

## EARNLEY PARISH COUNCIL

### LOCAL GOVERNMENT PENSION SCHEME REGULATIONS STATEMENT OF THE EXERCISE OF DISCRETIONS

Statement of the exercise of discretions by Earnley Parish Council in accordance with the requirements of the Local Government Pension Scheme Regulations were adopted by the Council at its Meeting held on 26<sup>th</sup> June 2014

Signed: K. Martin Chairman

#### **Review of contribution bandings**

(Regulation 9 and 10 of the LGPS Regulations 2013)

Earnley Parish Council will review the bandings on an annual basis each April or following a material change which affects the member's pensionable pay in the course of the scheme year (1 April to 31 March).

#### **Extension of time limit for deferred benefits following cessation of employment**

[Regulations 22(7) and (8) of the LGPS Regulations 2013]

Whether to extend the 12 month time limit within which a Scheme member who has a deferred LGPS benefit in England or Wales following the cessation of employment (or cessation of a concurrent employment) may elect not to have the deferred benefits aggregated with their new LGPS employment (or ongoing concurrent LGPS employment) if the member has not made an election to retain separate benefits within 12 months of commencing membership of the LGPS in the new employment (or within 12 months of ceasing the concurrent membership)

Earnley Parish Council will exercise this discretion only where exceptional extenuating circumstances exist and are entirely beyond the member's control.

#### **Regular lump sum payment**

[Regulations 21(4)(a)(iv), 21(4)(b)(iv) and 21(5) of the LGPS Regulations 2013].

Whether to include in the calculation the amount of any 'regular lump sum payment' received by the member in the 12 months preceding the date the absence began or the ill health retirement or death occurred. A 'regular lump sum payment' is a payment for which the member's employer determines there is a reasonable expectation that such a payment would be paid on a regular basis

Earnley Parish Council will not exercise this discretion.

**Early payment of pension**

(Regulation 30(2) of the LGPS (Benefits, Membership and Contributions) Regulations 2007) (Regulation 31(2) of the LGPS Regulations 1997)

Consent to application for retirement and consent to allow preserved pension benefits to be brought into payment early on or after age 55 and before age 60

Earnley Parish Council will not consent to such cases unless there are exceptional compassionate grounds for doing so e.g. where there is as close relative with a long term debilitating illness to be cared for and there are difficult financial circumstances. Earnley Parish Council must take into consideration any costs incurred.

**Early payment of deferred pension benefits**

[Regulation D11(2)(c) of the LGPS Regulations 1995]

Whether to grant applications for the early payment of deferred pension benefits on or after age 50 and before age 65 on compassionate grounds

Earnley Parish Council will review this on a case by case basis. Earnley Parish Council must take into consideration any costs incurred.

**Waive actuarial reduction of pension**

(Regulation 30(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007) (Regulation 31(5) of the LGPS Regulations 1997)

Whether to waive actuarial reduction of pension on compassionate grounds where pension benefits are paid early.

Earnley Parish Council will not apply this discretion

**Application for Earnley payment of suspended tier 3 health pension**

(Regulation 30A (3) LGPS (Benefits, Membership and Contributions) Regulations 2007)

Whether to grant an application for early payment of a suspended tier 3 health pension on or after the age 55 and before age 60.

Earnley Parish Council will consider on a case by case basis. Any final decision will be taken by resolution of the full council.

### **Suspended tier 3 ill health pension benefits**

(Regulation 30A (5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007)

On compassionate grounds to waive any actuarial reduction that would normally be applied to any suspended tier 3 ill health pension benefits where are brought back into payment before age 65

Earnley Parish Council will consider on a case by case basis. Any final decision will be taken by resolution of the full council.

### **Ill Health Pension - recovery of overpayments**

(Regulation B20 (8) of the 2013 benefits regulations)

Earnley Parish Council will normally (subject to a case by case review) recover overpayments arising as a result of discontinuance of third tier ill health pension entitlement provided that the estimated costs of recovery do not exceed the value of the overpayment

Earnley Parish Council will exercise this discretion

### **Ill Health Pension - determination on level of ill health benefits following review of whether increase in benefits from tier 3 to tier 2 should apply.**

(B20 (11) of the 2013 benefits regulations)

Earnley Parish Council will review each case on its merits. Any increase in benefits to tier 2 level must be by agreement with and passed by resolution of the full Council.

Earnley Parish Council will exercise this discretion

### **Grant extra membership**

[Regulation 12 of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and regulation 3(10) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]

Within 6 months of the date of termination, to grant extra membership in the pension scheme to a Scheme member whose employment was terminated before 1 April 2014 on the grounds of redundancy or business efficiency. Note that this is a

time limited discretion which expires on 30 September 2014 for those whose employment is terminated on 31 March 2014.

