West Mercia POLICE	**POLICY**	
Security Classification	**OFFICIAL**	
Disclosable under Freedom of Information Act 2000	Yes	

POLICY TITLE	**Local Government Pension Scheme Regulations - Discretions Policy**
REFERENCE NUMBER	**WMP178**
Version	**1.0**

POLICY OWNERSHIP	
DIRECTORATE	COOMERCIAL SERVICES
BUSINESS AREA	FINANCE

INITIAL IMPLEMENTATION DATE	**April 2021**
NEXT REVIEW DATE:	**March 2022**
RISK RATING	**LOW**
EQUALITY ANALYSIS	**LOW**

West Mercia Police welcome comments and suggestions from the public and staff about the contents and implementation of this policy.
Please e-mail contactus@westmercia.pnn.police.uk

1.0 PURPOSE AND SCOPE OF POLICY

The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014 so that benefits for service after 31 March 2014, build-up on a defined benefit career average revalued earnings (CARE) basis, rather than on a defined benefit final salary basis.

Scheme employers participating in the LGPS in England or Wales must formulate, publish and keep under review a statement of policy on all mandatory discretions (or where the discretion is non-mandatory, are recommended to) which they have the power to exercise in relation to members of the CARE Scheme and earlier schemes.

The table in 3.0 below lists the regulations where the employer has a discretionary policy, the nature of the discretion and the policy for the employer.

The term “employer” in the context of this document refers to the following bodies:

- West Mercia Police and Crime Commissioner
- The Chief Constable of West Mercia

The discretionary polices contained in this document apply to all police staff employees of one of the bodies listed above who are members or eligible to be members of the LGPS.

The LGPS is administered by:

- Worcestershire LGPS: Worcestershire County Council, Pensions Service, HR Service Centre, Resources Directorate, County Hall, Spetchley Road, Worcester, WR5 2NP.

2.0 IMPLICATIONS of the POLICY

There are certain financial implications that will arise if the employer chooses to exercise their discretion in particular circumstances and these are set out in the table in 3.0 below. The table also quotes the relevant pension scheme regulation for each discretion as set out in the Local Government Pension Scheme Regulations 2013.

A draft of the policy has already been provided to Worcestershire County Pensions to satisfy their requirements for a pension discretions policy from each employer covering the 2021/22 financial year, with the caveat that the policy is subject to JNCC approval.

3.0 DISCRETIONS AND EMPLOYER'S POLICY

Regulation	Employer Discretion	Employer's Policy
9(3)	How an employee's contribution band will be initially determined and thereafter reviewed	The contribution banding that an employee is placed in determines the rate of employee contributions, these are reviewed on a monthly basis as part of the payroll functionality.
31	Whether, at full cost to the Scheme employer, to grant extra annual pension of up to £6,822 (figure at 1 April 2018 – uplifted each year) to an active member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency	Additional pension will not be awarded under any circumstance.
17 & Transitional Regs 15(2A)	Whether, how much, and in what circumstances to contribute to a SCAVC arrangement.	An active member may elect to pay AVCs into a scheme established under contract between his appropriate administering authority and a body approved for the purposes of the Finance Act 2004. Under paragraph 3 of this regulation an employer can, at its discretion contribute to the AVC scheme and where they do the AVC scheme is known as a shared cost additional voluntary contributions arrangement and contributions to it as SCAVCs. The discretion will not be operated by the employer.
16 (2) & 16(4)d	Whether, where an active member wishes to purchase extra annual pension of up to £6,822 (figure at 1 April 2018 – uplifted each year) by making additional pension contributions (APCs), to voluntarily contribute	This discretion will not be operated, under no circumstances will the employer pay discretionary Additional Pension Contributions to a member's account other than where required to do so under regulations.

