

## **Local Government Pension Scheme 2014 (LGPS)** **- Employer Discretion Policy Statement**

The new pension scheme rules, which apply from 1 April 2014, require each scheme employer within the LGPS to publish a statement with regards to how the employer will respond to discretionary aspects of the scheme rules and regulations. This statement will be published on the Bromham Parish Council website.

The date of this publication is: 30 June 2014

The effective date of this policy is: 1 April 2014

This is the formal employer's policy in respect of the employer that is currently known as: Bromham Parish Council

This policy applies to: Prospective members, current contributory members and pensioner members of the Local Government Pension Scheme (LGPS), and their dependants.

This statement will be reviewed and may change from time to time. The latest version of this document should be obtained before making any decisions in respect of their retirement provisions as the situation may have changed.

LGPS/employee members are advised to read this statement in conjunction with the information provided in respect of the benefits provided by the LGPS – the occupational pension scheme provided by Bromham Parish Council.

This policy does not convey any form of contractual rights for LGPS/staff members. The policy will be reviewed and may be subject to change, only the version of the policy that is 'current' at the time at which an event occurs will be the one applied for the purposes of LGPS benefits or membership. This policy cannot, nor does it seek to, override the provision of the Local Government Pension Scheme Regulations (as amended), the Local Government (Discretionary Payments) as amended, and the Employment Rights Act.

Bromham Parish Council will not use this policy for any ulterior motive, it will ensure that such discretions will be exercised reasonably and, where a cost is incurred, it will only be used when there is a future benefit to the employer for incurring the extra costs associated with the discretion. It will ensure that where exercised, any discretions that incur additional costs will be applied and recorded as appropriate.

In publishing this policy the scheme employer, Bromham Parish Council, is required to pay due regard to the requirement that the formulated policy and its application and the extent to which the exercise of the discretions could lead to a serious loss of confidence in the public service.

**Bromham Parish Council**

## Local Government Pension Scheme 2014 - Employer Policy Statement

**Employer discretions required under:  
The Local Government Pension  
Scheme Regulations 2013  
[prefix R]**

**The Local Government Pension  
Scheme (Transitional Provisions,  
Savings and Amendment) Regulations  
2014 [prefix TP]**

### **Regulation R16 (2)(e) & R16 (4)(d)**

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

The Scheme employer may resolve to fund in whole or in part any arrangement entered into by an active scheme member to pay additional pension contributions by way of regular contributions in accordance with Regulation 16(2)(e), or by way of a lump sum in accordance with Regulation 16(4)(d).

The Scheme employer may enter into an APC contract with a Scheme member who is contributing to the MAIN section of the Scheme in order to purchase additional pension of not more than the additional pension limit (£6,500 from 1st April 2014 subject to annual increase in line with the Pensions (Increase) Act 1971).

The amount of additional contribution to be paid is determined by reference to actuarial guidance issued by the Secretary of State.

Consideration needs to be given to the circumstances under which the Scheme employer may wish to use their discretion to fund in whole or in part an employee's Additional Pension Contributions.

#### **Bromham Parish Council policy is:**

That the Parish Council will not ordinarily consider this discretion due to financial pressures at a time when there is a need to make significant savings in the public sector spending.

### **Regulation R30(6)\* & TP11(2)**

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

An active member who has attained the age of 55 or over and who with the agreement of their employer reduces their working hours or grade of employment may, with the further consent of their employer, elect to receive immediate payment of all or part of the retirement pension to which they would be entitled in respect of that employment as if that member were no longer an employee in local government service on the date of the reduction in hours or grade (adjusted by the amount shown as appropriate in actuarial guidance issued by the Secretary of State – separate policy required under Regulation 30(8)).

As part of the policy making decision the Scheme employer must consider whether, in addition to the benefits the member may have 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 built up after 31 March 2008 and before 1 April 2014 and all, part or none of the pension benefits they built up after 1 April 2014.

Due consideration must be given to the financial implications of allowing an employee to draw all or part of their pension benefits earlier than their normal retirement age.

#### **Bromham Parish Council policy is:**

That the Parish Council will operate a flexible retirement that is reliant upon a sound business case being made for the granting of flexible retirement with immediate access to all or part of the member's benefits.

To this end Bromham Parish Council will consider requests on a case by case basis taking into account all relevant circumstances and, ordinarily, there must be at least a 40% reduction in gross pay or contractual hours worked.

