



## **Pension Discretions LGPS Pre 1 April 2014 Policy Statement**

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### **1.0 INTRODUCTION**

In relation to members of pre 1 April 2014 Local Government Pension Scheme (LGPS), employers are required to formulate, publish and keep under review a Statement of Policy in relation to discretions they may exercise under;

- (i) LGPS Regulations in respect of former employees who were members of the LGPS and who left prior to 1 April 2014;
- (ii) under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 and earlier compensation regulations;
- (iii) under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011,

- (iv) under the Local Government Pension Scheme Regulations 1997 in respect of local authority councillor members

Discretions exercised under the LGPS Career Average Revalued Earnings (CARE) Scheme can be found in the Pension Discretions LGPS Career Average Revalued Earnings (CARE) Scheme Policy Statement.

This policy applies to all employees of Shropshire Council (other than local authority councillor members) with the exception, in relation to some of the discretions, to LGPS members transferred from the Learning and Skills Council to whom regulation 16A of the LGPS (Benefits, Membership and Contributions) Regulations 2007 applies and to former NHS Scheme members who are covered by regulation 23 of the LGPS (Transitional Provisions) Regulations 1997 who are advised to contact Shropshire County Pension Fund. Staff employed by schools please refer to the Schools HR Policy and Procedure Handbook.

## **2.0 DISCRETIONS**

Shropshire Council's fund provider has presented all statutory and recommended discretions in a template format with Shropshire Council's statement of discretion applied to each statutory and recommended discretion.

## 2.1 Scheme members who ceased active membership between 1 April 2008 and 31 March 2014

| <b>Table A: Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations in relation to scheme members who ceased active membership between 1 April 2008 and 31 March 2014 (other than local authority councillor members)</b> | <b>Shropshire Council Policy</b>   |
|--|--|
| <p>1. Whether to grant applications for the early payment of deferred pension benefits on or after age 55 and before age 60 (on grounds other than permanent ill health).</p>  | <p>Where a former scheme member who left the scheme between 1 April 2008 and 31 March 2014 requests early release of deferred benefits on or after age 55 and before age 60 (on grounds other than permanent ill health), approval will only be given on compassionate grounds. Each case will be considered on its merits and will be subject to the approval of the Head of Human Resources, in consultation with the Head of Finance (see section 4.0). The benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations.</p> |
| <p>2. Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.</p>  | <p>Shropshire Council will consider an application to waive, on compassionate grounds, any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65. Each case will be considered on its merits and will be subject to the approval of the Head of Human Resources, in consultation with the Head of Finance (see section 4.0).</p>  |
| <p>3. Whether to grant applications for the early payment of a suspended Tier 3 ill health pension on or after age 55 and before age 60 (on grounds other than permanent ill health).</p>  | <p>Where a former scheme member who left the scheme between 1 April 2008 and 31 March 2014 requests early release of deferred benefits on or after age 55 and before age 60 (on grounds other than permanent ill health), approval will only be given on compassionate grounds. Each case will be considered on its</p>  |

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|   | <p>merits and will be subject to the approval of the Head of Human Resources, in consultation with the Head of Finance (see section 4.0). The benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations.</p>   |
| <p>4. Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to any suspended Tier 3 ill health pension benefits which are brought back into payment before age 65.</p> | <p>Shropshire Council will consider an application to waive, on compassionate grounds, any actuarial reduction that would normally be applied to a suspended Tier 3 ill health pension which is brought back into payment before age 65. Each case will be considered on its merits and will be subject to the approval of the Head of Human Resources, in consultation with the Head of Finance (see section 4.0).</p> |

## 2.2 Scheme members and councillor members who ceased active membership between 1 April 1998 and 31 March 2008

| <b>Table B: Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations in relation to scheme members who ceased active membership between 1 April 1998 and 31 March 2008 (and in relation to local authority councillor members who ceased or will cease active membership on or after 1 April 1998)</b> | <b>Shropshire Council Policy</b>   |
|--|--|
| <p>1. Whether to grant applications for the early payment of pension benefits on or after age 50 and before age 60 (on grounds other than permanent ill health).</p>   | <p>Where a former scheme member who left the scheme between 1 April 1998 and 31 March 2008 (or a local authority councillor member who left the scheme on or after 1 April 1998) requests early release of deferred benefits on or after age 50 and before age 60 (on grounds other than permanent ill health), approval will only be given on compassionate grounds. Each case will be considered on its merits and will be subject to the approval of the Head of Human Resources, in consultation with the Head of Finance (see section 4.0). The benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations.</p> |
| <p>2. Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.</p>  | <p>Shropshire Council will consider an application to waive, on compassionate grounds, any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65. Each case will be considered on its merits and will be subject to the approval of the Head of Human Resources, in consultation with the Head of Finance (see section 4.0).</p>  |

