otherwise within this statement.

We retain the right to change these policies at any time as long as we republish the amended policy at least within one month of when the change(s) we are introducing come(s) into effect.

These policies do not give, nor shall they be deemed to give, any contractual rights to any member of the Pension Fund, or to any other person whatsoever. Nothing in this document will cause Waltham Forest Council's capacity to exercise its discretionary powers to be unlawfully fettered or restricted in any way.

We will exercise these discretions in line with the provisions of the various LGPS Regulations and other legislation. Nothing within this statement can overwrite the legal requirements within those provisions.

We will review the policies within this statement as required in the light of future changes to the LGPS legislation or other relevant legislation. It will also be reviewed yearly.

## Employing Authority Discretions under the Local Government Pension Scheme

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Waltham Forest Employer Policy
<i>Disputes</i>			
1	R13 – 74(6)	Each employer must appoint a person for dealing with applications under stage one of the dispute resolution procedures.	The Appointed Person at the third party administrators acts as the stage one assessor to consider and determine whether or not the scheme member was treated within the terms of the LGPS regulations.
<i>Contributions and Pay</i>			
2	R13 – 9(1) and 9(3)	Determination of annual contribution rate to be paid by active members by reference to pay band and how those rates are to be reassessed.	Please see our separate Employee Contributions Policy.
3	R13 – 20(1)(b)	Whether any benefit specified in an employee's contract should be treated as a pensionable emolument.	We do not treat any contractual benefits as pensionable emoluments.

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Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Waltham Forest Employer Policy
4	R13 – 21(5)	For certain periods of absence on reduced pay, benefits are calculated using "Assumed Pensionable Pay" (APP). Where a lump sum has been paid in the previous 12 months, the APP figure may be increased if there is a reasonable expectation that the lump sum would be paid on a regular basis.	Only permanent, recurring, non-variable payments will be used to increase the APP.
5	TP14 – 3(6), 4(6)(c), 8(4), 10(2)(a) and 17(2)(b)  B - 11(2)	Which final pay period should to be used where a member's pay consists of fees.	Where a scheme member's final pay consists of fees then the most advantageous final pay period as permitted by the relevant regulations will be used for the calculation of benefits.
6	TP14 - 3(1)9A)  T08 – Sch1  R97- 23(4)	Whether to issue a certificate of protection of pension benefits where eligible non-councillor member fails to apply for one (pay reduction / restrictions occurring pre 1 April 2008).	The Director of Finance will decide whether to extend the period for election in exceptional circumstances on a case by case basis.
7	R13 – 17(1) and Sch1TP14 – 15(1)(d)  A - 25(3)  B- 15(3)	Whether to establish and maintain a shared cost Additional Voluntary Contributions (SCAVC) arrangement to receive contributions by both employee and employer.	We will not establish or pay towards a SCAVC.

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Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Waltham Forest Employer Policy
8	R13 – 16(2)(e) and 16(4)(d)	Whether to pay towards some or all of an Additional Pension Contract (APC) where a scheme member elects to buy up to £6,500 of annual pension.	We will not contribute to APCs in any circumstance.
9	R13 - 31	Power to award additional pension to an active scheme member only or within 6 months of redundancy or leaving through business efficiency of not more than £6,500 per year.	We will not award additional pension to members of the scheme in any circumstance.
10	R13 – 30(6) and 30(8) TP14 – 11(2)	Flexible retirement – whether to consent to payment of benefits where there has been a reduction in hours or grade of post and whether to waive (in whole or in part) any actuarial reduction that would otherwise apply to those benefits.	Flexible retirement will be considered on the production of a business case. The overriding principle is that there should not be a capital cost to the fund or Council. The proposal must be operationally sound. Where the employee is not protected by the rule of 85 benefits will be reduced. It will be decided on a case by case basis in line with the above and decided by Director of Finance and Director of Human Resources.
11	R13 – 30(7)	Early payment of benefits on grounds of redundancy/business efficiency.	Please see our separate Service Efficiency Policy.

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12	R13 – 30(8)	Whether to waive, in whole or in part, any early retirement reduction that might otherwise apply to a scheme member's benefits on voluntary retirement. These provisions only apply to scheme members who have reached age 55 and also only have scheme membership after 31 March 2014.	We will not waive any early retirement reduction.
13	TP14 – Sch 2, Paras 1(2) and 2(2)	Whether to allow rule of 85 protections to apply to a scheme member's benefits on voluntary retirement. In doing this some or all of the early retirement reduction would not apply. This provision can only apply to scheme members who have reached age 55.	We will not apply rule of 85 protections unless the scheme member meets the criteria for compassionate grounds and, where this is so, such cases will be considered on a case by case basis in accordance with Appendix A.
14	TP14 – 3(1), Sch 2, paras 2(1) and 2(2)  B - 30(5) and 30A(5)	Whether to waive on compassionate grounds any reduction to benefits that might otherwise apply. This can also apply to former Tier 3 Ill-Health members. This just applies if the member has both pre and post 31 March 2014 scheme membership.	We will not waive any reduction.