### **Regulation R30(8)\***

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

Where a Scheme employer's policy under regulation 30(6) (flexible retirement) is to consent to the immediate release of benefits in respect of an active member who is aged 55 or over, those benefits must be adjusted by an amount shown as appropriate in actuarial guidance issued by the Secretary of State (commonly referred to as actuarial reduction or early payment reduction).

A Scheme employer (or former employer as the case may be) may agree to waive in whole or in part and at their own cost, any actuarial reduction that may be required by the Scheme Regulations.

Due consideration must be given to the financial implications of agreeing to waive in whole or in part any actuarial reduction.

#### **Bromham Parish Council policy is:**

That flexible retirement will normally only be granted where this does not generate a cost for the Council to the Pension Fund.

### **TP Sch 2 para 2(2)**

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

Where a scheme member retires or leaves employment and elects to draw their benefits at or after the age of 55 and before the age of 60 those benefits will be actuarially reduced unless their Scheme employer agrees to meet the full or part cost of those reductions as a result of the member otherwise being protected under the 85 year rule as set out in previous Regulations.

So as to avoid the member suffering the full reduction to their benefits the Scheme employer can 'switch on' the 85 year rule

protections thereby allowing the member to receive fully or partly unreduced benefits but subject to the Scheme employer paying a strain (capital) cost to the Pension Fund

#### **Bromham Parish Council policy is:**

That in exceptional circumstances the Parish Council will consider this discretion. Consideration and approval of any case will be by the Full Parish Council.

### **TP Sch 2 para 2(3)**

Whether to waive on compassionate grounds the actuarial reduction applied to benefits from pre 1 April 2014 membership where the employer has switched on the 85-year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.

So as to avoid the member suffering the full reduction to their benefits the Scheme employer can 'switch on' the 85 year rule protections thereby allowing the member to receive fully or partly unreduced benefits but subject to the Scheme employer paying a strain (capital) cost to the Pension Fund

#### **Bromham Parish Council policy is:**

That in exceptional circumstances, or where there is a sound business case for doing so, the Parish Council will consider this discretion on a case by case basis.

Consideration and approval of any case will be by the Full Parish Council.

In doing so, it will consider the definition of compassionate grounds to include, but not be restricted to:

- Compelling domestic reasons which will affect the ability of the individual to continue with their present working arrangements, and/or:
- Reasons of ill health, which do not meet the current criteria for ill-health retirement.

Appropriate medical evidence should be provided by the member, at the member's cost, in support of such cases. Any medical evidence provided should be compiled by a suitably qualified occupational physician.

### **Regulation R31**

Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 p.a.)

A Scheme employer may resolve to award

- (a) an active member, or
- (b) a member who was an active member but dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency,

additional annual pension of, in total (including any additional pension purchased by the Scheme employer under Regulation 16), not more than the additional pension limit (£6,500 from 1st April 2014 subject to annual increase in line with the Pensions (Increase) Act 1971).

Any additional pension awarded is payable from the same date as any pension payable under other provisions of the Scheme Regulations from the account to which the additional pension is attached.

In the case of a member falling within sub-paragraph (b) above, the resolution to award additional pension must be made within 6 months of the date that the member's employment ended.

#### **Bromham Parish Council policy is:**

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

### **Employer discretions required under: The Local Government Pension Scheme Regulations 2007 (as amended) [prefix B]**

#### **Regulation B12**

(This discretion will be spent entirely after 30 September 2014, and will be removed in future published versions after this date)

Whether, for a member leaving on the grounds of redundancy or business efficiency on or before 31st March 2014, to augment membership (by up to 10 years). The resolution to do so would have to be made within 6 months of the date of leaving.

#### **Bromham Parish Council policy is:**

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

#### **Regulation B30(2)\***

Whether to grant application for early payment of deferred benefits on or after age 55 and before age 60

#### **Bromham Parish Council policy is:**

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

#### **Regulation B30(5)\***

Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30

#### **Bromham Parish Council policy is:**

That in exceptional circumstances only the Parish Council will consider this discretion on a case by case basis and in line with the TP Sch 2 Para 2(3) above

Consideration and approval of any case will be by the Full Parish Council.

**Regulation B30A(3)\***

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

Bromham Parish Council policy is:

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

**Regulation B30A(5)\***

Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A

Bromham Parish Council policy is:

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

**Employer discretions required under:  
The Local Government Pension  
Scheme Regulations 1997  
(as amended) [prefix L]**

**Regulation L31(2)**

Grant application from a post 31.3.98. / pre 1.4.08. leaver for early payment of benefits on or after age 50/55 and before age 60

Bromham Parish Council policy is:

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

**Regulation L31(5)**

Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31 March 1998/pre 1 April 2008 leaver.