	towards the cost of purchasing that extra pension via a shared cost additional pension contribution (SCAPC)	
16(1).	Whether to turn down a request to pay Additional Pension Contributions / Shared Cost Additional Pension Contributions (APC / SCAPC) over a period of time where it would be impractical to allow such a request (e.g. where the sum being paid is very small and could be paid as a single payment).	For payments of £50 or less the Pension Fund will require payment by way of a single payment.
21 (4) & (5)	Whether to adjust the calculation of Assumed Pensionable Pay, when a member is: - on reduced contractual pay or no pay on due to sickness or injury, or - absent during ordinary maternity, paternity or adoption leave, or paid shared parental leave, or during paid additional maternity or adoption leave, or - absent on reserve forces service leave, or - retires with a Tier 1 or Tier 2 ill health pension, or - dies in service	If, in the Scheme employer's opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments) in the 3 months preceding the commencement of Assumed Pensionable Pay (APP), is materially lower than the level of pensionable pay the member would have normally received, decide whether to substitute a higher level of pensionable pay when calculating APP, having had regard to the level of pensionable pay received by the member in the previous 12 months

22(8 & 9)	Grant an extension to the twelve month period to separate previous local government service contained within this regulation.	Where the member has evidence that an election was made to transfer within the twelve month period but not acted on by the Force or pension administrator. Or the member was not informed of the twelve month time limit. Or there are other exceptional circumstances that caused the member to delay electing a transfer.
30	Early payment of pension **deferred benefits**. (1) If a member leaves a Local Government employment before s/he is entitled to the immediate payment of retirement benefits (apart from this regulation), once s/he has attained the age of 55 s/he may choose to receive payment of them immediately. (2) A choice made by a member of less than 60 is ineffective without the consent of his employing authority or former employing authority. (3) If the member so chooses, s/he is entitled to a pension payable immediately. (4) Her/his pension must be reduced by the amounts shown as appropriate in guidance issues by the Gov. Actuary. (5) A member's employing authority may determine on compassionate grounds that her/his retirement pension	An employee that left the LGPS before 1 April 2014 requires the employer's consent to draw pension benefits before age 60. Deferred benefits will not be paid early other than in exceptional circumstances, i.e. on medical grounds as assessed by the Force Medical Adviser or on compassionate grounds say in cases of extreme financial hardship arising as a result of being a carer for a dependant relative. The default position is that the pension benefits payable will be subject to an actuarial reduction, at no cost to the force. However, the Force may elect to waive the actuarial reduction in whole or part where a financial saving can be achieved within two years. Or the Force may exercise the waiver on compassionate grounds say in cases of extreme financial hardship arising as a result of being a carer for a dependant relative. An employee that left the LGPS after 1 April 2014 may choose to draw their deferred benefits before their Normal Pension Age. In this case the benefits will be reduced to take account of the early payment and the fact that the pension will be paid for longer. How much the deferred benefits are reduced by depends on how early they are drawn and calculated in accordance with guidance issued by the Secretary of State from time to time.

	should not be reduced under the above.	
30(6) 30(8)	An active member who has attained the age of 55 or over who reduces working hours or grade of an employment may, with the Scheme employer's consent, may elect to receive immediate payment of all or part of the retirement adjusted by the amount shown as appropriate in actuarial guidance issued by the Secretary of State. Discretion exists to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement	The default position is that the pension benefits payable will be subject to an actuarial reduction, at no cost to the force. However, the Force may elect to waive the actuarial reduction for flexible retirement in whole or part where a financial saving can be achieved within two years. Or the Force may exercise the waiver on compassionate grounds say in cases of extreme financial hardship arising as a result of being a carer for a dependant relative. When exercising the right to agree an employee's flexible retirement each application will be consider on its merits taking account of: - There is no significant detrimental effect on service delivery. - The flexible working arrangement is fair and equitable to all employees in the team. - The reduction in hours is significant (normally a minimum reduction of 20% of current hours) or the employee is moving to a lower graded post. The Director of Business Services is authorised to exercise the discretion in the circumstances described above. The cost of actuarial strain will be met by a central budget.
68(2)	Whether to require any strain on the Fund costs to be paid "up front" by employing authority following payment of benefits under Reg 30(6) (flexible retirement) Reg 30(7) (redundancy / business efficiency) or waiver (in whole or in part) under Reg 30(8) of any actuarial reduction that would otherwise have been applied to benefits which a member	In accordance with the Fund's existing Funding Strategy Statement, with the agreement of the Administering Authority, the actuarial strain can be spread for Major employing bodies over up to 5 years, however we would normally seek to pay this up front immediately.

