



**Issue Date:** December 2022

**Review Cycle (Years):** Annually

**Next Review Date:** 13<sup>th</sup> November 2023

**Person Responsible:** Chief Finance and Operating Officer

## LOCAL GOVERNMENT PENSIONS SCHEME (LGPS) EMPLOYER DISCRETIONS POLICY APPROVAL/CONSULTATION REQUIREMENTS

WHO BY	REQ?	DATE	WHO BY	REQ?	DATE
SLT	Y <input checked="" type="checkbox"/>	12-12-22	Corporation	Y <input checked="" type="checkbox"/>	14-12-22
Health-Safety Comm.	Y <input type="checkbox"/>		Finance-Resources Comm.	Y <input type="checkbox"/>	
Trades Union	Y <input type="checkbox"/>		Audit Comm.	Y <input type="checkbox"/>	
Education-Standards Comm.	Y <input type="checkbox"/>		Remuneration Comm.	Y <input type="checkbox"/>	
<b>POLICY LOCATION:</b> Internal <input checked="" type="checkbox"/> <b>(Sharepoint)</b> External <input checked="" type="checkbox"/> <b>(College Website)</b>					
<b>Related Documents:</b>		<ul style="list-style-type: none"> <li>Flexible Working Policy</li> </ul>		<ul style="list-style-type: none"> <li>Redundancy Policy</li> </ul>	

### 1. STATEMENT OF PURPOSE

- 1.1 Coventry College, as an employer, is under a legal duty to prepare and publish a written statement of its policy relating to certain discretionary powers under the Regulations which apply to the Local Government Pension Scheme ("the LGPS").
- 1.2 This policy statement clarifies the College position on the discretions it can exercise in accordance with the LGPS 2014 regulations and guidance on how they apply to different retirement options.

### 2. TARGET AUDIENCE

- 2.1 The policy statement applies to all members of staff who are eligible to be members of the LGPS, as defined in the regulations

### 3. PARTICULAR LEGAL REQUIREMENTS

- 3.1 The LGPS (Transitional Provision and Savings) Regulations 2014  
The Local Government Pension Scheme Regulations 2013 (as amended)  
The Local Government Pension Scheme (Administration) Regulations 2008 (as amended)  
The Local Government Pension Scheme (Transitional Provisions) Regulations 2008  
The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended)  
The Local Government Pension Scheme Regulations 1997 (as amended)

### 4. INTRODUCTION

- 4.1 The policy statement applies to all members of staff who are eligible to be members of the LGPS, as defined in the regulations.

- 4.2 Employees who are members of the pension scheme are only entitled to receive pension benefits if they have 2 years or more service. Under LGPS 2014 Regulation 18, if an employee leaves within 2 years of the start of their employment, their contributions can be repaid (Employee Contributions) or transferred to another scheme, unless there is some fraudulent offence or misconduct in connection with the employment.
- 4.3 Following the reclassification as College's as public sector organisations in November 2022 reference will be made to 'Managing Public Finances' and other relevant public sector rules and guidance

## **5. PRINCIPLES**

- 5.1 The College will treat any individual retirement case and decisions on its merits.
- 5.2 Decisions relating to retirement will be made taking into account the business case and implications for the College including financial implications, employment law consideration, the pension regulations and the specific legality of each case. It may also take into account long term savings, affordability, skills and skills retention and impact on delivery of a particular function within the College.
- 5.3 Each decision will be made free from discrimination on the grounds of any protected characteristic.
- 5.4 The College's decisions relating to retirement and the release of pension benefits will be in line with the current pension regulations. These regulations may be updated from time to time and the Authority will default to the regulations if the policy is not explicit on any current or future regulation.
- 5.5 Decisions relating to the release of deferred benefits to former employees will refer to the relevant pension policies applicable at the time of their employment. In such cases, the decision as to the release of deferred benefits will be on a case by case basis and will take into account the criteria detailed in these principles. Guidance may be sought from the pension administrators as required.

## **6. DEFINITIONS**

### **6.1 Flexible Retirement**

- 6.1.1 Flexible retirement is available to employees aged 55 or over who reduce their hours and/or grade. Although it may lead to full retirement it initially involves flexible access to pension benefits whilst continuing in College employment. It requires the College consent.

### **6.2 Early Retirement**

- 6.2.1 Early retirement is a provision for staff aged 55 or over to voluntarily choose to retire early before their Normal Pension Age (State Pension Age). It does not require the College consent.

### **6.3 Actuarial Reduction**

- 6.3.1 If a staff member aged 55 or over chooses early or flexible retirement before Normal Pension Age (State Pension Age) their benefits will normally be reduced because they are paid early. The amount of any reduction is based on how many years before Normal Pension Age the benefits are drawn. This reduction is known as an "actuarial reduction".

