

Upper Witham, Witham First District and Witham
Third District Internal Drainage Boards

Local Government Pension Scheme
Employer Discretion Policy

OCTOBER 2013

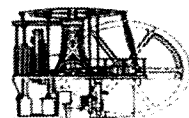
**UPPER WITHAM
INTERNAL DRAINAGE BOARD**



**WITHAM FIRST DISTRICT
INTERNAL DRAINAGE BOARD**



**WITHAM THIRD DISTRICT
INTERNAL DRAINAGE BOARD**



Board Approved: 11.11.2013 (Upper Witham IDB)
05.11.2013 (Witham First District IDB)
22.10.2013 (Witham Third District IDB)

Review date: By 3 years or as notified.

Local Government Pension Scheme Employer Discretion Policy

1.0 Introduction

- 1.1 The Local Government Pension Scheme (LGPS) is a statutory scheme and participation as an employing organisation is governed by statute. Most of the rules and regulations are determined by Government.
- 1.2 Upper Witham, Witham First District and Witham Third District Internal Drainage Boards are Employer members of the Lincolnshire LGPS Fund and as at 04.10.13, all staff members for the three Internal Drainage Boards have opted to join the scheme, prior to auto enrolment starting, and those employees also contribute to the scheme.
- 1.3 Some areas of the LGPS are left to Employers' local discretion and where there is a requirement to have a local policy in place, for certain matters within scheme regulations, not doing so means that the Employer (IDB) is in breach of its Statutory responsibility and is liable for this breach. There is in effect a regulatory requirement concerning the operation of certain discretions.
- 1.4 The Local Government Pension Scheme (Administration) Regulations 2008 and previous legislation make it a statutory requirement that an "Employer publishes and maintains a written policy on the exercise of defined discretions".
- 1.5 These Employer discretions must be formally determined by the Board, a written policy must be published and maintained and it is a requirement on the Board to notify the administering authority of the LGPS in Lincolnshire (Mouchel, for Lincolnshire County Council) on what basis the local discretions will be operated.
- 1.6 This duty to publish and maintain a policy is because such policy decisions have immediate costs but they may also have long-term, additional liability consequences which could affect each Board's Employer pension contribution rate for many years.
- 1.7 Regulation 66(5) of the LGPS (Administration) Regulations 2008 states:

"In preparing, or reviewing and making revisions to, its statement, an employing authority must have regard to the extent to which the exercise of any of the functions mentioned in paragraph (1) in accordance with its policy could lead to a serious loss of confidence in the public service".
- 1.8 Those functions mentioned in paragraph (1) are the discretions which give rise to an immediate cost to an employing authority. Therefore, the Board has a duty to bear in mind its fiduciary duties, as a controller of the public purse, when devising policy on the exercise of LGPS discretions and the Board needs to be able to demonstrate this duty.

2.0 LGPS Employer's duty to Publish and Maintain Policies

2.1 LGPS /Employers must publish and maintain policies on:

- 2.1.1 power of the Employer to increase total membership of an active member.
- 2.1.2 power of Employing authority to award additional pension.
- 2.1.3 flexible retirement.
- 2.1.4 choice of early payment of pension.

- 2.2 In the interests of transparency and consistency, Employers should also have policies in place to cover other discretions including ill health and redundancy.

3.0 Why an Employer Discretion Policy is necessary

3.1 The purpose of the Board putting in place a local policy on Pension discretions is to:

- 3.1.1 demonstrate a clear and consistent approach when making first instance decisions.
- 3.1.2 protect the Board by making transparent decisions.
- 3.1.3 remove from the decisions personal criteria, enabling the Board to evidence clear and consistent application of discretions.