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15	<p><b>B - 30(2) and 30A(3)</b></p> <p><b>R97 – 31(2)</b></p> <p><b>R95 - D11(2)(c)</b></p>	<p>Whether to consent to the early payment of reduced retirement benefits for scheme members between age 55 and 60, who are deferred members or former Tier 3 Ill-Health members. For a small group of employees this could be paid from age 50.</p> <p>This only applies to members who left before 1 April 2014.</p>	<p>We will not consent to the early payment of benefits prior to age 60 except on compassionate grounds where they will be considered on a case by case basis as detailed in Appendix A. It should be noted that payments made prior to age 55 will be subject to additional tax charges.</p>
16	<p><b>R13 – 35(1)</b></p>	<p>Where the independent registered medical practitioner (IRMP) certifies that a scheme member is permanently incapable of efficiently carrying out the duties of his/her employment, the employer may terminate the employee's employment and they will be entitled to ill-health retirement benefits.</p>	<p>The Director of Finance and Director of Human Resources will determine whether employment will be terminated on ill-health grounds and whether to award Tier 1, 2 or 3 ill-health benefits. When reviewing cases they will refer to the findings of the IRMP certificate and all relevant reports and documentation to confirm if the scheme member meets the relevant requirements.</p>
17	<p><b>R13 – 37(3) and 37(4)</b></p>	<p>Determining whether a member receiving Tier 3 ill-health pension has started gainful employment, and whether to recover payments relating to the period of gainful employment.</p>	<p>Members in receipt of Tier 3 ill-health benefits will be asked to provide notification as soon as they commence gainful employment. Any payments made during a period of gainful employment will be recovered in full.</p>

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Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Waltham Forest Employer Policy
18	R13 – 38(3) and 38(6)  B - 31(4) and 31(7)	Decide whether a deferred member meets the criteria for permanent ill health. This also applies to a scheme member who was formerly in receipt of Tier 3 ill-health benefits.	The Director of Finance and Director of Human Resources will determine whether the criteria for permanent ill health has been met, taking account of the information within the IRMP medical certificate and all relevant reports and documentation.
<b><i>Transferring or Linking Benefits</i></b>			
19	R13 – 22(8)(b) and 22(7)(b)	Whether to extend the 12 month option period for aggregation of deferred benefits in respect of former or concurrent periods of LGPS membership.	The Director of Finance may extend the period for election in exceptional circumstances and will decide on a case by case basis.
20	R13 – 100(6)	Whether to extend the 12 month time limit for scheme members to elect to receive a transfer from another non-LGPS pension scheme.	We expect scheme members to request all transfers within 12 months, and will only extend the 12-month time limit in exceptional circumstances where the scheme member can demonstrate the reason for their late request was outside of their control. Where there is evidence of administrative delays the member will be given 2 additional months from the receipt of complete information outlining the transfer options. The Director of Finance will determine any such requests in consultation with the administering authority.

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Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Waltham Forest Employer Policy
21	<p>TP14 – 15(1)(b)</p> <p>T08 – Sch 1</p> <p>R97 – 66(8) and 66(9)(b)</p>	<p>In certain circumstances a scheme member can use their AVC fund to buy membership in the pension scheme. Such an election should be made within 30 days of leaving, but this time limit can be extended by the employer if they wish. This only applies to AVC contracts which commenced before 13 November 2001.</p>	<p>The Director of Finance may decide to extend the period for election in exceptional circumstances and will decide on a case by case basis.</p>
<b><i>Other Miscellaneous Discretions</i></b>			
22	<p>R13 – 19(2), 91(1) &amp; 91(8), 91(4), 92(1) &amp; 92(2), 93(2) and 95</p> <p>A - 47(2), 72 to 76</p> <p>R97 – 88(2), 111 to 115</p>	<p>Whether to claim monies from a scheme member's pension benefits in cases of fraud, misconduct and other similar situations or direct those monies to another person (subject to the meeting the criteria in the regulations).</p>	<p>The Director of Finance will decide how to proceed on a case by case basis.</p>
23	<p>A – 49</p> <p>R97 – 92</p>	<p>Whether to reclaim some state related payments (contribution equivalent premiums) from the Pension Fund.</p>	<p>We will not reclaim these payments from the Pension Fund.</p>
24	<p>R13 – Sch 2, Part 3, para 12(c)</p>	<p>An admission agreement must include a provision allowing outstanding pension payments to be offset against contract payments due to the transferring employer. The transferring employer must consider whether it wishes to make use of this provision.</p>	<p>The Council will decide on any such cases as they arise to ensure that the Pension Fund receives payments in a timely manner in accordance with the Fund's Administration Strategy.</p>

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Waltham Forest Employer Policy
25	R97 - 34(1)(b) R95 – D10	Decide in the absence from a pre 1 April 2008 leaver of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership.	The Director of Finance will decide on a case by case basis which benefits are to be paid.

