

# MELTHAM TOWN COUNCIL

## LGPS DISCRETIONS STATEMENT SCHEME EMPLOYERS

### OVERVIEW

The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014. The provisions of the new LGPS, together with protections for member's benefits accrued before 1 April 2014, are now contained in the Local Government Pension Scheme Regulations 2013 (the '**LGPS Regulations 2013**'), and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (the '**LGPS Transitional Regulations 2014**') (as at 14<sup>th</sup> May 2018).

Therefore, this statement now relates to the application of discretions under:

- (a) the **LGPS Regulations 2013**
- (b) **LGPS Transitional Regulations 2014**; and
- (c) the Local Government Pension Scheme Regulations 1997 ('**LGPS Regulations 1997**') and the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 ('**LGPS Benefits Regulations 2007**'), which continue to have effect in so far as is necessary under *Regulation 3 (Membership before 1 April 2014) of the LGPS Transitional Regulations 2014*.

This statement is issued by West Yorkshire Pension Fund (the '**Fund**') to assist Scheme Employers within any of the Fund's that are administered in partnership with West Yorkshire Pension Fund .

Furthermore, this statement has been prepared on the Fund's understanding of the above regulations; therefore whilst it represents the views of the Fund it should not be treated as a complete and authoritative statement of the law. Employers may wish, or will need, to take their own legal advice on the interpretation of any particular regulations. No responsibility whatsoever will be assumed by the Fund for any liability, financial or otherwise, incurred by employers relying on this statement. The Fund does not accept any responsibility for reliance on the contained, or referred to, in this statement.

## INTRODUCTION

Under *Regulation 60 (statements of policy about exercise of discretionary functions) of the LGPS Regulations 2013* and *paragraph 2(2) of Schedule 2 of the LGPS Transitional Regulations 2014*, employers are required to make and publish policy statements on how they will exercise **five specific mandatory discretions**.

In addition there are **two further discretions** relevant to employers, which relate to members who left before 1 April 2014. These are under *Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008* (in respect of leavers between 1 April 2008 and 31 March 2014) and under *Regulation 106 of the LGPS Regulation 1997* (in respect of leavers between 1 April 1998 and 31 March 2008).

Any policy statements made must not limit, or 'fetter' how an employer uses any of the discretions afforded by the scheme.

The use of any discretion is likely to lead to immediate and potentially continuing increased pension costs for Meltham Town Council, which could be considerable.

Meltham Town Council is required to keep its statement under review and make such revisions as are appropriate following a change in its policy. Following any changes in its policy Meltham Town Council must publish the revised policy and send a copy to the administering authority within one month of the date the policy is revised.

In formulating and revising the policy statements outlined below, Meltham Town Council must have regard to the extent to which the exercise of its discretionary powers could lead to a serious loss of confidence in the public service.

The discretions listed below are those that require a written policy, however employers have further discretions under the regulations that they may wish to formulate a written policy on.

## FURTHER GUIDANCE FROM THE LOCAL GOVERNMENT PENSION SCHEME SECRETARIAT

When formulating any policies Scheme Employers should also take into account information provided by the LGPC Secretariat which can be found [here](#):

## SCHEME EMPLOYER DISCRETIONS

### Specific discretions under the LGPS Regulations 2013 and the LGPS Transitional Regulations 2014

Details of the **five discretions** available are as follows:

#### 1. **Shared Cost Additional Pension Contribution (SCAPC)- Regulation 16 (2)(e) and 16 (4)(d)**

*Note: Where an active member pays Additional Pension Contributions by regular or lump sum contribution to purchase extra annual pension, an employer can choose to voluntarily contribute towards the cost of purchasing that extra pension through a SCAPC*

**Meltham Town Council** does not consider contributions towards additional pension contributions to be an essential part of its employment strategy. However, **Meltham Town Council** will consider applications made under these specific provisions having regard to **Meltham Town Council's** general policy from time to time, on the employee pay strategy and the particular circumstances surrounding each case.