4.0 Pensions Discretions Policy

- 4.1 Attached is a Pensions Discretions Policy which each of the 3 Boards is asked to approve, together with Appendix 1 which is the associated Statement of Discretions which each IDB is required to complete (the 'Employer Policy' column detailing the local discretion adopted, sign and date the statement) and return to Mouchel who administer the Lincolnshire LGPS Fund on behalf of LCC.
- 4.2 The three IDBs are recommended to adopt a policy in common for the exercise of pensions discretions so that there is equitable and consistent treatment of all staff across the three Boards where, increasingly, staff may be employed by one Board but working for two or three. It would be divisive if staff Terms and Conditions in respect of pension discretions were different, according to which of the three IDBs held the Employment contract.
- 4.3 Members are asked to ensure they are comfortable with the 'Employer Policy' column which has been completed in discussion with the three Boards' Internal Auditor.

Examples include:

- 4.3.1 (Discretion 2) on whether to extend the 12 months option for aggregation of deferred benefits – the Employer Policy is completed as "No extension".
- 4.3.2 (Discretion 7) on whether to grant additional pension to a member (by up to £5,000 per annum) – the Employer policy is completed as "No intention to use this power". The IA's advice is that this does not prohibit a Board from invoking such a flexibility, but it states the Board's current position and intent.
- 4.3.3 Discretion 15 and 16 are highlighted in relation to flexible retirement. The Boards currently do not have a flexible retirement policy, hence the Employer response which still enables the Boards to consider individual cases, but in may be that in future a policy should be developed (some authorities have such to benefit both the employer and employee – examples where this can benefit both is a step-down early retirement because of carer responsibilities where the Employer may be content for someone to reduce hours and not lose the individual from the workplace).
- 4.3.4 Discretion 17 again retains the flexibility for use by the three Boards but makes it clear that the policy is one of 'no intention' to use the power to grant application for early payment of benefits on or after age 55 and before age 60.
- 4.3.5 Ill health discretions are at 18 to 22 and preserve flexibility for the three Boards, whilst requiring that a financial analysis will be completed for each individual case.

5.0 Recommendation

The Board is recommended to approve the enclosed Employer Discretion Policy and authorise the Chairman and Chief Executive to sign and return the associated completed Statements at Appendix 1 to the Lincolnshire Pension Fund.

JEF/KD
07/10/2013

Upper Witham, Witham First District and Witham
Third District Internal Drainage Boards

Local Government Pension Scheme
Employer Discretion Policy

The Board as an employing authority is required to formulate and publish a written policy statement on the certain discretions contained within the Local Government Pension Scheme (LGPS) Regulations.

Employers' Pension Policy Discretions are in accordance with The Administrative Regulations 2008 and other Regulations.

1 POWER OF EMPLOYING AUTHORITY TO INCREASE TOTAL MEMBERSHIP OF ACTIVE MEMBERS, REGULATION 12 (BR) REGULATION 40 (AR) – AUGMENTATION.

An employer may resolve to increase the total membership of an active member. A member's total additional membership under this regulation must not exceed 10 years.

Policy: The Board notes this discretion to increase a scheme member's total membership but has no intention to make use of this discretionary power on the basis of cost.

2 POWER OF EMPLOYING AUTHORITY TO AWARD ADDITIONAL PENSION, REGULATION 13(BR) REGULATION 40 (AR)

An employer may resolve to award a member additional pension of not more than £5,000 a year, payable from the same date as his/her pension is payable under any other provisions of the regulations.

Additional pension may be paid, in addition to any increase of total membership (augmentation) resolved under Regulation 12(BR).

The same funding requirements apply as in augmentation above.

Policy: The Board notes this discretion to award additional pension benefits. It has no intention to make use of this discretionary power on the basis of cost.

3 FLEXIBLE RETIREMENT – REGULATION 18 (BR)

A member who is 55 or over, and with the employer's consent, may reduce their hours and/or grade and then, but only with the agreement of the employer, make an election to the administering authority for payment of their accrued benefits without having retired from that employment. If payment of benefits occurs before age 65, the benefits are actuarially reduced in accordance with guidance issued by the Government Actuary. The employer may, however, agree to waive, in whole or part any such reduction.