	voluntarily draws before normal pension age or to benefits drawn on flexible retirement.	
60, 66 & Transitional Regs Sch2 para2(2)	To switch off the 85 year rule so that it does not automatically apply to members who would otherwise be subject to it and who choose to voluntarily draw their benefits on or after age 55 and before age 60. Or to switch the 85 year rule back on for such members. Where the employer does not do so if the member has already met the 85 year rule the members benefits are to be reduced in accordance with actuarial guidance issued by the Secretary of State (with benefits from any pre1 April 2008 membership for member who will not be 60 or more on 31 March 2016, and benefits from any pre 1 April 2016 for members who will be 60 or more on 31 March 2016 which would not normally be subject to an actuarial reduction nonetheless being subject to a reduction calculated by reference to the period between the date the benefits are drawn and age 60). If the member has not already	Prior to LGPS 2014 where an employee's age and length of service totalled 85 (known as the 85 Year Rule) they could retire with unreduced benefits with the consent of the employer. As the decision to retire early now rests entirely with the employee, the LGPS 2014 Regulations automatically provide for the 85 Year rule to be switched off resulting in a reduction to all the employee's benefits. This of course means there is no additional cost to the employer. The Force will not switch on the 85 Year rule for early retirement unless a financial saving can be be achieved within two years and there is a benefit to the Force. Or the Force may exercise the waiver on compassionate grounds say in cases of extreme financial hardship arising as a result of being a carer for a dependant relative. The Director of Business Services is authorised to exercise the discretion in the circumstances described above. The cost of actuarial strain in these circumstances will be charged to a central code.

	met the 85 year rule the members benefits are to be reduced in accordance with actuarial guidance issued by the Secretary of State (with the reduction on that part of the members benefits subject to the 85 Year Rule being calculated by reference to the period between the date the benefits are drawn and age 60 or the date of attaining the 85 Year Rule, whichever is the later.	
Trans Regs Sch2 para2(3)	Whether to waive on compassionate grounds, the actuarial reduction applied to benefits from pre 1 April 2014 membership where the employer has "switched on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60. (Policy required by the Administering Authority where the employer has become defunct).	
Trans Regs Sch2 para 2(5)	Whether to require any strain on Fund costs to be paid "up front" by employing authority following waiver of actuarial reduction under Trans Regs Sch 2 para 2(3)	The actuarial reduction as a result of the employee's flexible retirement will not be waivered**.**

34(1).	Whether to commute a small pension.	To allow the commutation of small pensions provided the member satisfies HMRC requirements.

Trans Regs 17(5) to (8) & Reg 40(2), Reg 43(2) & Reg 46(2) & Reg 17(12) above.	Decide to whom death grant is paid.	**Policy:** That payment is made to the nominee unless it is apparent that the nomination may no longer be valid (i.e. that the nominee may have separated or divorced since the nomination was made or other exceptional circumstances). If no nomination has been made or the nomination is no longer valid payment is made as follows, (in this order of priority): • to the spouse or partner upon production of evidence of marriage or partnership or, • any person appearing to the authority to have been his (her) relative or dependant at any time or, • to their personal representatives or, • if there is no evidence of marriage or partnership or of any persons appearing to be a relative or a personal representative, payment will be made to the Estate. If the nominee is a minor, payment is made to a trust fund in respect of the nominee. In the event of a potential dispute, the Administering Authority will gather relevant information to present to the Director of Business Services to make an informed decision regarding the distribution of the amount due.
100(6).	Extend normal time limit for acceptance of a transfer value	**Policy:**

