

STATEMENT OF POLICY REGARDING THE EXERCISE OF DISCRETION WITH REGARD TO THE  
APPLICATION OF THE LOCAL GOVERNMENT PENSION SCHEME REGULATIONS

**Stockton-on-Tees Borough Council**

**Municipal Buildings  
Church Road  
Stockton-on-Tees  
TS18 1LD**

**Discretions from 1.4.08. in relation to post 31.3.08. active members (excluding councillor members) and post 31.3.08. leavers (excluding councillor members), 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 Regulations 1997 (as amended) [prefix L]
- ◆ the Local Government Pension Scheme (Transitional Provisions) Regulations 1997 (as amended) [prefix OT]

<b>Discretion</b>	<b>Employer policy</b>
Whether to agree to an admission agreement with a transferee body <b>A6(1) &amp; A6(10)(a)</b> <i>Old 5A</i>	Consider on a case by case basis depending on business needs in conjunction with Mouchel Business Services – Pensions Unit.
Define what is meant by “employed in connection with” <b>A6(12)</b> <i>Old 5A</i>	Consider on a case by case basis depending on business needs in conjunction with Mouchel Business Services – Pensions Unit.
Which employees to nominate for membership (admission bodies) <b>A7(1) &amp; A12(6)</b> <i>Old 5B and 6</i>	Consider on a case by case basis depending on business needs in conjunction with Mouchel Business Services – Pensions Unit.
Whether to set off against payments due to a transferee admission body any sums due to the Fund by that body <b>ASch3, para 12(b)</b> <i>Old Sch2A</i>	Consider on a case by case basis depending on business needs in conjunction with Mouchel Business Services – Pensions Unit.
Whether to extend the 12 month option period for aggregation of deferred benefits <b>A16(4)(b)(ii)</b> <i>Old 32</i>	The period of 12 months, beginning with the date that he / she became an active member will only be extended in exceptional circumstances or circumstances beyond the members control on a case by case basis. All applications will be considered by the Head of Human Resources.

	<b><u>Discretion</u></b>	<b><u>Employer policy</u></b>
<b>New</b>	Determine rate of employees' contributions <b>B3 &amp; T9</b>	The Council will implement the appropriate band rate on 1 <sup>st</sup> April each year.
	Allow an "outsourced" manual worker to make a late option to continue to pay 5% contribution rate upon return to the LGPS (where option is made more than 30 days after rejoining the LGPS) <b>T9 &amp; L12(3) &amp; L14(3)(b)</b>	This will be considered only in exceptional circumstances or circumstances beyond the members control on a case by case basis. All applications will be considered by the Head of Human Resources.
	Specify in an employee's contract what other payments or benefits, other than those specified in <b>B4(1)(a)</b> and not otherwise precluded by <b>B4(2) or (3)</b> , are to be pensionable <b>B4(1)(b)</b> <i>Old 13</i>	A full list of pensionable and non pensionable pay elements is available from the Council's Payroll Unit.
	Whether to allow a late application by member to pay optional contributions for a period of unpaid child related leave, strike, or unpaid leave of absence beyond 30 days <b>A22(2)</b> <i>Old 18(6)</i>	Late applications will be considered only in exceptional circumstances or circumstances beyond the members control on a case by case basis. All applications will be considered by the Head of Human Resources.
	Whether to augment membership of an active member (by up to 10 years) <b>B12*</b> <i>Old 52</i>	This will only be approved in the case of redundancy or in the interests of the efficiency of the service. The Council, at the members request, will allow the scheme member to convert the cash equivalent sum (in excess of any statutory redundancy payment in the case of a redundancy situation) calculated under the Compensation Regulations into a period of membership in the LGPS. All applications will be considered by the Corporate Director in consultation with the Head of Human Resources and Lead Cabinet Member - Corporate Management and Finance.
<b>NEW</b>	Whether to grant additional pension to a member (by up to £5,000 p.a.) <b>B13*</b>	The Council will not grant additional pension to a member of up to £5,000 p.a.