- 6.3.2 Staff who were members of the LGPS pm 30<sup>th</sup> September 2006 may have partial protection from the actuarial reduction under the “85-year rule”, if their age and pensionable service in whole years add up to more than 85 or more.

## 7. APPLICATION OF DISCRETIONS

- 7.1 Full record keeping will be kept within Human Resources where, the Corporation has exercised discretion as stated below, or has not applied the College normal; including financial justification of the decision

## 8. DISCRETIONS

- 8.1 These discretions are subject to change, either in line with any change in regulations or by due consideration by Coventry College. These provisions do not confer any contractual rights.
- 8.2 The LGPS Employer Discretions Policy is the College’s written policy statement detailing all mandatory employer discretions the LGPS recommend employers also publish.
- 8.3 Some of these discretions are also referred to in relevant HR policies.
- 8.4 The Regulations referred to are:

**R:** The Local Government Pension Scheme Regulations 2013 (as amended)

**TP:** The LGPS (Transitional Provision and Savings) Regulations 2014

**A:** The Local Government Pension Scheme (**Administration**) Regulations 2008 (as amended)

**B:** The Local Government Pension Scheme (**Benefits, Membership and Contributions**) Regulations 2007 (as amended)

**T :** The Local Government Pension Scheme (**Transitional Provisions**) Regulations 2008

**L:** The Local Government Pension Scheme Regulations 1997 (as amended)

## 2013 Regulations and Transitional 2014 Regulations

Employer Discretion		Regulation	CC Policy
Shared Cost APC's	Whether, how much, and in what circumstances to contribute to a shared cost APC scheme	R16(2)(e) & R16(4)(d)	Due to potential cost burden Coventry College will not normally fund additional contributions either wholly or in part.
Extension to Shared Cost APC's	Whether to extend 30-day deadline for member to elect for a shared cost APC upon return from a period of absence from work with permission with no pensionable pay (otherwise than because of illness or injury, relevant child-related leave or reserved forces service leave)	R16(16)	The College will not normally extend the 30-day deadline.
Shared AVCs	Whether, how much, and in what circumstances to contribute to shared cost Additional Voluntary Contributions (AVC's) arrangements	R17(1) & definition of SCAVC in RSch 1	The College will not normally fund additional contributions either wholly or in part.
Right to Return of contributions in cases of fraud or grave misconduct.	No right to return of contributions where a member left their employment due to offence of a fraudulent character or grave misconduct in connection with that employment, unless Employer directs a total or partial refund is to be made	R19 (2)	The College will not normally refund contributions to the member.
Flexible Retirement	Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)	R30(6) & TP11(2)	The college normal position is that requests to access flexible retirement benefits will only be approved where there is no cost to the college.
Flexible Retirement	Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement	R30(8)	The college will not normally waive any actuarial reduction that would otherwise be applied for members who take voluntary retirement or agreed flexible retirement.
Early Retirement Waive Actuarial Reduction	Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31 March 2014 membership)	R30(8)	Any employee from their 55th birthday can voluntarily retire and access their benefits with an actuarial reduction.  The college will not normally waive any actuarial reduction that would otherwise be applied for members who take voluntary retirement or agreed flexible retirement.

Employer Discretion		Regulation	CC Policy
85 Year Rule	Whether to 'switch on' the 85-year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of flexible retirement)	TPSch 2, para 1(2) & 1(1c)	<p>Employees can request that the College 'switch on' the 85-year rule, if they are eligible.</p> <p>To be eligible, the employee's LGPS Service (all service) and their age must equal 85 years or more, and they must have joined the pension scheme before 1st October 2006.</p> <p>Deferred members from the age of 55 can access their deferred pension benefits early without employer's consent; however, the pension income will reduce after the actuarial reduction is applied.</p>
Waiving Actuarial Reduction	<p>Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre-1 April 2014 and post 31 March 2014 membership):</p> <ul style="list-style-type: none"> <li>a) on compassionate grounds (pre-1 April 2014 membership) and in whole or in part on any grounds (post 31 March 2014 membership) if the member was not in the Scheme before 1 October 2006,</li> <li>b) on compassionate grounds (pre-1 April 2014 membership) and in whole or in part on any grounds (post 31 March 2014 membership) if the member was in the Scheme before 1 October 2006, will not be 60 by 31 March 2016 and will not attain 60 between 1 April 2016 and 31 March 2020 inclusive,</li> <li>c) on compassionate grounds (pre-1 April 2016 membership) and in whole or in part on any grounds (post 31 March 2016 membership) if the member was in the</li> </ul>	TP3(1), TPSch 2, para (2)1, B30(5) & B30A(5)	The College will not normally waive, on compassionate ground, any reductions that would otherwise be made to a member's pension payable on early retirement.