A member who has attained the age of 65 and who, with the employer's consent, reduces the hours they work or the grade in which they are employed, may make a request to receive all of his/her retirement benefits. In this case retirement benefits are unreduced.

Policy: The Board has no intention to offer flexible retirement to employees between the ages of 55-64. Therefore, the discretionary power to waive the actuarial reduction does not apply. This does not preclude members aged 65+ from requesting flexible retirement and receipt of their retirement benefits.

4 CHOICE OF EARLY PAYMENT OF PENSION – REGULATION 30 (BR)

With the employer's consent, a member leaving local government employment, aged at least 55, but before normal retirement age or age 60, may choose to receive payment of his/her retirement benefits immediately. The pension will be reduced by amounts shown as appropriate by the Government Actuary.

Policy: The Board notes the discretion to allow an employee to retire before their normal retirement date or before age 60. The Board has no intention to make use of this discretionary power.

5 CONTRIBUTIONS PAYABLE BY ACTIVE MEMBERS REGULATION 3 (BR)

The Board will determine the contribution rate to be paid by employees at commencement of membership based on their whole-time equivalent pensionable pay and in accordance with the table (bands increased by RPI each April) in this regulation.

Where there has been a permanent material change to a member's pensionable pay in the course of a financial year, the Board will apply the new rate from the following 01st April. No adjustments will be made throughout the year.

Policy: The Board will determine the contribution rate to be paid by employees, with necessary adjustments being made not in-year but from the following 01st April.

6 RE-EMPLOYED AND REJOINING DEFERRED MEMBERS – REGULATION 16 (AR)

Where a deferred member becomes an active member again before becoming entitled to the immediate payment of retirement benefits in respect of his/her former membership, he/she may elect to have his/her former membership aggregated with his/her current active membership.

An election must be made in writing to the member's administering authority before the expiry of the period of 12 months, beginning with the date that he/she became an active member.

Policy: The Board has no intention to extend the 12 months option for aggregation of deferred and active benefits.

7 APPLICATIONS TO MAKE ABSENCE CONTRIBUTIONS – REGULATION 22 (AR)

Where a member has been absent without pay due to maternity leave, industrial dispute or an authorised leave of absence they have 30 days from returning to work or termination of employment to opt to pay the relevant contributions to enable the membership to count.

Policy: The Board will consider extending the 30 day period upon request.

8 INWARD TRANSFERS OF PENSION RIGHTS – REGULATION 83(AR)

A person who becomes an active member who has relevant pension rights may request his/her fund authority to accept a transfer value for some, or all, of his/her former rights. An election must be made in writing before the expiry of the period of 12 months, beginning with the date that he/she became an active member.

Policy: The Board has no intention to extend the usual time limit of 12 months for a request of acceptance of transfer value.

This policy will be kept under regular review, by October 2016 if there are no material changes required before then.

APPENDIX 1

Upper Witham, Witham First District and Witham Third District Internal Drainage Boards.

DETAILED BELOW ARE COMPLETED STATEMENTS THAT ARE REQUIRED TO BE SIGNED, DATED AND RETURNED TO THE LINCOLNSHIRE PENSION FUND

STATEMENT OF POLICY REGARDING THE EXERCISE OF DISCRETIONS FOR EMPLOYERS WHO JOINED THE LOCAL GOVERNMENT PENSION SCHEME PRIOR TO 1 APRIL 2008

Discretions from 1.4.08 in relation to post 31.3.08 active members (excluding councillor members) and post 31.3.08 leavers (excluding councillor members), being discretions under:

- The Local Government Pension Scheme (Administration) Regulations 2008 [prefix A]
- The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 [prefix B]
- The Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [prefix T]
- The Local Government Pension Scheme Regulations 1997 [prefix L]