Bromham Parish Council policy is:

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

**Regulation L31(7A)**

Optants out pre 1.4.08. employee optants out only to get benefits paid from NRD if employer agrees

Bromham Parish Council policy is:

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

**The Following Further Employer Discretions may be required for certain employers, for reasons of transparency, the position of Bromham Parish Council is shown where relevant:**

**The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000]**

**Regulation 21(4)**

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.

Bromham Parish Council policy is:

That any benefits to be paid will be shared equally amongst the relevant parties/beneficiaries.

**Regulation 25(2)**

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 case how the annual added years will be apportioned amongst the eligible children

Bromham Parish Council policy is:

That any benefits to be paid will be shared equally amongst the relevant children.

### **Regulation 21(7)**

Whether in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouses 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 partners annual compensatory added years payments should continue to be paid.

Bromham Parish Council policy is:

That the normal pension suspensions rules will be disapplied.

### **Regulation 21(5)**

*{If the decision in 21(7) is to apply suspension of benefits}*

...whether the spouses or civil partners pension should be reinstated after the end of the remarriage, new civil partnership or co habitation.

Not applicable as Regulation 21(7) above is disappplied

### **Regulation 21(7)**

Whether, in respect of the spouses or civil partner of a person who ceased employment before 1 April 1998 and where the spouses or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouses or civil partners annual compensatory added years (CAY) payment, the normal rules requiring one of them to forgoe payment whilst the period of marriage, civil partnership or co habitation lasts, should be disapplied i.e. whether the spouses or civil partners annual CAY payments should continue to be paid to both of them.

Bromham Parish Council policy is:

That the normal pension suspension rules will be disapplied.

### **Regulation 17**

Whether to 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.

Bromham Parish Council policy is:

That it will not reduce or suspend the annual compensatory added years payment.

### **Regulation 19**

*How to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment.*

Not applicable as there is no reduction as set out at Regulation 17 above.

**The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)**

**Note:** For the purposes of the above, '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.

### **Regulation 5**

To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks pay limit.

Bromham Parish Council policy is:

That it will base redundancy pay on actual pay where actual pay exceeds the statutory maximum under the Employment Rights Act 1996.

### **Regulation 6**

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.

Bromham Parish Council policy is:

That the Council would not have sought to normally pay compensation under this Regulation except to ensure that an employee whose employment was terminated by reason of redundancy received, under Regulation 5 of the Compensation Regulations, and this Regulation, a total of up to 30 weeks pay calculated in accordance with the Statutory Redundancy Pay Table.

*It should be Noted that: The effect of the authority's policy on the exercise of its discretions under Regulations 5 and 6 of the Compensation Regulations is that a person whose employment is terminated by reason of redundancy will be paid up to 30 weeks' pay calculated in accordance with the Statutory Redundancy Pay Table.*

*A person where employment is terminated in the interests of the efficient exercise of the authority's functions, or where the other holder of a joint appointment leaves, will not normally be paid compensation under these Regulations.*

### **The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011**

*Formulating and publishing a policy under the Injury Allowances Regulations 2011 Each LGPS employer is required to formulate, publish and keep under review the policy that it will apply in the exercise of its discretionary powers to make any award under the Injury Allowances Regulations.*

### **Regulation 3(1)**

*Whether to grant an injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.*

Bromham Parish Council policy is:

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

### **Regulation 3(4) and 8**

*Amount of injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.*

Bromham Parish Council policy is:

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

### **Regulation 3(2)**

*Determine whether person continues to be entitled to an injury allowance awarded under regulation 3(1).*

Bromham Parish Council policy is:

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

### **Regulation 4(1)**

*Whether to grant an injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job.*

**Bromham Parish Council policy is:**

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

**Regulation 4(3) and 8**

Amount of injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job.

**Bromham Parish Council policy is:**

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

**Regulation 4(2)**

Determine whether person continues to be entitled to an injury allowance awarded

**Bromham Parish Council policy is:**

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

**Regulation 4(5)**

Whether to suspend or discontinue injury allowance awarded under regulation 4(1) if person secures paid employment for not less than 30 hours per week for a period of not less than 12 months.

