

REPORT OF PERSONNEL MANAGER

SUBJECT: PENSION AND COMPENSATION REGULATIONS

Purpose of Report

Members are asked to approve the updated and revised pension and compensation policy.

Introduction/Background

The 2014 changes to the Local Government Pension Scheme (LGPS) and Discretionary Compensation Regulations (DCR) require this Authority to review and update its policy decisions on the items discretionary to it as an 'employing authority'.

The Authority considered the underlying principles in 2007, when it agreed its policy; this policy was reviewed, updated and consolidated in 2009.

Comparisons

Our policy sits within the range of policy positions of other NPAs and other authorities – ie it is not at either extreme.

Options

Where the same or similar options exist in the new regulations, the policy attached is largely a 'carry forward' of previous decisions. The existing policy, which forms the basis of the revised policy proposed, has supported recent staff changes effectively. Therefore no changes other than 'technical' ones are proposed.

There is a 'technical' change that is significant but not likely to have much impact, which is that as the LGPS from April 2014 is a career average revalued earnings scheme (CARE) as opposed to final salary, it is no longer possible to augment service with added years in 'efficiency' retirements.

The policy can be re-considered and changed at any time (subject to it being effective from 1 month after publication to staff).

Financial considerations

The revised policy does not include any elements that could incur any greater costs for the Authority than those in existing provisions. As noted, augmented service is no longer available, and that removes a costly option that in fact the Authority has not used in recent years.

Risk considerations

The Authority should have regard in using these employer discretions, to be satisfied that the policy is workable, affordable and reasonable. As noted, the existing policy has supported recent staff changes effectively, and needs little change.

Compliance

The policy complies with the relevant regulations and should enable the Authority to support future organisational change.

Human Rights/Equality issues

The policy follows guidance in establishing provisions which do not unfairly discriminate by age, gender, disability etc.

Biodiversity implications/Sustainability appraisal

Not applicable

Welsh Language statement

Not applicable

Conclusion

A LGPS and DCR policy that meets current regulatory requirements needs to be in place. Consideration of the existing provisions, guidance from pension staff and a review of the provisions of other authorities suggests that this Authority can largely carry over previous decisions.

Recommendation

Members are asked to approve the updated and revised pension and compensation policy.

Background Documents

NPA item 24 January 2007

NPA Sept 2009

(For further information, please contact June Skilton Personnel Manager 01646 624835)

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Consultees: CMT, staff and their representatives

PEMBROKESHIRE COAST NATIONAL PARK AUTHORITY

Employing Authority Discretions



Local Government Pension Scheme Regulations 2013

Discretion	Regulation	PCNPA Policy
To whom to offer membership of the LGPS (designation bodies).	3(1)(b) & Schedule 2, Part 2	Offer to all employees eligible to join
Which employees to designate for membership (admission bodies).	3(1)(c) & 4(2)(b)	All employees eligible to join
Whether, in respect of an admission body providing a service in respect of outsourced work, to set off against payments due to that body any sums due from that body to the Fund.	Schedule 2, Part 3, Paragraph 12(c)	Take action appropriate in respect of each admission agreement
Determine rate of employees' contributions.	9(1) & 9(3)	Apply this discretion
Whether, how much, and in what circumstances to contribute to a shared cost APC scheme.	16(2)(e)* & 16(4)(d)*	Not to apply this discretion
Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements entered into on or after 1/4/14.	17(1) & Definition of SCAVC in Schedule 1	Not to apply this discretion
No right to return of contributions if member left due to offence of a fraudulent character or grave misconduct unless employer directs a total or partial refund is to be made.	19(2)	Take action appropriate in respect of the circumstances of each case
Specify in an employee's contract what other payments or benefits, other than	20(1)(b)	Apply this discretion

those specified under Regulation 20(1)(a) and not otherwise precluded by Regulation 20(2), are to be pensionable.		
In determining Assumed Pensionable Pay, whether a lump sum payment made in the previous 12 months is a “regular lump sum”.	21(5)	Apply this discretion
Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with a new employment.	22(8)(b)	Extension allowed only in exceptional circumstances
Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with an ongoing concurrent employment.	22(7)(b)	Extension allowed only in exceptional circumstances
Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement).	30(6)*	Consider all applications taking into account financial and service delivery issues
Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement.	30(8)*	Consider all applications taking into account financial and service delivery issues
Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age.	30(8)*	Consider all applications taking into account financial and service delivery issues
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.).	31*	Not to apply this discretion
Determine whether person in receipt of Tier 3 ill health pension has started gainful employment.	37(3) & (4)	Apply this discretion based on and taking account of medical report from pension fund doctor
Whether to recover any overpaid Tier 3 pension following commencement of gainful employment.	37(3)	To recover any overpayment
Decide whether deferred beneficiary	38(3)	Apply this discretion based on and