<u>Discretion</u>	<u>Employer policy</u>
<p>Whether, how much, and in what circumstances to contribute to a shared cost AVC scheme</p> <p style="text-align: right;"><b>A25(3) &amp; B15(3)</b> <i>Old 67</i></p>	<p>The Council has decided not to establish an SCAVC arrangement for its employees.</p>
<p>Employer may deduct contributions from an employee's pay or reserve forces pay</p> <p style="text-align: right;"><b>A45(1) &amp; (2)</b> <i>Old 89</i></p>	<p>The Council will deduct contributions from an employee's pay or reserves forces pay as appropriate.</p>
<p>Whether to apply to Secretary of State for a forfeiture certificate (where member is convicted of a relevant offence)</p> <p style="text-align: right;"><b>A72(1)</b> <i>Old 111</i></p>	<p>Consider on a case by case basis. Any case arising will be referred to the Corporate Director in consultation with the Head of Human Resources and Lead Cabinet Member - Corporate Management and Finance.</p>
<p>Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited</p> <p style="text-align: right;"><b>A72(3)</b> <i>Old 111</i></p>	<p>Consider on a case by case basis. Any case arising will be referred to the Corporate Director in consultation with the Head of Human Resources and Lead Cabinet Member - Corporate Management and Finance.</p>
<p>Where forfeiture certificate is issued, whether to direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits.</p> <p style="text-align: right;"><b>A73(1) &amp; (2)</b> <i>Old 112</i></p>	<p>Consider on a case by case basis. Any case arising will be referred to the Corporate Director in consultation with the Head of Human Resources and Lead Cabinet Member - Corporate Management and Finance.</p>
<p>Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights or AVCs/SCAVCs) where the obligation was incurred as a result of a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left employment.</p> <p style="text-align: right;"><b>A74(2)</b> <i>Old 113</i></p>	<p>Consider on a case by case basis. Any case arising will be referred to the Corporate Director in consultation with the Head of Human Resources and Lead Cabinet Member - Corporate Management and Finance.</p>

	<b><u>Discretion</u></b>	<b><u>Employer policy</u></b>
	Whether to recover from Fund any financial loss caused by fraudulent offence or grave misconduct of employee (who has left because of that), or amount of refund if less  <b>A76(2) &amp; (3)</b> <i>Old 115</i>	Consider on a case by case basis. Any case arising will be referred to the Corporate Director in consultation with the Head of Human Resources and Lead Cabinet Member - Corporate Management and Finance.
	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS  <b>A83(8)</b> <i>Old 121</i>	The period of 12 months will only be extended (beginning with the date that the employee became an active member) to allow a member to transfer some or all of his / her rights from the relevant transfer in exceptional circumstances or circumstances beyond the member's control. All applications will be considered by the Head of Human Resources.
	<b>Flexible Retirement – applicable only to those employees who are aged 55 or over</b>  1) Whether all or some of an employee's LGPS benefits can be brought into payment if they reduce their hours or grade (or both) <b>B18(1)*</b> <i>Old 35</i>  2) Whether to waive, in whole or in part, any actuarial reduction on benefits paid on flexible retirement  <b>B18(3)*</b> <i>Old 35</i>	1) Applications will only be approved where there are operational and financial grounds for doing so and in accordance with the Council's policy.  2)The Council will only agree to waive any actuarial reduction to benefits if there is a clear operational and / or financial advantage to the Council  The employing Service must also have the ability to fund any associated costs.  All applications will be considered by the Corporate Director in consultation with the Head of Human Resources and Lead Cabinet Member - Corporate Management and Finance.
<b>NEW</b>	Decide which ill health tier leaver falls into  <b>B20</b> <i>Similar in principle to Old 27/97</i>	The Council will seek medical advice from the Independent Fund Doctor and the completed Ill Health certificate will determine which tier is awarded.