### 2.3 Scheme members who ceased active membership before 1 April 1998

| <b>Table C: Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations in relation to scheme members who ceased active membership before 1 April 1998</b> | <b>Shropshire Council Policy</b>   |
|---|--|
| <p>1. Whether to grant applications for the early payment of deferred pension benefits on or after age 50 and before age 65 on compassionate grounds.</p>                       | <p>Where a former scheme member who left the scheme before 1 April 1998 requests early release of deferred benefits on or after age 50 and before age 65 on compassionate grounds, the case will be considered on its merits and will be subject to the approval of the Head of Human Resources, in consultation with the Head of Finance (see section 4.0).</p> |

### 2.4 Early termination of employment (Regulations 2006)

| <b>Table D: Discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006</b>             | <b>Shropshire Council Policy</b>  |
|--|---|
| <p>1. Whether to base a redundancy payment on an employee's actual weeks' pay where this exceeds the statutory week's pay limit of, currently, £475 per week (as at 6 April 2015).</p> | <p>Any redundancy payment will be calculated on an employee's actual week's pay and not limited to the statutory weeks' pay limit where pay exceeds that limit.</p> <p>Continuous local government service, as defined under the Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999, will be taken into account in the calculation of redundancy payments.</p> |

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| <p>2. Whether to 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 efficiency of the service.</p> | <p>Staff whose employment is terminated on the grounds of redundancy or business efficiency will receive a termination payment (to incorporate any redundancy pay) calculated using the statutory redundancy payment formula but based on actual pay, enhanced by a multiplier of 1.5.</p> |
|---|--|

## 2.5 Early termination of employment (Regulations 2000)

| <b>Table E: Discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000</b>   | <b>Shropshire Council Policy</b>   |
|--|--|
| <p>1. How any surviving spouse's or civil partner's annual compensatory added years pension is to be apportioned where the deceased person is survived by more than one spouse or civil partner.</p>   | <p>Shropshire Council will apportion any surviving spouse's or civil partner's annual compensatory added years pension where the deceased person is survived by more than one spouse or civil partner in such proportions as, at its sole discretion, it sees fit (based on the merits of the individual cases).</p>                                 |
| <p>2. Whether, if the spouse or civil partner of a person who ceased employment before 1 April 1988 remarries, enters into a civil partnership or cohabits after 1 April 1998, the normal annual compensation suspension rules will be disapplied i.e. the spouse's or civil partner's annual compensatory added years pension will continue to be paid.</p> | <p>If the spouse or civil partner of a person who ceased employment before 1 April 1998 remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal annual compensation suspension rules will be disapplied i.e. the spouse's or civil partner's annual compensatory added years pension will continue to be paid.</p> |

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| <p>3. Whether, where the spouse or civil partner of a person who ceased employment before 1 April 1998 with an award of compensatory added years 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 partner's compensatory added years pension, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or co-habitation lasts, should be disapplied i.e. whether the spouses' or civil partners' compensatory added years pension should continue to be paid to both of them.</p> | <p>If the spouse or civil partner of a person who ceased employment before 1 April 1998 with an award of compensatory added years 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 partner's compensatory added years pension, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or co-habitation lasts, will continue to be applied i.e. the spouses' or civil partners' compensatory added years pension will only be payable to one of them (being whichever one they choose).</p> |
| <p>4. How, if compensatory added years were awarded to an employee who was not in the LGPS (because the employee had not joined or had opted out of the LGPS) the employer will decide to whom any children's annual compensatory added years payments are to be paid and, in such a case, how the annual added years will be apportioned amongst the eligible children.</p>   | <p>If compensatory added years were awarded to an employee who was not in the LGPS (because the employee had not joined or had opted out of the LGPS) Shropshire Council will decide to whom and in what proportions any children's annual compensatory added years payments are to be paid as Shropshire Council, at its sole discretion, sees fit (based on the merits of the individual cases).</p>  |
| <p>5. How a person's annual compensatory added years pension is to be abated during, and following the cessation of, any period of re-employment by 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, in which case abatement only applies if the person is in, or eligible to be in, the LGPS in the new employment).</p>  | <p>Shropshire Council will, during any period of re-employment in local government (see note below), abate a person's annual compensatory added years' payment by the 'excess' if the aggregate of:</p> <ul style="list-style-type: none"> <li>- the annual compensation, and</li> <li>- the annual pension from the LGPS, and</li> <li>- the annual rate of pay from the new employment</li> </ul> <p>exceeds the pay the person would have received from the employment in respect of which the compensatory added years</p>  |



were granted, based on the annual rate of pay at the date of ceasing the former employment as increased by the relevant cost of living increases (i.e. as increased by the rate at which an 'official pension' is increased under the Pensions (Increase) Act 1971). Index.