**Bromham Parish Council policy is:**

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

**Regulation 6(1)**

*Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a Regulation 3 payment was being made at date of cessation of employment but Regulation 4 does not apply.*

**Bromham Parish Council policy is:**

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

**Regulation 6(1)**

Determine amount of any injury allowance to be paid under regulation 6(1)

**Bromham Parish Council policy is:**

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

**Regulation 6(2)**

Determine whether and when to cease payment of an injury allowance payable under regulation 6(1)

**Bromham Parish Council policy is:**

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

**Regulation 7(1)**

Whether to grant an injury allowance to the spouse, civil partner, nominated co-habiting partner or dependent of an employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.

Bromham Parish Council policy is:

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

#### **Regulation 7(2) and 8**

Determine amount of any injury allowance

Bromham Parish Council policy is:

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

#### **Regulation 7(3)**

Determine whether and when to cease payment of an injury allowance payable under regulation 7(1)

Bromham Parish Council policy is:

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

**Further Employer Discretions  
(set out as best practice)  
– in accordance with the Local  
Government Pension Scheme  
Regulations 2013**

#### **R9(1) & (3) – Contributions**

Where an active member changes employment or there is a material change which affects the member's pensionable pay during the course of a financial year, the Scheme employer may determine that a contribution rate from a different band (as set out in Regulation 9(2)) should be applied.

Where the Scheme employer makes such a determination it shall inform the member of the revised contribution rate and the date from which it is to be applied.

Bromham Parish Council policy is:

That the Council will reassess the contribution band where an active member changes employment or a material change occurs during the course of the financial year. The Council will inform the member of the revised contribution rate and the date from which it is to be applied.

#### **R17(1) – Additional Voluntary Contributions**

An active member may enter into arrangements to pay additional voluntary contributions (AVCs) or to contribute to a shared cost additional voluntary contribution arrangement (SCAVCs) in respect of an employment. The arrangement must be a scheme established between the appropriate administering authority and a body approved for the purposes of the Finance Act 2004, registered in accordance with that Act and administered in accordance with the Pensions Act 2004.

The Scheme employer needs to determine whether or not it will make contributions to such an arrangement on behalf of its active members.

Bromham Parish Council policy is:

That the Council will not ordinarily consider the discretion due to financial pressures at a time when there is a need to make significant savings in the public sector.

#### **R21(5) – Assumed Pensionable Pay**

A Scheme employer needs to determine whether or not to include in the calculation of assumed pensionable pay, any 'regular lump sum payment' received by a Scheme member in the 12 months preceding the date that gave rise to the need for an assumed pensionable pay figure to be calculated.

Bromham Parish Council policy is:

That the Council will include any regular lump sum payments (other than payments made for detriment – as permitted under Regulation 20, Paragraph 2(g) of the 2014 LGPS Regulations.) as permitted by the Regulations in the calculation of assumed pensionable pay.

## **R22 – Merging of Deferred Member Pension Accounts with Active Member Pension Accounts**

A deferred member's pension account is automatically aggregated with their active member's pension account unless the member elects within the first 12 months of the new active member's pension account being opened to retain their deferred member's pension account.

A Scheme employer can, at their discretion, extend the 12 month election period.

Bromham Parish Council policy is:

That the Council will not normally extend the 12 month period to elect to retain separate benefits unless in exceptional circumstances.

## **R74 Adjudication**

Each Scheme employer must appoint a person ("the adjudicator") to consider applications from any person whose rights or liabilities under the Scheme are affected by:

- (a) decisions under Regulation 72 (first instance decisions); or
- (b) any other act or omission by a Scheme employer or administering authority,

and to make a decision on such applications.

Responsibility for determinations under this **first stage of the Internal Disputes Resolution** Procedure (IDRP) rests with "the adjudicator" as named below by the Scheme employer:

Bromham Parish Council appoints the Chair of the Finance and General Purposes Committee to act as Adjudicator for the purpose of R74.

## **Regulation R100(6) –Transfers of Pension Rights into the LGPS**

A request from an active member to transfer previously attained pension rights into the LGPS

must be made in writing to the administering authority and the Scheme employer before the expiry of the period of 12 months beginning with the date on which the employee first became an active member in an employment (or such longer period as the Scheme employer and administering authority may allow).

Bromham Parish Council policy is:

That the option to transfer must normally be made within 12 months of joining the LGPS but the Council will consider applications out of this time period on an individual basis and if extenuating circumstances apply.

Extenuating circumstances may apply and this may include one or more of the following:

Where evidence exists that an election was made within 12 months but the administering authority did not receive this;

Where evidence exists that the member was not aware of the 12 month limit due to maladministration;

Where there has been an administrative error on the part of the employer, its contractor, or the scheme administrator.

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