	<u>Discretion</u>	<u>Employer policy</u>
	<p>Whether to grant application for early payment of benefits on or after age 55 and before age 60</p> <p><b>B30(2)*</b> <i>Old 31</i></p>	<p>A request for early payment of benefits received from a scheme member will only be accepted if there is a clear financial and / or operational advantage to the Council in doing so</p> <p>All applications will be considered by the Corporate Director in consultation with the Head of Human Resources and Lead Cabinet Member - Corporate Management and Finance.</p> <p>The employing service (or former employing service) must have the ability to fund all of the associated costs.</p>
	<p>Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early</p> <p><b>B30(5)*</b> <i>Old 31</i></p>	<p>Each case will be considered on its individual merits and only in exceptional cases, taking into account any extenuating factors surrounding the application, the Council may approve the request.</p> <p>All applications will be considered by the Corporate Director in consultation with the Head of Human Resources and Lead Cabinet Member - Corporate Management and Finance.</p> <p>The employing service (or previous employing service) must have the ability to fund all of the associated costs.</p>
	<p>Decide whether deferred beneficiary meets permanent ill health criteria</p> <p><b>B31</b> <i>Old 31/97</i></p>	<p>The Council will seek medical advice from the Independent Fund Doctor and the completed Ill Health certificate will determine which tier is awarded</p>

**Discretions under the Local Government Pension Scheme Regulations 1997 (as amended) in relation to active councillor members and pre 1.4.08. Scheme leavers**

<b>Discretion</b>	<b>Employer Policy</b>
<p>Allow a councillor who has opted out more than once to rejoin</p> <p style="text-align: right;">7(9)(a)</p>	<p>This will be considered only in exceptional circumstances or circumstances beyond the councillor members control on a case by case basis.</p> <p>All applications will be considered by the Head of Human Resources in consultation with the Lead Cabinet Member - Corporate Management and Finance or another alternative Cabinet Member if required</p>
<p>Allow a late application by a councillor member to pay optional contributions for a period of absence</p> <p style="text-align: right;">18(6) &amp; (7)</p>	<p>Late applications will only be considered in exceptional circumstances or circumstances beyond the councillor members control on a case by case basis.</p> <p>All applications will be considered by the Head of Human Resources in consultation with the Lead Cabinet Member - Corporate Management and Finance or another alternative Cabinet Member if required</p>
<p>Grant application from a post 31.3.98. / pre 1.4.08. leaver or from a councillor for early payment of benefits on or after age 50/55 and before age 60</p> <p style="text-align: right;">31(2)*</p>	<p>A request for early payment of benefits received from a scheme member will only be accepted if there is a clear financial and / or operational advantage to the Council in so doing.</p> <p>All applications will be considered by the Head of Human Resources in consultation with the Lead Cabinet Member - Corporate Management and Finance or another alternative Cabinet Member if required</p>
<p>Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31.3.98. / pre 1.4.08. leaver or a councillor leaver</p> <p style="text-align: right;">31(5)*</p>	<p>A request for early payment of benefits received from a scheme member will only be accepted if there is a clear financial and / or operational advantage to the Council in so doing.</p> <p>All applications will be considered by the Head of Human Resources in consultation with the Lead Cabinet Member - Corporate Management and Finance or another alternative Cabinet Member if required</p>

<b>Discretion</b>	<b>Employer Policy</b>
<p>Councillor opts out only to get benefits paid from NRD if employer agrees 31(7A)*</p>	<p>The Council will apply this, unless there are exceptional or extenuating circumstances.</p> <p>All applications will be considered by the Head of Human Resources in consultation with the Lead Cabinet Member - Corporate Management and Finance or another alternative Cabinet Member if required</p>
<p>Whether to extend 12 month period for aggregation of deferred benefits (where deferred councillor member wishes to aggregate with current councillor membership in the same Fund) 32(8A)</p>	<p>The period of 12 months, beginning with the date that he / she became an active member will only be extended in exceptional circumstances or circumstances beyond the members control on a case by case basis.</p> <p>All applications will be considered by the Head of Human Resources in consultation with the Lead Cabinet Member - Corporate Management and Finance or another alternative Cabinet Member if required</p>
<p>Employer may deduct contributions from an councillor's pay or reserve forces pay 89(1) &amp; (2)</p>	<p>The Council will deduct contributions from a Councillor's pay or reserve forces pay as appropriate.</p> <p>All applications will be considered by the Head of Human Resources in consultation with the Lead Cabinet Member - Corporate Management and Finance or another alternative Cabinet Member if required</p>
<p>Forfeiture of pension rights on issue of Secretary of State's certificate (councillors and pre 1.4.08. leavers) 111(2) &amp; (5)</p>	<p>Consider on a case by case basis</p> <p>All applications will be considered by the Head of Human Resources in consultation with the Lead Cabinet Member - Corporate Management and Finance or another alternative Cabinet Member if required</p>
<p>Where forfeiture certificate is issued, direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits (councillors and pre 1.4.08. leavers) 112(1)</p>	<p>Consider on a case by case basis.</p> <p>All applications will be considered by the Head of Human Resources in consultation with the Lead Cabinet Member - Corporate Management and Finance or another alternative Cabinet Member if required</p>