	beyond twelve months from joining the LGPS.	To allow in exceptional circumstances where it is clear there has been an administrative delay by the employer or the scheme administrator and a quotation of what the transfer value will purchase in the LGPS has not been provided to the member. Or where the member has evidence that an election to transfer was made within the twelve month period. Or the member was not informed of the twelve month time limit. Or where there are other mitigating circumstances that resulted in the election not being made in time by the member. This is now a joint policy with the Administering Authority to prevent scheme employers from accepting late applications without good reason. The decision on whether to allow the transfer can be made by the Head of Commercial Services or the Financial Accounting Manager.
Discretions in relation to the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011, Reg 14(1)	LGPS employers, must formulate, publish and keep under review a policy on the following mandatory discretions: 1) Whether to make an injury award to those who sustain an injury or contract a disease as a result of anything they were required to do in performing the duties of their job and in consequence of which they: - suffer a reduction remuneration, or - cease to be employed as a result of an incapacity which is likely to be permanent and which was caused by the injury or disease, or - die leaving a surviving spouse, civil partner, cohabiting partner	The employer has decided not to adopt an injury allowance scheme

	or dependant. 2) How it will determine the amount of injury allowance to be paid and for how long to continue payment [regulations 3 to 7 of the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011].	

4.0 REQUESTS BY EMPLOYEES UNDER THIS POLICY

All requests by employees under this policy must be made in the first instance in writing to their manager who will then liaise with HR over the approval process. The application should include an explanation of what impact, if any, the employee believes agreeing to the request will have on the service and how, in the employee's opinion, any such impact might be accommodated. For applications of flexible retirement the employee must also specify either the revised contractual salary or working hours.

Each request will be considered on an individual basis, and decisions made on the specific merits of each case. There will be no automatic consent.

5.0 APPLICATIONS ON COMPASSIONATE GROUNDS

Applications on compassionate grounds can cover a variety of situations, including injury on duty, and a written application outlining the case should be submitted to the employee’s manager. Evidence is expected to be submitted supporting the application & the employer reserves the right to seek additional information or evidence should it feel necessary. An example would be an application for actuarial reductions in benefits to be waived by the employer. Actuarial reductions would normally be applied to benefits which are paid before Normal Pension Age. Benefits will be subject to the actuarial reduction applicable under the LGPS Regulations. The employer can waive any actuarial reduction (not just limited to being on compassionate grounds) and the cost to the pension fund of waiving any actuarial reduction would have to be met by the employer from a central cost code. It is expected that any request to waive an actuarial reduction will only be granted in exceptional circumstances and will need to be approved by the Director of Business Services, who will require full details of the employee’s particular circumstances.

6.0 CONSULTATION

Business Lead/ Chief Officer Consulted	***Date Consulted***
Richard Muirhead, Head of Commercial Services	March 2021

- Rachael Neale, Senior People and OD Manager - March / July 2021
- Sue Nichols, Payroll Manager - March / July 2021
- Critical Friends Group

7.0 DOCUMENT HISTORY

Date	Author / Reviewer	Amendment(s) & Rationale	Date of Approval / Adoption
April 2021	Mike Kaine	New Policy for Worcestershire County Pensions	JNCC Exec Board 09/11/2021

8.0 HEALTH & SAFETY, RISK AND EQUALITIES ASSESSMENT AND ANALYSIS

The Equality Analysis (EA), Health & Safety Assessment (HAS) and Risk Assessment (RA) associated with this document are available on request.

9.0 MONITORING / EVALUATION

The monitoring and review of this policy is the responsibility of the policy owner. The policy will be reviewed on an annual basis in line with the pension scheme regulations.