It is likely that decisions will be made on the merits of each case having particular regard to factors such as:

- **Meltham Town Council's** ability to meet the cost of granting such a request; and/or
- the member's personal circumstances.

#### 2. **Awarding Additional Pension - Regulation 31**

*Note: An employer can choose to grant additional pension up to the maximum allowed by the scheme rules provided that the member is active **or** is within 6 months of leaving **for reasons of** redundancy **or** business efficiency **or** whose employment was terminated by mutual consent on grounds of business efficiency.*

*Employers may wish to use this Regulation as an aid to recruitment, an aid to retention or to compensate or reward an employee who is retiring.*

*Employers should also consider provisions of this Regulation, in particular Regulation 31(4), if they decide to exercise their power under **Section 1 (general power of competence) of the Localism Act 2011.***

**Meltham Town Council** will consider applications made under this *Regulation* having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to the following:

- the member's personal circumstances;

- the interests of **Meltham Town Council**;
- the additional contributions due to the Fund by **Meltham Town Council** in respect of the exercise of this discretion;
- any potential benefits or savings to **Meltham Town Council** arising from the exercise of this discretion;
- other options that are, from time to time, available under **Meltham Town Council's** severance arrangements;
- the funding position of **Meltham Town Council** within the Fund;
- the ability of **Meltham Town Council** to meet the cost of granting such an award.

### 3. **Flexible Retirement - Regulation 30(6)**

*Note: **Meltham Town Council** can decide whether to permit a member who has attained the age of 55 to draw all or part of their retirement benefits (both pension and lump sum) whilst continuing in employment and Fund membership provided that:*

- *there has been a reduction in hours, or*
- *a reduction in grade.*

**Meltham Town Council** may agree to waive in whole or in part any actuarial reductions that would be required (see below: Regulation 30(8)).

**Meltham Town Council** will consider applications made under this Regulation having regard to the circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the operating requirements of the employing department
- **Meltham Town Council's** ability to meet the cost of granting such a request
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place **from** time to time can be made
- the member's personal circumstances.
- **Meltham Town Council** will permit the member to choose to draw all, of the pension benefits they have built up after 1 April 2008.

### 4. **Waiving actuarial reductions - Regulation 30(8)**

*Note: **Meltham Town Council** may agree to waive in whole or in part the actuarial reductions that would be required:*

- *all of the reductions in respect of pre 1 April 2014 benefits but only on compassionate grounds (paragraph 2 of Schedule 2 of the LGPS Transitional Regulations 2014);*
- *all or some of the actuarial reduction in respect of post 1 April 2014 on any grounds.*

*Where 85 year rule protections exists and the member has full or tapered protection the employer can waive all of the reductions but only on compassionate grounds for the service up to the date the 85 year rule protection ends (31 March 2016 (full) or 31 March .2020 (tapered)).*

**Meltham Town Council**, will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- **Meltham Town Council's** ability to meet the cost of granting such a request
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place from time to time can be made
- the member's personal circumstances

Applications for the payment of unreduced benefits for service before 1 April 2014 on the grounds of compassion will be granted if:

- in **Meltham Town Council's** sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and
- **Meltham Town Council** can meet the cost of granting such a request.

**5. Switching on the 85 rule – Schedule 2 - 1(1)(c) of the LGPS Transitional Regulations 2014**

*Note: **Meltham Town Council** can decide whether to “switch on” the 85 year rule to allow members who have protections under old regulations, and who choose to voluntarily draw their benefits on or after age 55 and before age 60 to receive benefits either unreduced or with a smaller reduction to their 85 year rule date. The employer will be responsible for meeting any strain costs relating to benefits being paid before age 60. If the employer does not “switch on” the 85 year rule the member’s benefits will be reduced to age 60 or the date they meet the 85 year rule if later.*

**Meltham Town Council**, will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- **Meltham Town Council's** ability to meet the cost of granting such a request;
- whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place from time to time can be made;
- the member's personal circumstances.