No	Discretion	Regulation	Employer Policy
1.	To whom to offer membership of the LGPS (designation bodies)	A4(3) & ASch2(Pt2) & A8(1)	All employees
2.	Whether to extend the 12 month options for aggregation of deferred benefits	A16(4)(b)(ii)	No extension
3.	Determine rate of employees' contributions	B3 & T9	Rate to be determined at 1 April each year with no adjustments during the year
4.	Specify in an employee's contract what other payments or benefits, other than those specified in B4(1)(a) are to be pensionable	B4(1)(b)	To be included in employee contracts
5.	Whether to allow a late application by member to pay optional contributions for a period of unpaid child related leave, strike, or unpaid leave of absence beyond 30 days	A22(2)	Extension to the 30 days rule upon request.
6.	Whether to augment membership of an active member (by up to 10 years)	B12	No intention to use this power.
7.	Whether to grant additional pension to a member (by up to £5,000 pa)	B13	No intention to use this power.

8.	No right to return of contributions due to offence of a fraudulent character or grave misconduct unless employer directs a total or partial refund is to be made	A47(2)	There is no policy on this so any case will be considered at the appropriate time.
9.	Whether to apply to Secretary of State for a forfeiture certificate (where member is convicted of a relevant offence)	A72(1) & (6)	
10.	Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited	A72(3)	
11.	Where forfeiture certificate is issued, whether to direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits	A73(1) & (2)	
12.	Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights or AVCs/SCAVCs) where the obligation was incurred as a result of a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left employment	A74(2)	
13.	Whether to recover from Fund any financial loss caused by fraudulent offence or grave misconduct of employee (who has left because of that), or amount of refund if less	A76(2) & (3)	
14.	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	A83(8)	No extension
15.	Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)	B18(1)	No policy to allow flexible retirement. Each case to be fully considered upon request.
16.	Whether to waive, in whole or in part, actuarial reduction on benefits paid due to flexible retirement	B18(3)	
17.	Whether to grant application for early payment of benefits on or after age 55 and before age 60	B30(2)	No intention to use this power
18.	Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early	B30(5)	Each case to be consider on its merits but full report including a detailed financial analysis to be produced
19.	Whether to grant an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60	B30A(3)	

20.	Whether to waive, on compassionate grounds, the actuarial reduction applied to reinstated tier 3 pension benefits paid early	B30A(5)	
21.	Decide whether deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria	B31(4)	
22.	Decide which ill health tier leaver falls into	B20	

Discretions under the Local Government Pension Scheme Regulations 1997 (as amended) in relation to pre 1.4.08 scheme leavers

No.	Discretion	Regulation	Employer Policy
23.	Grant application for early payment of benefits on or after age 50/55 and before age 60	31(2)	No intention to use this power
24.	Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early to a pre 1.4.08 leaver.	31(5)	Each case to be consider on its merits but full report including a detailed financial analysis to be produced
25.	No right to return of contributions due to offence of a fraudulent character unless employer directs a total or partial refund is to be made (pre 1.4.08 leavers)	88(2)	There is no policy on this so any case will be considered at the appropriate time.
26.	Forfeiture of pension rights on issue of Secretary of State's certificate (councillor and pre 1.4.08 leavers)	111(2) & (5)	
27.	Where forfeiture certificate is issued, direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits (pre 1.4.08 leavers)	112(1)	
28.	Recovery from Fund of monetary obligation owed by former employee or, if less, the value of the member's benefits (other than transferred in pension rights) (councillors and pre 1.4.08 leavers)	113(2)	
29.	Recovery from Fund of financial loss caused by employee, or amount of refund if less (councillors and pre 1.4.08 leavers)	115(2) & (3)	

**Discretions under the Local Government Pension Scheme Regulations 1995 (as amended)
in relation to pre 1.4.98 scheme leavers**

No.	Discretion	Regulation	Employer Policy
30.	Grant application from a pre 1.4.98 leaver for early payment of deferred benefits on or after age 50 on compassionate grounds	D11(2)(c)	Each case to be consider on its merits but full report including a detailed financial analysis to be produced

**STATEMENT OF POLICY REGARDING THE EXERCISE OF DISCRETIONS
CONCERNING DISCRETIONARY COMPENSATION ON EARLY TERMINATION
OF EMPLOYMENT**