Where compensatory added years were awarded on or after 21 June 2000, Shropshire Council will reduce a person's annual compensatory added years' payment following the cessation of a period of re-employment in local government (see note below) to the extent necessary to secure that if:

- the period of compensatory added years granted in respect of the former employment,

plus

- the period of membership the person has accrued in the LGPS (or would have accrued had he / she joined the scheme when first eligible to do so) during the period of re-employment in local government, counted at its part-time length, if the person was part-time,

exceeds

- the period of membership the person would have accrued during the period from the cessation of the former employment until age 65 on the assumption that he / she had continued in that former employment to age 65 (again counted at its part-time length if the person was part-time at the date of cessation of the former employment),

then

- the annual pension and lump sum from the first job combined with the annual pension and lump sum from the second job (based on the assumption that the employee joined the LGPS when first eligible to do so), plus the annual compensation and lump sum compensation, shall not in aggregate exceed the pension and lump sum the person would have achieved if he / she had remained in the first job through to age 65.

Where there is an excess, the annual compensation will be reduced by the excess pension and, if the annual compensation is not reduced to nil, the amount of the remaining (reduced) basic annual compensation will then be suspended until the excess lump sum (if any) is recovered.

In calculating whether or not, in aggregate, the annual pension and lump sum from the first job, plus the annual pension and lump sum (if any) from the second job (based on the assumption that the employee joined the LGPS at the first opportunity), plus the annual compensation and lump sum compensation, exceeds the pension and lump sum the person would have achieved if he/she had remained in the first job through to age 65 it will be necessary to compare:

- a) the actual LGPS pre 1 April 2008 1/80th pension and 3/80ths lump sum, plus the actual LGPS post 31 March 2008 1/60th pension (ignoring any commutation for a lump sum), plus the actual 1/80th annual compensation and 3/80ths lump sum compensation, with
- b) the 1/80th LGPS pension and 3/80ths lump sum the member would have achieved in their first job to 31 March 2008, plus the 1/60th LGPS pension the member would have achieved in their first job (ignoring any potential commutation for a lump sum), if the member had stayed in the first job through to age 65.

In determining the benefits the employee could have achieved had he / she remained in the first employment through to age 65 it will be necessary to determine the pensionable pay to be used in the calculation. For this purpose, the pensionable pay figure used in the calculation of the pension benefits in the first job will be used as brought up to date by increasing it in line with the Pensions Increase (Review) Orders.

If a person has been awarded more than one previous period of compensatory added years, e.g. as a result of being made redundant more than once, the abatement / claw back provisions are modified. In such a case, the rules under the former Local Government (Discretionary Payments) Regulations 1996 will be applied where a person ceases a period of re-employment in local government and has previously been granted more than one period of compensatory added years, but using the pay in the first job as increased in line with inflation (i.e. ignoring regulations 18(5)(a)(ii), 18(6) and 18(7) of the Local Government (Discretionary Payments) Regulations 1996.

Where compensatory added years were awarded before 21 June 2000, Shropshire Council will reduce a person's annual compensatory added years' payment following the cessation of a period of re-employment in local government (see note below) in accordance with the Local Government (Discretionary Payments) Regulations 1996.

## 2.6 Injury allowances (Regulations 2011)

| <b>Table F: Discretions to be exercised under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011</b>  | <b>Shropshire Council Policy</b>  |
|---|---|
| <p>1. Whether to award an injury allowance in respect of an employee who sustains an injury or contracts a disease as a result of anything he / she was required to do in performing the duties of their job and in consequence of which he / she:</p> <ul style="list-style-type: none"> <li>- suffers a reduction remuneration, or</li> <li>- ceases to be employed as a result of an incapacity which is likely to be permanent and which was caused by the injury or disease, or</li> <li>- dies leaving a surviving spouse, civil partner or dependant.</li> </ul> | <p>Shropshire Council will not, other than in exceptional circumstances, make an award of an injury allowance in respect of an employee who sustains an injury or contracts a disease as a result of anything he / she was required to do in performing the duties of their job where no liability attaches itself to Shropshire Council and in consequence of which he / she:</p> <ul style="list-style-type: none"> <li>- suffers a reduction remuneration, or</li> <li>- ceases to be employed as a result of an incapacity which is likely to be permanent and which was caused by the injury or disease, or</li> <li>- dies leaving a surviving spouse, civil partner or dependant.</li> </ul> |
| <p>2. How to calculate an injury allowance award in respect of an employee who sustains an injury or contracts a disease as a result of anything he / she was required to do in performing the duties of their job and in consequence of which he / she suffers a reduction remuneration.</p> <p>-</p>  | <p>Where no liability attached itself to Shropshire council and in exceptional circumstances only, Shropshire Council will consider the matters in 2 opposite when calculating an award of injury allowance. Each case will be considered in consultation with the Head of HR, Director of Legal Services and Director of Finance.</p>  |