## Employing Authority Discretions under Discretionary Provisions

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Waltham Forest Employer Policy
26	D06 - 5	Whether to base redundancy payments on actual week's pay where it exceeds the statutory week's pay limit.	Please see our separate Service Efficiency Policy.
27	D06 - 6	Whether 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.	Please see our separate Service Efficiency Policy.

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<b>Ref</b>	<b>Regulation Reference (see key at end)</b>	<b>Description of Discretion</b>	<b>London Borough of Waltham Forest Employer Policy</b>
28	D06 - 8	If a lump sum compensation overpayment is made to an employee under regulation 6 above (over and above any statutory redundancy payment), whether to take such steps as are appropriate to recover the overpayment.	The Director of Finance will consider the appropriate action to be taken in any such circumstances.
29	D00 - 17	Whether and to what extent to reduce or suspend the member's annual compensatory added years' payment during any period of re-employment in local government.	We will reduce or suspend these payments in accordance with regulations
30	D00 - 19 and 22(3)	How to reduce the member's annual compensatory added years' payment following the cessation of a period of re-employment in local government.  We can also choose to apply this to any spouses' or children's pensions.	We will reduce or suspend these payments in accordance with regulations. The reduction or suspension will be ignored when calculating spouses' or children's pensions.
31	D00 - 21(4)	How to apportion any surviving spouses or civil partner's compensatory added years' payment where the deceased person is survived by more than one spouse or civil partner.	The Director of Finance will decide the appropriate apportionment on a case by case basis.
32	D00 - 21(5)	If suspension rules applied under 21(7) below, whether the spouse's annual compensatory added years payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation.	Not applicable as no suspension applies.

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Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Waltham Forest Employer Policy
33	D00 - 21(7)	<p>Whether to suspend an annual compensatory added years' payment in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998, where the spouse or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998.</p> <p>Further, where the remarriage, cohabitation or civil partnership is with another person who is also entitled to a spouse's or civil partners annual compensatory added years payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or co-habitation exists, could be disapplied (i.e. whether the spouse's or civil partners' annual CAY payments should continue to be paid to both of them).</p>	<p>We will not suspend payments in these circumstances.</p>
34	D00 - 25(2)	<p>How the employer 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 was not a member) and in such a case how the annual compensatory added years payments will be apportioned amongst the eligible children.</p>	<p>The Director of Finance will decide these matters on a case by case basis.</p>
35	D11- 3 to 7	<p>Whether to award injury allowances including on reduction in pay, loss of employment or death.</p>	<p>No injury allowances will be paid.</p>

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Waltham Forest Employer Policy
36	D96 – 40-42	Whether to award a gratuity including on retirement, redundancy or death.	The power to award gratuities was removed from the regulations with effect from 16 January 2012. Payments will be considered on a case by case basis for any employees who have a standing contractual arrangement to receive a gratuity payment.

**\*Key to Regulation References:**

- R13 – The Local Government Pension Scheme Regulations 2013
- TP14 – The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014
- A – The Local Government Pension Scheme (Administration) Regulations 2008
- B – The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007
- T08 – The Local Government Pension Scheme (Transitional Provisions) Regulations 2008
- R97 – The Local Government Pension Scheme Regulations 1997
- R95 - The Local Government Pension Scheme Regulations 1995
- D06 – The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006
- D00 - The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000
- D11 – The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011
- D96 – The Local Government (Discretionary Payments) Regulations 1996

\*Note that references to old provisions (e.g. R97) generally apply in relation to scheme members who left under those provisions.

**Appendix A – Criteria and Process for Payment of Benefits on Compassionate Grounds**

We may consider the early payment of benefits on compassionate grounds or applying the rule of 85 for a former scheme member or active member who leaves employment. These will be considered on a case by case basis where the following criteria are met:

- The employee left employment to care for one or more dependants
- The dependant(s) requires constant supervision
- There is no recourse to alternative care
- Without the award of benefits, the former employee would be suffering severe hardship, and
- As a result of the need to provide care to the dependant(s), the opportunity for employment for the former employee is severely limited

Where the employee considers he or she can demonstrate that all of the above criteria are met, the Director of Finance and the Head of HR will jointly consider the evidence available and then determine whether benefits should be paid on compassionate grounds. Any costs to the Fund that are incurred must be paid by the service/department where the employee was employed immediately prior to ceasing employment.

Note that, other than applying rule of 85 protections, we will not agree to any actuarial reduction that may apply being waived in full or in part.