meets criteria of being permanently incapable of former job because of ill health and is unlikely to be capable of undertaking gainful employment before normal pension age or for at least three years, whichever is the sooner.		taking account of medical report from pension fund doctor
Decide whether a suspended ill health tier 3 member is unlikely to be capable of undertaking gainful employment before normal pension age because of ill health.	38(6)	Apply this discretion based on and taking account of medical report from pension fund doctor
Whether to extend six month period to lodge a stage one IDRPs appeal.	74(4)	To extend only in exceptional circumstances
Decide procedure to be followed by adjudicator when exercising stage one IDRPs functions and decide the manner in which those functions are to be exercised.	74(6)	To adopt the formal IDRPs procedure
Whether to apply to Secretary of State for a forfeiture certificate (where member is convicted of a relevant offence).	91(1) & (8)	Take action appropriate to the circumstances of each case
Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited (other than rights to GMP – but see Regulation 95 below).	91(4)	Take action appropriate to the circumstances of each case
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.	92(1) & (2)	Take action appropriate to the circumstances of each case
Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than benefits from transferred in pension rights or APCs or AVCs or, subject to Regulation 95 below, in respect of any GMP) where the obligation was incurred as a result of a grave misconduct or a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left employment.	93(2)	Take action appropriate to the circumstances of each case

Whether, if the member has committed treason or been imprisoned for at least 10 years for one or more offences under the Official Secrets Acts, forfeiture under Regulation 91 or recovery of a monetary obligation under Regulation 93 should deprive the member or the member's surviving spouse or civil partner of any GMP entitlement.	95	Take action appropriate to the circumstances of each case
Agree to bulk transfer payment.	98(1)(b)	Apply in appropriate circumstances
Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS.	100(68)	To extend only in exceptional circumstances

* These are matters about which the regulations require there must be a written policy.

Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014

Discretion	Regulation	PCNPA Policy
Whether, how much, and in what circumstances to continue to contribute to a shared cost AVC arrangement entered into before 1/4/14.	15(1)(d)	Not to apply this discretion
Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership (where AVC arrangement was entered into before 13/11/01).	15(1)(b)	Allow applications made within 3 months of termination
Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement).	11(2)	Consider all applications taking into account financial and service delivery issues
Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.	Schedule 2, paragraph 1(2) and 2(2)*	Consider all applications taking into account financial and service delivery issues
Whether to waive, on compassionate		Consider all applications taking

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.	Schedule 2, paragraph 2(3)*	into account financial and service delivery issues
Whether to waive any actuarial reduction on pre and/or post April 2014 benefits.	3(1), Schedule 2, paragraph 2(1) and 2(2)	Consider all applications taking into account financial and service delivery issues
Whether to use a certificate produced by an IRMP under the 2008 Scheme for the purposes of making an ill health determination under the 2014 Scheme.	12(6)	Apply this discretion
Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending 31st March in the 10 years prior to leaving.	3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b)	Apply this discretion in appropriate circumstances

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Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007
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Discretion	Regulation	PCNPA Policy
Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending 31st March in the 10 years prior to leaving.	11(2)	Apply this discretion in appropriate circumstances
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. <u>Hence this discretion is spent entirely after 30th September 2014.</u>	12*	Not to apply this discretion
Whether to grant application for early payment of deferred benefits on or after	30(2)*	Consider all applications taking into account financial and service

age 55 and before age 60.		delivery issues
Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under Regulation 30.	30(5)*	Consider all applications taking into account financial and service delivery issues
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.	30A(3)*	Consider all applications taking into account financial and service delivery issues
Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under Regulation 30A.	30A(5)*	Consider all applications taking into account financial and service delivery issues
Decide whether deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria.	31(4)	Apply this discretion taking account of medical report from pension fund doctor
Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment.	31(7)	Apply this discretion taking account of medical report from pension fund doctor

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Local Government Pension Scheme (Administration) Regulations 2008