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

No.	Discretion	Regulation	Employer Policy
31.	To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks pay limit.	5	Payments to be based on actual pay
32.	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.	6	Lump sum payments up to 104 weeks to be paid

**Discretions under the Local Government (Early Termination of Employment)(Discretionary
Compensation) (England and Wales) Regulations 2000 (as amended)**

No.	Discretion	Regulation	Description Considerations
33.	How to apportion any surviving spouse's or civil partner's annual compensatory added years payment where the deceased person is survived by more than one spouse or civil partner	21(4)	Extremely rare so low risk and no policy. If this occurs there will be full consideration and review at the appropriate time.
34.	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 a case, how the annual added years will be apportioned amongst the eligible children	25(2)	

35.	Whether, in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouse 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 partner's annual compensatory added years payments should continue to be paid.	21(7)	
36.	If, under the preceding decision, the authority's policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual compensatory added years payment should be reinstated after the end of the remarriage, now civil partnership or cohabitation.	21(5)	
37.	How to reduce the member's annual compensatory added years payment following the cessation of a period or re-employment in local government	19	

STATEMENT OF POLICY REGARDING THE EXERCISE OF DISCRETIONS CONCERNING INJURY ALLOWANCES AND GRATUITIES

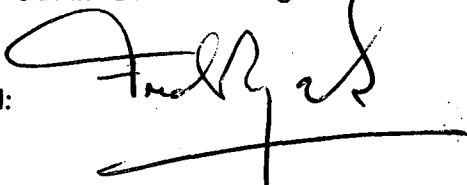
Discretions under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011

No.	Discretion	Regulation	Employer Policy
38.	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	3(1)	Extremely rare so low risk and no policy. If this occurs there will be full consideration and review at the appropriate time.
39.	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	3(4) and 8	
40.	Determine whether person continues to be entitled to an injury allowance awarded under regulation 3(1)	3(2)	
41.	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	4(1)	
42.	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	4(3) and 8	

43.	Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1)	4(2)
44.	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.	4(5)
45.	Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a reg 3 payment was being made at date of cessation of employment but reg 4 does not apply.	6(1)
46.	Determine amount of any injury allowance to be paid under regulation 6(1)	6(1)
47.	Determine whether and when to cease payment of an injury allowance payable under regulation 6(1)	6(2)
48.	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.	7(1)
49.	Determine amount of any injury allowance to be paid under regulation 7(1)	7(2) and 8
50.	Determine whether and when to cease payment of an injury allowance payable under regulation 7(1)	7(3)

I warrant that all the above policies reflect the policy intention of Upper Witham Internal Drainage Board as at the Board Meeting on 11.11.2013.

Signed:



Name: Mr. Frederick Hugh Myers

Position: Chairman.

Date: 11. 11. 2013.

Signed:



Name: Jane Elizabeth Froggatt

Position: Chief Executive

Date: 11. 11. 2013.

I warrant that all the above policies reflect the policy intention of Witham First District Internal Drainage Board as at the Board Meeting on 05.11.2013.

Signed:



Name: Mr. Robert Anthony Fletcher

Position: Chairman.

Date: 5. 11. 2013

Signed:



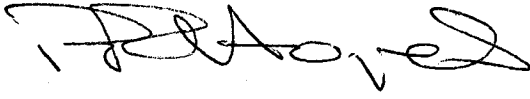
Name: Jane Elizabeth Froggatt

Position: Chief Executive

Date: 05. 11. 13.

I warrant that all the above policies reflect the policy intention of Witham Third District Internal Drainage Board as at the Board Meeting on 22.10.2013.

Signed:

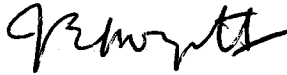


Name: Mr. Paul Hoyes

Position: Chairman.

Date: 22-10-13

Signed:



Name: Jane Elizabeth Froggatt

Position: Chief Executive

Date: 22.10.2013.