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| <p>3. How to calculate an injury allowance award in respect of an employee who sustains an injury or contracts a disease as a result of anything he / she was required to do in performing the duties of their job and who ceases to be employed as a result of an incapacity which is likely to be permanent and which was caused by the injury or disease.</p> | <p>Where no liability attached itself to Shropshire council and in exceptional circumstances only, Shropshire Council will consider the matters in 3 opposite when calculating an award of injury allowance. Each case will be considered in consultation with the Head of HR, Director of Legal Services and Director of Finance.</p> |
| <p>4. How to calculate an injury allowance or lump sum award for a surviving spouse, civil partner, nominated cohabiting partner or dependant of an employee who sustains an injury or contracts a disease as a result of anything he / she was required to do in performing the duties of their job and as a result of which he / she dies.</p>                 | <p>Where no liability attached itself to Shropshire council and in exceptional circumstances only, Shropshire Council will consider the matters in 4 opposite when calculating an award of injury allowance. Each case will be considered in consultation with the Head of HR, Director of Legal Services and Director of Finance.</p> |

#### **4.0 REQUEST TO APPLY DISCRETIONS**

- 4.1 Requests to apply any of the statutory and recommended pension discretions will be considered only in exceptional circumstances and will not be an automatic entitlement. An employee who wishes to request a statutory and recommended pension discretion must complete a Pension Discretions Employee Request Form (Appendix 1) and provide a copy to their manager.
- 4.2 The manager will arrange a meeting with the employee to discuss the request, taking account of any pension strain to the service. If the manager approves, they will create a report to their manager detailing their approval, effective date and the implications operationally and financially upon the business (see Appendix 2 Statutory Pension Discretions Manager Report).
- 4.3 Each case will be considered on the merits of the financial and / or operational business case, or will be considered on the merits of the compassionate case put forward, and will require the approval of the Head of Human Resources, in consultation with the Head of Finance.

#### **5.0 PENSION APPEALS**

- 5.1 In accordance with Regulation 73 of the Local Government Pension Scheme (Administration) Regulations 2013, the Council is required to draw all employees' attention to the fact that, if they are dissatisfied with any decision in relation to their rights or liabilities under the Scheme, they may make an application to the Head of Treasury and Pensions, as the person appointed for resolving first stage disputes. An appeal must be made within six months of the event. Standard forms and guidelines are available from the Pension Team for this purpose.
- 5.2 If employees remain dissatisfied, they may apply for a reconsideration of the decision to the Head of Legal and Democratic Services. The final level of appeal would be to the Pensions Ombudsman.
- 5.3 In all instances, all initial concerns, or matters whereby an employee is not in agreement, should be referred to the individual who made the original decision. The Pension Scheme will also be available to advise you of your rights under the Scheme.

#### **6.0 MONITORING AND REVIEW**

- 6.1 The policy will be reviewed at regular intervals, in conjunction with changes to legislation, and any changes to the regulations as informed by the LGPS that may impact upon it.
- 6.2 HR will work with managers to monitor the application of this policy. The policy will be reviewed at regular intervals in conjunction with changes to legislation that may impact upon it and in consultation with trade unions.

#### **You may also wish to refer to:**

Pension Discretions LGPS CARE Policy

Pensions and Retirement Policy

Shropshire County Pensions Fund: [www.shropshirecountypensionfund.co.uk](http://www.shropshirecountypensionfund.co.uk)

**APPENDIX 1**

**Pension Discretions – Employee Request Form**

*Before completing this form, please ensure that you have read the Pension Discretions Policy in conjunction with the Pension and Retirement Policy.*

Employee's name .....

Employee Number.....

Name of Manager .....

Directorate .....

**Please indicate pension discretion request:**

**Please provide details of your request and when you wish this request to be effective from:**

Name (signature) ..... Date .....

**APPENDIX 2**

**Pension Discretions - Manager Report**

Employee Name:

Employee number:

**Please indicate employee's request:**

**Background**

**Include the following in your business case:**

- *Current employment details – include current post, hours worked and current SCP details*
- *Provide details of the exceptional circumstances where Shropshire Council considers it is in its financial or operational interests to permit this discretion*
- *Details regarding the strain (if any) on the pension fund, and the cost implications in relation to the team budget (if any)*

I agree to this request for [INPUT REQUEST] and that pension payments commence with effect from [DATE].

**Direct Line Manager**

.....Date.....  
(Name and sign)

**Post:** .....

**Next Level of Line Management**

.....Date.....  
(Name and sign)

**Post:** .....

**Director of Group or Service Area**

.....Date.....  
(Name and sign)

**Head of Human Resources & Development**

.....Date.....  
(Name and sign)



**Head of Finance**

.....Date.....  
(Name and sign)