Earnley Parish Council will not exercise this discretion

**Additional pension contribution**

[Regulations 16(2)(e) and 16(4)(d) of the LGPS Regulations 2013]

Whether, where an active Scheme member wishes to purchase extra annual pension of up to £6,500 (figure at 1 April 2014) by making Additional Pension Contributions (APCs), to (voluntarily) contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC)

Earnley Parish Council will not exercise this discretion

**Early Termination of employment**

(Regulation 5 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006]

Whether to base a redundancy payment on an employee's actual weeks pay where this exceeds the statutory weeks pay limit of, currently, £464 per week (as at 6 April 2014)

Earnley Parish Council will not apply this discretion

**Termination payment**

[Regulation 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006]

Whether to make a termination payment (inclusive of any redundancy payment) of up to a maximum of 104 weeks' pay

Earnley Parish Council will apply this discretion

**Compensatory added years payment**

[Parts VI and VII of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000]

How a person's annual compensatory added years payment 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 the LGPS in the new employment

Earnley Parish Council will exercise this discretion.

**Surviving spouse's or civil partner's annual compensatory added years**

[regulation 21(4) of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000]

How any surviving spouse's or civil partner's annual compensatory added years is to be apportioned where the deceased person is survived by more than one spouse or civil partner

Earnley Parish Council will exercise this discretion

**Suspension of compensation rules**

[regulation 21(5) of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000].

Whether, if the spouse of a person who ceased employment before 1 April 1998 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 annual compensatory added years will continue to be paid

Earnley Parish Council will not exercise this discretion

**Injury Allowance**

[regulations 3 to 7 of the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011].

Whether to make an injury award to those who sustain an injury or contract a disease as a result of anything they were required to do in performing the duties of their job and in consequence of which they:

- suffer a reduction in remuneration, or
- cease 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
- die leaving a surviving spouse, civil partner or dependant,

Earnley Parish Council will consider on a case by case basis. Any final decision will be taken by resolution of the full council.

b) if the Scheme employer has a policy to make such payments, how it will determine the amount of injury allowance to be paid

Earnley Parish Council will consider on a case by case basis. Any final decision will be taken by resolution of the full council.

### **Flexiible retirement**

[Regulation 30(6) of the LGPS Regulations 2013]

Whether to permit flexible retirement for staff aged 55 or over who, with the agreement of the employer, reduce their working hours or grade and, if so, as part of the agreement to permit flexible retirement:

Whether, in addition to the benefits the member has accrued prior to 1 April 2008 (which the member must draw), to permit the member to choose to draw

- all, part or none of the pension benefits they accrued after 31 March 2008 and before 1 April 2014, and / or
- all, part or none of the pension benefits they accrued after 31 March 2014

[regulations 11(2) and 11(3) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014], and

Whether to waive, in whole or in part, any actuarial reduction which would otherwise be applied to the benefits taken on flexible retirement before Normal Pension Age (NPA) [regulation 3(5) of the LGPS (Transitional Provisions,

Savings and Amendment) Regulations 2014, regulation 18(3) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and regulations 30(6) and 30(8) of the LGPS Regulations 2013]

Earnley Parish council will consider on a case by case basis. Any final decision will be taken by resolution of the full council. Earnley Parish Council reserves the right to refuse the request for Flexible Retirement on operational grounds irrespective of the financial business case made where Flexible Retirement would not be feasible to implement without adversely affecting its ability to fulfill its agreed functions.

### **Final Pay period to be used where a members pay consists of fees**

(Regulation B11 (2) of the 2013 benefits regulations)

It is unlikely that this will be relevant to Earnley Parish Council. If such cases do arise Earnley Parish Council will assess each on a case to case basis

**Extension to 12 Month Time limit to aggregate previous LGPS deferred benefits when they are re-employed**

(Regulation A16 (4) (b) (ii) of the 2013 benefits regulations)

Earnley Parish Council does not exercise this discretion - members are referred to the WSCC Pensions web site where the time limits are clearly and explicitly described.

**Late application by a member to pay optional contributions for a period of absence**

(Regulation A22 (2) of the 2013 benefits regulations)

Earnley Parish Council will exercise this discretion only where exceptional extenuation circumstances exist and are entirely beyond the member's control.

**Shared Cost AVC Schemes**

(Regulation A25 (3) of the 2013 benefits regulations)

Earnley Parish Council will not exercise this discretion

**Method of Payment of Employee Contributions**

(Regulation A45 (1) of the 2013 benefits regulations)

Earnley Parish Council will exercise this discretion

**Deduction of Contributions from relevant Reserve Forces pay**

(Regulation A45 (2) of the 2013 benefits regulations)

Earnley Parish Council will exercise this discretion

**Exclusion of the right to return of contributions if employment is terminated due to fraud or grave misconduct**

(Regulation A47 (2) of the 2013 benefits regulations)

Earnley Parish Council will review each occurrence on a case by case basis

**Forfeiture of pension rights on issue of Secretary of State's certificate following conviction of a work related offence.**

(Regulation A72 (1) of the 2013 benefits regulations)

Earnley Parish Council will review each occurrence on a case by case basis

**Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited**

(Regulation A72 (3) of the 2013 benefits regulations)

Earnley Parish Council will review each occurrence on a case by case basis

**Where forfeiture certificate is issued whether to direct interim payments out of Pension Fund until a decision is taken to apply the certificate or to pay the benefits**

(Regulation A73 (1) & (2) of the 2013 benefits regulations)

Earnley Parish Council will review each occurrence on a case by case basis

**Whether to recover from the Pension Fund any financial loss caused by fraudulent offence or grave misconduct of employee (who has left because of that offence, or amount of refund if less)**

(Regulation A76 (2) & (3) of the 2013 benefits regulations)

Earnley Parish Council will review each occurrence on a case by case basis

**Agreement to a bulk transfer**

(Regulation A81 (1) (b) of the 2013 benefits regulations)

Earnley Parish Council will not exercise this discretion

**Extension to the 12 month time limit for a scheme member to investigate a transfer from another pension scheme**

(Regulation A83 (8) of the 2013 benefits regulations)

Earnley Parish Council will not exercise this discretion

**Late application to convert scheme AVC's into membership credit (applies only to contracts that commenced before 13<sup>th</sup> November 2001)**

(Regulation 66 (9) (b) of the 2013 benefits regulations)

Earnley Parish Council will review each occurrence on a case by case basis

**To enable employers to decide the steps taken to recover overpayments of lump sum com compensation**



(Regulation 8 of the 2013 benefits regulations)

Earnley Parish Council will review each occurrence on a case by case basis taking into account the associated cost and estimating the likely success of recovery. Each decision will be taken by a vote of the full council on a recommendation provided by the responsible financial officer and not less than one of the Chairman and Vice Chairman of the council.

**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.**

(Regulation 17 of the 2013 benefits regulations)

Earnley Parish Council will review each occurrence on a case by case basis. Each decision will be taken by a vote of the full council on a recommendation provided by the responsible financial officer and not less than one of the Chairman and Vice Chairman of the council.

**Reduction of the member's annual compensatory added years payment following the cessation of a period of re-employment in Local Government**

(Regulation 19 of the 2013 benefits regulations)

Earnley Parish Council will make a day for day reduction to ensure that the individual receives overall no more membership than they would have attained by age 65. Any such reduction will be calculated by the responsible financial officer and reviewed by the Chairman or Vice Chairman of the council. Final approval will be by a vote of the full council on each case.

**Apportionment of any surviving spouse or civil partner's compensatory added years payment where the deceased person is survived by more than one spouse or civil partner**

(Regulation 21 (4) of the 2013 pensions regulations)

Earnley Parish Council will normally apportion this equally between surviving spouses or civil partners. Each case will be reviewed by the responsible financial officer and approved by the Chairman or Vice Chairman of the council before implementation. Each beneficiary will be informed of the decision by the responsible financial officer prior to implementation.

**Suspension of a spouse's compensation during a period of remarriage or cohabitation**

(Regulation 21 (5) and (7) of the 2013 benefits regulations)

Earnley Parish Council will review each occurrence on a case by case basis.

**The following documents form an integral part of the Earnley Parish Council statement of Pensions Discretions and are included as an annexe to this document.**

- New Redundancy policy incorporating the voluntary redundancy scheme
- Access to pension on retirement (LGPS) policy
- Compensation for early termination of employment policy(LGPS)
- Flexible retirement policy
- Industrial Injury Allowance Policy

**The management of the LGPS and the above discretions within Earnley Parish Council**

The scheme will be managed for Earnley Parish Council by the responsible Financial Officer (RFO) on a day to day basis. The Chairman and Vice Chairman of the council together with the RFO (or in any case where the RFO is the subject of the decision other delegated councillor) will discuss and arrive at proposed decisions as required on any issue arising from the statement of discretions above. Proposed decisions will be confirmed or rejected by resolution of the full council.

An appeals committee consisting of the Chairman and Vice Chairman of the Employment Committee plus two other councillors (other than the Chairman and Vice Chairman of the Council) will hear all appeals from employees arising from the application of the policies above. Decision of this appeal committee is final and no further appeal will be allowed.