Employer Discretion		Regulation	CC Policy
	<p>Scheme before 1 October 2006 and will be 60 by 31 March 2016,</p> <p>d) on compassionate grounds (pre-1 April 2020 membership) and in whole or in part on any grounds (post 31 March 2020 membership) if the member was in the Scheme before 1 October 2006, will not be 60 by 31 March 2016 and will attain 60 between 1 April 2016 and 31 March 2020 inclusive</p>		
Grant Additional Pension	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. on 1 April 2014 - this figure is inflation proofed annually)	R31	The College will not normally award additional pension to either an active member or a former active member.
Transferring in non LGPS pension rights	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	R100(6)	The College's normal position is that it will not accept late elections after 12 months.
Employee Contribution Rate	Determine rate of employees' contributions and review the pension contribution band to which an employee has been allocated following a material change which affects the member's pensionable pay	R9(1) & R9(3)	The tiered contribution rate for each employee will normally be based on the pensionable pay elements immediately. Basic salary is assessed at the full-time equivalent rate in each post an employee holds.
Aggregation of Benefits: Concurrent Employments	To allow an active member with concurrent employments, who ceases an employment with an entitlement to a deferred pension, a longer period than 12 months in which to elect not to have the benefits in their deferred member's pension account aggregated with the benefits in their active member's pension account.	R22(7)(b)	The College's normal position is that it will not accept late elections after 12 months.
Aggregation of Benefits:	To allow a deferred member who again becomes an active member a longer period than 12 months in which to elect not to have	R22(8)(b)	The College's normal position is that it will not accept late elections after 12 months.

Employer Discretion		Regulation	CC Policy
Deferred Member becoming Active Member	the benefits in their deferred member's pension account aggregated with the benefits in their active member's pension account.		
Early Payment of Pension in cases of Members with Transitional Protection	To agree to that the transitional protections set out in Paragraph 1(3) of Schedule 2 to the Transitional Regulations should apply. This affects members with transitional protection who choose to retire between the ages of 55 and 60. The transitional protections offer complete or partial protection from actuarial reductions depending on the circumstances.	R2	The College will not normally agree to the payment of unreduced of unreduced retirement benefits to a member with transitional protection who meets the 85-year rule until they are aged 60.
Increase Total Membership of Active Scheme Members	To augment membership of an active member.	R12	The College would not normally augment pensions.
Assumed Pensionable Pay	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.	R21(4)(a)(iv), R21(4)(b)(iv) & R(5)	The College will examine each case at the appropriate time subject to affordability.
Early Payment	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.	B30A(3)	The College would not normally grant an early application.

## 2018 Amended Regulations

Employer Discretion		Regulation	CC Policy
Deferred Benefits	Whether to grant applications for the early payment of pension benefits on or after age 50 and before age 55.	R31(2) of the LGPS Regulations 1997. B30(2)	It is not normally the policy of the College to allow deferred benefit applications on or after age 50 and before age 55.

## 2008 Scheme (Administration) Regulations and 2007 Regulations

Employer Discretion		Regulation	CC Policy
Deferred Benefits	Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under deferred (member)	B30(5), TPSch 2, para 2(1)	The College will not normally waive any actuarial reduction for deferred members on compassionate grounds.
Deferred Benefits	Whether to 'switch on' the 85-year rule for a pensioner member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60	TPSch 2, para 1(2) & 1 (1c)	The College will not normally "switch on" the 85-year rule.

## 1997 and 1995 Scheme Regulations

Employer Discretion		Regulation	CC Policy
Deferred Benefits	Whether to grant applications for the early payment of deferred pension benefits on or after age 50 and before NRD on compassionate grounds.	TL4, L106(1) & D11(2c)	The College will not normally allow deferred benefit applications on or after age 50 and before age 55.



- 8.5 The policy in respect of each employer discretion is set out above, however, the College may give further consideration where there are exceptional circumstances and clear merit, or where the cost is not considered to be significant or material.

## **9. IMPLEMENTATION OF THE POLICY**

- 9.1 The College will ensure that the policy is displayed on our website and internal intranet.

## **10. MONITORING AND EVALUATION**

- 10.1 Responsibility for monitoring the disposal policy rests with the CFOO. The policy will be reviewed annually or more often if required.

## **11. REVIEW OF POLICY**

- 11.1 The above policy will be reviewed by the relevant parties annually or as required.

## **12. ENVIRONMENTAL IMPACT ASSESSMENT**

- 12.1 The College is fully committed to the sustainability agenda.
- 12.2 All policies take into consideration, at the time of writing and approval with the Senior Leadership Team, their impact on the agenda.
- 12.3 Policies may not be approved or be amended if they impact significantly on our commitment to improving our carbon footprint and our corporate social responsibility.

## **13. GENERAL DATA PROTECTION REGULATION (GDPR)**

- 13.1 All policies which are approved by the Senior Leadership Team are in line with our GDPR suite of policies and procedure.