<b><u>Discretion</u></b>	<b><u>Employer Policy</u></b>
<p>Recovery from Fund of monetary obligation owed by former employee or, if less, the value of the member's benefits (other than transferred in pension rights) (councillors and pre 1.4.08. leavers)</p> <p style="text-align: right;">113(2)</p>	<p>Consider on a case by case basis.</p> <p>All applications will be considered by the Head of Human Resources in consultation with the Lead Cabinet Member - Corporate Management and Finance or another alternative Cabinet Member if required</p>
<p>Recovery from Fund of financial loss caused by employee, or amount of refund if less (councillors and pre 1.4.08. leavers)</p> <p style="text-align: right;">115(2) &amp; (3)</p>	<p>Consider on a case by case basis.</p> <p>All applications will be considered by the Head of Human Resources in consultation with the Lead Cabinet Member - Corporate Management and Finance or another alternative Cabinet Member if required</p>

## Discretions under the Local Government Pension Scheme Regulations 1995 (as amended) in relation to pre 1.4.98. scheme leavers

<u>Discretion</u>	<u>Employer policy</u>
Grant application from a pre 1.4.98. leaver for early payment of deferred benefits on or after age 50 on compassionate grounds D11(2)(c)	Consider on a case by case basis. Any case arising will be referred to the Corporate Director in consultation with the Head of Human Resources and Lead Cabinet Member - Corporate Management.

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

Under Regulation 7 of the Discretionary Compensation Regulations, each authority (other than an Admitted Body) is required to formulate and keep under review a policy which applies in respect of exercising their discretion in relation to:

<u>Discretion</u>	<u>Employer policy</u>
To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks pay limit. 5	The Council's redundancy/efficiency scheme provides employees with full details.
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. 6	The Council's redundancy/efficiency scheme provides employees with full details.

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

## Formulating and publishing a policy under the Discretionary Compensation Regs 2006

The employer must formulate, publish and keep under review a statement of their policy.

If the employer decides to amend the policy, no change can come into effect until one month has passed since the date the amended policy statement was published.

In formulating and reviewing its policy an employer is required by the Regulations to:

- have regard to the extent to which the exercise of their discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service, and
- be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

## **Discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended)**

Under Regulation 26 of the Discretionary Compensation Regulations, each authority (other than an Admitted Body) is required to formulate and keep under review a policy which applies in respect of exercising their discretion in relation to:

<b>Discretion</b>	<b>Employer policy</b>
How to apportion any surviving spouse's annual compensatory added years payment where the deceased person is survived by more than one spouse 21(4)	Mouchel Business Services – Pensions Unit will advise accordingly.
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)	Mouchel Business Services – Pensions Unit will advise accordingly.

<u>Discretion</u>	<u>Employer policy</u>
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 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 21(7)	Mouchel Business Services – Pensions Unit will advise accordingly.
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)	Mouchel Business Services – Pensions Unit will advise accordingly.
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 17	Mouchel Business Services – Pensions Unit will advise accordingly.
How to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment in local government 19	Mouchel Business Services – Pensions Unit will advise accordingly.

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

I warrant that the above policies reflect the policy intention of Stockton on Tees Borough Council as at [date].

Signed:.....

Position:.....

Company stamp: