

# **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 Sandy Town Council website and will also be made freely available in other ways such as intranet sites, staff groups, trade unions and HR officers.

The date of this publication is: 30 June 2014

The effective date of this policy is: 1<sup>st</sup> April 2014

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

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

Where quoted regulations\* refer to:

The Local Government Pension Scheme Regulations 2013, or The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014.

\*For certain employees/ers reference may also be contained to the following regulations:

- The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000
- The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)
- The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011

This statement will be reviewed and may change from time to time. You should obtain the latest version of this document before making

any decisions in respect of your retirement provisions as the situation may have changed.

You 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 Sandy Town 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.

Sandy Town 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 that may arise or be 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, Sandy Town 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.

Delia Shephard  
Sandy Town Council

# Local Government Pension Scheme 2014 (LGPS) - 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.

The policy of Sandy Town Council is:

That the Council will not generally, during its normal course of business ordinarily consider this discretion due to financial pressures it is currently facing, at a time when there is a need to make significant savings via the public sector spending revue.

## **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.

The policy of Sandy Town Council is:

Sandy Town Council has a flexible retirement policy 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 Sandy Town Council will consider requests on a case by case basis.

The following criteria will apply:-

There must be at least a 40% reduction in gross pay and/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.

The policy of Sandy Town Council is:

As a consequence of flexible retirement there may be a reduction to the benefit paid where the employee does so before the age of 65.

The value of any actuarial reductions will be applied. Sandy Town Council will not seek to fund the reductions applied.

### **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

The policy of Sandy Town Council is:

As a consequence there may be a reduction to the benefit paid where the employee does so before the age of 60.

The value of any actuarial reductions will be applied. Sandy Town Council will not seek to fund the reductions applied.

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

Whether to waive on compassionate grounds the actuarial reduction

applied to benefits from pre 1/4/14 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

The policy of Sandy Town Council is:

Such applications will not normally be approved by Sandy Town Council. Applications may be approved in exceptional circumstances or where there is a sound business case for doing so.

### **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.

The policy of Sandy Town Council is:

It does not believe that a business case can be argued to adopt this policy

in respect of recruitment or retention issues, as these can be successfully dealt with by other areas outside of the LGPS.

That it does not wish to adopt this policy in light of the requirement for the effective use of financial resources.

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

**Regulation B12**

(This discretion will be spent entirely after 30th September 2014, and should be removed in any further 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.

The policy of Sandy Town Council is:

That it does not wish to adopt this policy in light of the requirement for the effective use of financial resources in the current financial climate/year 2014/2015.

It does not intend to review this discretion until the financial situation has improved sufficiently in real terms.

**Regulation B30(2)\***

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

The policy of Sandy Town Council is:

That it does not wish to adopt this policy in light of the requirement for the effective use of financial resources in the current financial climate/year 2014/2015.

It does not intend to review this discretion until the financial situation has improved sufficiently in real terms

**Regulation B30(5)\***

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

The policy of Sandy Town Council is:

That it does not wish to adopt this policy in light of the requirement for the effective use of financial resources in the current financial climate/year 2014/2015.

It does not intend to review this discretion until the financial situation has improved sufficiently in real terms

**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

The policy of Sandy Town Council is:

That it will agree NOT to adopt these discretions based on compassionate grounds, as it does not feel satisfied that a relevant and workable definition is in existence with the regulation in respect of what is to be seen as compassionate grounds.

**Regulation B30A(5)\***

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

The policy of Sandy Town Council is:

That it will agree NOT to adopt these discretions based on compassionate grounds, as it does not feel satisfied that a relevant and workable definition is in existence with the regulation in respect of what is to be seen as compassionate grounds.

**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

The policy of Sandy Town Council is:

That it does not wish to adopt this policy in light of the requirement for the effective use of financial resources in the current financial

climate/year 2014/2015.

It does not intend to review this discretion until the financial situation has improved sufficiently in real terms

### **Regulation L31(5)**

Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31.3.98. / pre 1.4.08. leaver.

The policy of Sandy Town Council is:

That it will agree NOT to adopt these discretions based on compassionate grounds, as it does not feel satisfied that a relevant and workable definition is in existence with the regulation in respect of what is to be seen as compassionate grounds

### **Regulation L31(7A)**

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

The policy of Sandy Town Council is:

That it does not wish to adopt this policy for all potential members in light of the requirement for the effective use of financial resources in the current financial climate/year 2014/2015.

However, it confirms that it will consider such requests from employees where there is no capital cost to the authority.

**The Following Further Employer Discretions may be required for certain employers, for reasons of transparency, the position of Sandy Town 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 spouses 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.

The policy of Sandy Town Council is:

That any surviving spouses annual compensatory added years payment deemed payable, will be divided equally amongst those eligible for payment, where the deceased person is survived by more than one spouse or civil partner.

### **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

The policy of Sandy Town Council is:

That any annual compensatory added years payment deemed payable, to a child will be divided equally amongst those children eligible for payment. Therefore any annual added years payments will be divided equally amongst any eligible children whilst still in full time education to the age of 18 years, but can be older if since before the age of 18 years, they have been in full time education.

### **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.

The policy of Sandy Town Council is:

That the normal pension suspension 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.

The policy of Sandy Town Council is:

As suspension of pensions will not be applied under Regulation 21(7) this discretion will not be relevant to the authority.

### **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 forego 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.

The policy of Sandy Town Council 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.

The policy of Sandy Town Council is:

Sandy Town Council will suspend all annual compensatory added years during the period of re-employment.

### **Regulation 19**

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

The policy of Sandy Town Council is:

Sandy Town Council will ensure that any pension benefits accrued and payable are no greater than those which would be based on all the periods of relevant employment.

### **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.

The policy of Sandy Town Council 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.

The policy of Sandy Town Council is:

That the authority will not award lump sum compensation in cases of redundancy (except where obliged to by virtue of TUPE), termination of employment on efficiency grounds, or cessation of a joint appointment unless there are exceptional/compelling reasons to do so

### **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.*

The policy of Sandy Town Council is:

Sandy Town Council will not grant an injury allowance. Any such injury or illness sustained during the course of carrying out duties of the job will be addressed under the council's personal accident and employer's liability insurance policies.

### **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.

The policy of Sandy Town Council is:

This discretion is redundant as no injury allowance would be payable see Reg 3 (1) above.

**Regulation 3(2)**

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

N/A

**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.*

The policy of Sandy Town Council is:

*Sandy Town Council will expect compensation to be addressed by the council's insurance arrangements.*

**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.

N/A

**Regulation 4(2)**

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

N/A

**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.

N/A

**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.*

N/A

**Regulation 6(1)**

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

N/A

**Regulation 6(2)**

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

N/A

**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.

N/A

**Regulation 7(2) and 8**

Determine amount of any injury allowance

N/A

**Regulation 7(3)**

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

N/A

**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.

The policy of Sandy Town Council is:

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

### **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.

The policy of Sandy Town Council is:

That it will not set up any Shared Cost Additional Voluntary Contribution (SCAVC) Arrangements as it does not believe this to be a prudent use of funds.

### **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.

The policy of Sandy Town Council is:

*The authority may decide, based on a case by case review, not to include in the calculation of APP any "regular lump sum payment" received by a Scheme member in the 12 months preceding the date that gives rise to*

*the need for an APP figure to be calculated.*

## **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.

The policy of Sandy Town Council is:

That the authority 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) decision 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:

*Sandy Town Council's 'Adjudicator's' details are:*

<b>Name:</b>	<b>Cllr Will Jackson</b>
<b>Job Title:</b>	<b>Town Mayor</b>
<b>Full Address:</b>	<b>10 Cambridge Road Sandy</b>
<b>Post Code:</b>	<b>SG19 1JE</b>
<b>Tel No:</b>	<b>01767 681491</b>
<b>Fax No:</b>	
<b>Email Address:</b>	<b><i>mayor@sandytowncouncil.gov.uk</i></b>

## **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).

The policy of Sandy Town Council is:

That the authority will not normally extend the 12 month period to elect to retain separate benefits unless in exceptional circumstances.
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### **Councillor Members**

Discretions to be exercised on and after 1 April 2014 in relation to active councillor members, councillor members who ceased active membership on or after 1 April 1998 and any other scheme members who ceased active membership between 1 April 1998 and 31 March 2008

Regulation 106 of the Local Government Pension Scheme Regulations 1997 Scheme employers are required to have a policy in relation to two specific discretions.

Whether to grant applications for the early payment of pension benefits on or after age 50 and before age 60 [regulation 31(2) of the LGPS Regulations 1997],

N/A
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