

Blaby District Council Policy

Local Government Pension Scheme Employer Discretions Policy

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Review History			
Version*	Reviewed By (Job Title)	Review Completion Date	Brief Description of Changes (add 'no changes required' if applicable)
001			

*Version number remains the same if no significant changes are made upon review.

Document Definition / Approval & Review

Defining the document type and how it is approved and reviewed

Blaby District Council policies **‘outline a set of rules or principles that govern how the council (or services within the council) will operate’**.

Key published documents are approved for publication in line with the approval matrix illustrated in the [Key Published Document Procedure](#).

Unless agreed by exception, key published documents must be reviewed at least **every 3 years** from the date of approval.

Significant updates/changes must also seek reapproval in line with the approval matrix.

Scope

To what and to whom this policy applies

This policy sets out the following employer discretions in relation to the Local Government Pension Scheme (LGPS):

- Additional Pension Contributions
- Waiving of Early Retirement Reductions
- Switching on the “Rule of 85”
- Flexible Retirement
- Non-Mandatory Discretions

It applies to all active LGPS members (current employees), former LGPS members who left the Council’s employment between 1998 and 2008 (including Councillors), those who left between 2008 and 2014, and post-2014 leavers.

Terms & Definitions

Definition of any acronyms, jargon, or terms that might have multiple meanings.

Term	Definition
LGPS	The Local Government Pension Scheme
APC	Additional Pension Contributions
R85	The Rule of 85 – see section 4 below

Policy Sections

Section 1 Introduction – The purpose and reason for the policy.

The Local Government Pension Scheme regulations include numerous areas where scheme employers have discretionary powers, and it is mandatory for every employer to have a discretion policy in place. Setting a policy as a scheme employer gives employers flexibility in managing issues relating to LGPS benefits for both current and former employees.

There are four main categories where it is a statutory requirement to have a published policy. Additionally, there are some areas where it is recommended, but not mandatory to have a policy.

Exercising these discretions usually involves immediate costs for the employer.

Section 2 – Additional Pension Contributions

1. Whether, how much, and in what circumstances to contribute to a shared cost APC scheme.

Membership Category: Actives and Leavers since 1st April 2014
Regulation Reference: LGPS Regulations 2013 – Regulation 16(2)(e) and 16(4)(d)

Employers can decide whether to help scheme members who are buying additional pension by sharing the cost with them. However, this does not relate to members who are using an APC to buy back lost pension, as in some circumstances employers are obliged to contribute two-thirds of the cost.

Blaby District Council has not adopted this discretion.

2. Whether, at full cost to the Scheme employer, to grant extra annual pension, up to the LGPS additional pension limit (reviewed annually) to an active member, or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency.

Membership Category: Actives and Leavers since 1st April 2014
Regulation Reference: LGPS Regulations 2013 – Regulation 31

Employers can decide whether to grant their scheme members an additional amount of pension. Employers will need to consider in what circumstances they might grant this extra pension.

Blaby District Council will not normally agree to award an additional pension under this regulation unless there is a clear financial or operational benefit to the Council.

Section 3 – Waiving of Early Retirement Reductions

When scheme members elect to take their pension before their Normal Pension Age (usually their state pension age but in some circumstances age 65), the pension will be in payment for longer than planned so the pension is reduced, based on factors issued by the Government Actuary Department. Employers can, in some circumstances, decide whether to waive these reductions in part or in full. There are five discretionary areas where employers are required to have a policy; three relate to waiving on compassionate grounds and two relate to waiving on any grounds.

3. Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age.

Membership Category: Actives and Leavers since 1st April 2014
Regulation Reference: LGPS Regulations 2013 – Regulation 30(8)

Blaby District Council will not apply this discretion unless there are exceptional circumstances. The Senior Leadership Team will consider any cases and will decide whether the actuarial reductions should be waived. In all cases the Council's financial position must be given due consideration.

4. Whether to waive, in whole or part, actuarial reduction on benefits paid on flexible retirement.

Membership Category: Actives and Leavers since 1st April 2014
Regulation Reference: LGPS Regulations 2013 – Regulation 30(8)

Blaby District Council will not apply this discretion unless there are exceptional circumstances. The Senior Leadership Team will consider any cases and will decide whether the actuarial reductions should be waived. In all cases the Council's financial position must be given due consideration.

5. Whether to waive any actuarial reduction on pre and/or post April 2014 benefits paid early on compassionate grounds.

Membership Category: Actives and Leavers since 1st April 2014
Regulation Reference: LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 – paragraph 3(1) and paragraph 2(1) of Schedule 2

Blaby District Council will not apply this discretion unless there are exceptional circumstances. The Senior Leadership Team will consider any cases and will decide whether the actuarial reductions should be waived. In all cases the Council's financial position must be given due consideration.

6. Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early.

Membership Category: Leavers between 1st April 2008 and 31st March 2014
Regulation Reference: LGPS Regulations 2013 – Regulation 30(5), and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014

Blaby District Council will not apply this discretion unless there are exceptional circumstances. The Senior Leadership Team will consider any cases and will decide whether the actuarial reductions should be waived. In all cases the Council's financial position must be given due consideration.

7. Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early.

Membership Category: Leavers between 1st April 1998 and 31st March 2008, and Councillors
Regulation Reference: LGPS Regulations 2013 – Regulation 31(5), and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014

Blaby District Council will not apply this discretion unless there are exceptional circumstances. The Senior Leadership Team will consider any cases and will decide whether the actuarial reductions should be waived. In all cases the Council's financial position must be given due consideration.

Section 4 – Switching on the Rule of 85

The Rule of 85 (R85) is a complex protection for scheme members who were in the LGPS before 1st October 2006. A member will satisfy R85 when their age plus length of LGPS membership (in whole years) adds up to 85. For most scheme members R85 only protects pension benefits accrued from their membership before 1st April 2008.

Ordinarily where a member has met R85 and is retiring and drawing their pension after 60, it applies automatically. However, where a member has met R85 and is retiring and drawing their pension between age 55 and 60, the employer has the power to “switch on” R85 at a cost. R85 can be switched on by the employer for:

- a) Current employees retiring.
- b) Ex-employees with deferred benefits retiring.
- c) Ex-employees who had been awarded a tier 3 ill health pension that was subsequently suspended.

8. Whether to "switch on" the 85-year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.

Membership Category: Actives and Leavers since 1st April 2014
Regulation Reference: LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 – paragraphs 1(2) and 2(2) of Schedule 2

Blaby District Council will not apply this discretion unless there is a business case to support this as an alternative to a redundancy situation.

9. Whether to "switch on" the 85-year rule for a deferred member voluntarily drawing benefits on or after age 55 and before age 60.

Membership Category: Leavers between 1st April 2008 and 31st March 2014
Regulation Reference: LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 – paragraphs 1(2) and 1(1)(c) of Schedule 2

Blaby District Council will not apply this discretion.

10. Whether to "switch on" the 85-year rule for a deferred member voluntarily drawing benefits on or after age 55 and before age 60.

Membership Category: Leavers between 1st April 1998 and 31st March 2008, and Councillors
Regulation Reference: LGPS Regulations 2013 – Regulation 60, and (paragraphs 1(2) and 1(1)(f) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014

Blaby District Council will not apply this discretion.

Section 5 – Flexible Retirement

If an employee aged 55 or over reduces their hours or moves to a less senior position, and providing the employer gives their permission, they may be able to start receiving their pension, even though they are still working. The arrangement is called flexible retirement and is designed to:

- Help the employee ease into retirement.
- Allow the employer to retain the knowledge and skills of experienced staff.
- Assist the employer in its succession planning.

Employees can still build up further pension benefits in their ongoing job on either lower hours or in a less senior role.

It is important to note that:

- Taking flexible retirement before state pension age means that the employees' pension benefits will normally be reduced as if they were retiring early.
- R85 is always switched on for flexible retirements and cannot be switched off. Therefore, granting flexible retirement for someone under age 60 may result in an unavoidable employer shortfall cost.
- Employers will need to obtain details of the cost of the flexible retirement before it can be approved.

11. Whether all or some benefits can be paid if an employee over 55 reduces their hours or grade (flexible retirement).

While essentially this is a relatively straight-forward discretion, in deciding whether to allow someone to take flexible retirement, there are several consequences to be aware of:

- Without a clear written policy staff may have unrealistic expectations of being approved for flexible retirement.
- Some cases under age 60 may have unavoidable employer shortfall costs, due to R85 being automatically switched on.

- The possibility of waiving reductions.
- How much of a reduction in hours is acceptable.
- Whether to allow an increase in hours or grade after taking flexible retirement.

Membership Category: Actives and Leavers since 1st April 2014
 Regulation Reference: LGPS Regulations 2013 – Regulation 30(6)
 LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 11(2)

Blaby District Council has agreed to release pension where there is no cost and not to waive any reduction. LGPS members must reduce their hours by a minimum of 40% and/or reduce their grade.

Blaby District Council may, however, allow the release of pension where there is a cost or waive reduction in a potential redundancy situation, where a reduction may occur though redeployment, or in other exceptional circumstances supported by a business case.

Section 6 – Non-Mandatory Discretions

Whilst it is not mandatory for employers to have a policy on the following three discretions, for reasons of openness and good governance the Pensions Section recommends that employers approve a policy for each.

12. Whether to extend the 12-month limit a member has in which to elect to transfer other pension rights into the LGPS. This must be with the agreement of the Administering Authority.

Membership Category: Active Members
 Regulation Reference: LGPS Regulations 2013 – Regulation 100 (6)

Blaby District Council will not normally extend this 12-month time limit. Extenuating circumstances may apply, and this would include:

- **Where evidence exists that an election was made within 12 months, but this was not received by the Administering Authority.**
- **Where evidence exists that the LGPS member was not aware of the 12 month limit due to maladministration.**

13. Whether to extend the 12-month limit a member has in which to elect not to aggregate their deferred benefits with their new LGPS employment.

Membership Category: Active Members
 Regulation Reference: LGPS Regulations 2013 – Regulation 22 (7) & (8)

Blaby District Council will not normally extend this 12-month time limit. Extenuating circumstances may apply, and this would include:

- **Where evidence exists that an election was made within 12 months, but this was not received by the Administering Authority.**
- **Where evidence exists that the LGPS member was not aware of the 12 month limit due to maladministration.**

14. Whether to determine which contribution band is allocated on joining the scheme and at each April. It also determines the circumstances when an employee's band may be reviewed.

Membership Category: Active Members
 Regulation Reference: LGPS Regulations 2013 – Regulation 9

Blaby District Council will base pay on actual pay in April plus previous year's overtime, and re-band upon a pay award and all contractual changes, but not ad hoc hours changes.

Section 7 – Equalities Impact Assessment

Public Sector Equality Duty (PSED)

The Public Sector Equality Duty requires public bodies and others carrying out public functions to have due regard to the need to eliminate discrimination, to advance equality of opportunities and foster good relations.

Blaby District Council promotes equal opportunities in the services it provides.

Our aim is to implement and maintain services which ensure that no potential or current customer is treated less favorably on the grounds of gender, marital status, race, nationality, ethnic or national origin, colour, disability, age or sexual orientation nor is disadvantaged by the application of a rule, condition, or requirement, which has a discriminatory effect which cannot be justified by law.

Section 8 – Carbon Neutral / Net Zero Benefits

Not applicable.