Discretion	Regulation	PCNPA Policy
Whether, how much, and in what circumstances to continue to contribute to a shared cost AVC arrangement entered into before 1/4/14.	25(3)	Not to apply this discretion
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.	47(2)	Take action appropriate to the circumstances of each case
Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA)	49(1) & (2)	Take action appropriate to the circumstances of each case

recovered from a refund of contributions can be recovered from the Pension Fund.		
Whether to extend six month period to lodge a stage one IDRP appeal.	58(7)(b)	Extend only in exceptional circumstances
Whether to apply to Secretary of State for a forfeiture certificate (where member is convicted of a relevant offence).	72(1) & (6)	Take action appropriate to the circumstances of each case
Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited.	72(3)	Take action appropriate to the circumstances of each case
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.	73(1) & (2)	Take action appropriate to the circumstances of each case
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.	74(2)	Take action appropriate to the circumstances of each case
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.	76(2) & (3)	Take action appropriate to the circumstances of each case

Local Government Pension Scheme (Transitional Provisions) Regulations 2008

Discretion	Regulation	PCNPA Policy
Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership.	Schedule 1	Allow applications made within 3 months of termination

Local Government Pension Scheme Regulations 1997 (as amended)

Discretion	Regulation	PCNPA Policy
Allow a councillor who has opted out more than once to rejoin.	7(9)(a)	Not applicable
Allow a late application by a councillor member to pay optional contributions for a period of absence.	18(6) & (7)	Not applicable
Allow post 31.3.98. / pre 1.4.08. non-councillor leaver to select final pay period for fees to be a period of not less than 3 or more than 5 years back from date of leaving.	22(1)(b)	Apply in appropriate circumstances
Issue a certificate of protection of pension benefits where eligible non-councillor member fails to apply for one (pay cuts / restrictions occurring pre 1.4.08.).	23(4)	Apply in appropriate circumstances
Grant application from a post 31.3.98. / pre 1.4.08. leaver or from a councillor for early payment of benefits on or after age 50/55 and before age 60.	31(2)*	Consider all applications taking into account financial and service delivery issues
Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31.3.98. / pre 1.4.08. leaver or a councillor leaver.	31(5)*	Consider all applications taking into account financial and service delivery issues
Councillor optants out and pre 1.4.08. employee optants out only to get benefits paid from NRD if employer agrees.	31(7A)*	Consider all applications taking into account financial and service delivery issues
Whether to extend 12 month period for aggregation of deferred benefits (where deferred councillor member wishes to aggregate with current councillor membership in the same Fund).	32(8A)	Not applicable
Decide, in the absence from a post 31.3.98. / pre 1.4.08. leaver of an election from the member within 3 months of being able to elect, which benefit is to be paid where the	34(1)(b)	The Authority to choose which benefits are payable if member does not do so within 3 months

member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership.		
Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership.	66(8) & former 66(9)(b)	Allow applications made within 3 months of termination
Consent to a member's former employer assigning to the new employer rights under any SCAVC life assurance policy (pre 1.4.08. non-councillor leavers).	71(7)(a)	Not to apply this discretion
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 (councillors and pre 1.4.08. leavers).	88(2)	Take action appropriate to the circumstances of each case
Employer may deduct contributions from an councillor's pay or reserve forces pay.	89(1) & (2)	Not applicable
Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund (councillor leavers and pre 1.4.08. leavers).	92	Take action appropriate to the circumstances of each case
Forfeiture of pension rights on issue of Secretary of State's certificate (councillors and pre 1.4.08. leavers).	111(2) & (5)	Take action appropriate to the circumstances of each case
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 (councillors and pre 1.4.08. leavers).	112(1)	Take action appropriate to the circumstances of each case
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)	Take action appropriate to the circumstances of each case

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)	Take action appropriate to the circumstances of each case
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Note: Benefits paid on or after age 50 and before age 55 are subject to an unauthorised payments charge and, where applicable, an unauthorised payments surcharge under the Finance Act 2006. Also, any part of the benefits which had accrued after 5 April 2006 would generate a scheme sanction charge.

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

Under Regulation 7 of the Discretionary Compensation Regulations, each authority (other than an Admitted Body) is required to formulate and keep under review a policy which applies in respect of exercising their discretion in relation to:

Discretion	Regulation	PCNPA Policy
To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks' pay limit.	5	To base statutory redundancy payments on actual pay
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	Redundancy: to award payment based on statutory redundancy table with a multiplier of 2 (max 60 weeks) plus release of accrued benefits Efficiency: release of accrued benefits, no lump sum compensation,
To award compensatory added years to a person aged 50 or over with 5 or more years membership (or notional membership) of the LGPS in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment which occurred after 30th September 2006 and before 1st April 2007 (but only if employment had commenced pre 1st October 2006)	11(2)	Not applicable

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

Approved NPA (Date)