

<b>The report is for decision.</b>
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<b>REPORT TO: Fire Authority</b>
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<b>DATE: 10 December 2018</b>
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<b>SUBJECT: Local Government Pension Scheme – Discretionary Policies</b>
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<b>SUMMARY:</b>
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The Authority is required under Regulation of the Local Government Pension Scheme (LGPS) Regulations 2013 to make decisions on matters relating to the application of the LGPS. These are in place for the current scheme as previously agreed by the Authority.

Due to the introduction of the Local Government Pension Scheme (LGPS) (Amendment) Regulations 2018, there is a need for the Fire Authority to undertake a review of the current discretionary policies and any additional discretions that are required to be formulated under the Regulations that govern the LGPS.

<b>RECOMMENDATIONS:</b>
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That the employer discretions under the LGPS as recommended in Appendix 1 be approved.

<b>REPORT APPROVAL</b>
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<b>Clerk:</b>	<b>Comments: Approved</b> <b>Date: 03.12.18</b>
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<b>Director:</b>	<b>Comments: Approved</b> <b>Date: 03.12.18</b>
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<b>Finance/Treasurer:</b>	<b>Comments: Approved</b> <b>Date: 03.12.18</b>
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<b>Chief Fire Officer</b>	<b>Comments: Approved</b> <b>Date: 03.12.18</b>
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<b>BACKGROUND PAPERS USED IN PREPARATION OF THIS REPORT:</b>
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Presenting the Report:	Mr Chris Moore, Section 151 Officer
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Report Author(s) and Designation	Mr Mark Miles Head of Human Resources
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Date original report written	17 November 2018
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<b>Mae'r adroddiad Heb ei Eithrio</b>	
<b>Mae'r adroddiad ar gyfer Penderfyniad</b>	
<b>ADRODDIAD I: YR AWDURDOD TÂN</b>	<b>DYDDIAD Y CYFARFOD: 10 Rhagfyr 2018</b>

<b>PWNC: Polisïau yn ôl Disgresiwn y Cynllun Pensiwn Llywodraeth Leol</b>
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<p><b>CRYNODEB:</b> O dan Reoliadau Cynllun Pensiwn Llywodraeth Leol 2013, mae'n ofynnol i'r Awdurdod wneud penderfyniadau ar faterion sy'n ymwneud â chymhwyso'r Cynllun Pensiwn Llywodraeth Leol. Mae'r rhain ar waith ar gyfer y cynllun cyfredol, fel y cytunwyd arnynt yn flaenorol gan yr Awdurdod.</p> <p>O ganlyniad i gyflwyno Rheoliadau Cynllun Pensiwn Llywodraeth Leol (Diwygio) 2018, mae angen i'r Awdurdod Tân gynnal adolygiad o'r polisïau cyfredol yn ôl disgresiwn ac unrhyw ddisgresiwn y mae'n ofynnol ei lunio o dan y Rheoliadau sy'n llywodraethu'r Cynllun Pensiwn Llywodraeth Leol.</p>
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<p><b>ARGYMHELLIAD/ARGYMHELLION:</b> Bod disgresiwn y cyflogwr o dan y Cynllun Pensiwn Llywodraeth Leol, fel yr argymhellir yn Atodiad 1, yn cael ei gymeradwyo.</p>
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<b>CYMERADWYO'R ADRODDIAD</b>	
<b>Clerc:</b>	<b>Sylwadau: Cymeradwywyd Dyddiad: 03.12.18</b>
<b>Cyfarwyddwr:</b>	<b>Sylwadau: Cymeradwywyd Dyddiad: 03.12.18</b>
<b>Cyllid/Trysorydd:</b>	<b>Sylwadau: Cymeradwywyd Dyddiad: 03.12.18</b>
<b>Prif Swyddog Tân</b>	<b>Sylwadau: Cymeradwywyd Dyddiad: 03.12.18</b>

<b>PAPURAU CEFNDIR A DDEFNYDDIWDYD WRTH BARATO'I'R ADRODDIAD HWN:</b>
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Yn cyflwyno'r Adroddiad:	Chris Moore Swyddog Adran 151
Awdur(on) yr Adroddiad a'u Swyddi	Mr Mark Miles Pennaeth Adnoddau Dynol
Dyddiad ysgrifennu'r adroddiad gwreiddiol	17 Tachwedd 2018

**REPORT TO THE FIRE AUTHORITY  
10 DECEMBER 2018  
LOCAL GOVERNMENT PENSION SCHEME DISCRETIONARY POLICIES**

## **Summary**

The Authority is required under Regulation of the Local Government Pension Scheme (LGPS) Regulations 2013 to make decisions on matters relating to the application of the LGPS. These are in place for the current scheme as previously agreed by the Authority.

Due to the introduction of the Local Government Pension Scheme (LGPS) (Amendment) Regulations 2018, there is a need for the Fire Authority to undertake a review of the current discretionary policies and any additional discretions that are required to be formulated under the Regulations that govern the LGPS.

## **1 Introduction**

- 1.1 As is the case for the vast majority of public sector organisations, the Authority is required to confirm how it will apply certain employer discretions in relation to the LGPS and other pension related regulations. The Local Government Pension Scheme (Amendment) Regulations 2018 were introduced on 14 May 2018, and it is necessary to determine new and review existing discretions to ensure that they comply with the amendments and continue to achieve the Authority's business needs.
- 1.2 In formulating and reviewing policies it is a statutory requirement to have regard to the extent on which the exercise of discretionary powers, unless properly limited, could lead to a serious loss in confidence in the public service. The Authority must be satisfied that the policies are workable, affordable and reasonable, having regard to the foreseeable costs.
- 1.3 It is therefore appropriate to consider the reason for any compensatory payments being awarded on early termination of employment through redundancy or efficiency. Whilst primarily viewed as management tools, the rationale is likely to be for at least one of the following reasons:
- Compensation for loss of employment
  - Compensation for loss of pension rights
  - To encourage volunteers for early retirement to assist with organisational change management and efficiencies
- 1.4 The use of discretions is complex and in completing the review consideration has been given to the following:
- Ensuring they work effectively
  - Providing a balance between flexibility and consistency taking into account business need
  - Reflecting the current arrangements which have worked effectively in practice.

## **2 National/Wales Position**

- 2.1 Each local government employing authority must formulate, publish and keep under review a policy statement in relation to the exercise of a number of discretions under the LGPS.
- 2.2 Each employing authority will consider its individual application of the discretions giving regard to the policies being fair, fit for purpose and affordable.

## **3 MAWWFRS - Current Position**

- 3.1 The current LGPS discretions include compensatory awards for early retirement, bumped redundancy (of no more than 3 tiers), pay in lieu of notice, and flexible retirement. The full list of discretions is contained within Appendix 1, and the discretions indicated as Mandatory Written Policy are those that must be included in the Authority's Published Policy Statement.
- 3.2 Responsibility for the application of the Authority's discretions in relation to non-Chief Officers is delegated to Director level, and the Authority's policy on the application of discretions is attached at Appendix 2. Each case will be considered on its merits.

## **4 Proposal**

- 4.1 Due to the lean support staff structure, flexibility is a key element in managing effective change and ensuring the Service is suitably staffed to meet the challenges of the future. The Authority's current discretions under the LGPS are considered to provide a balance in terms of affordability and are deemed to be fair, consistent and transparent in application. Furthermore, as stated above, each case considered under the discretions will be considered on its own merits.
- 4.2 It is therefore proposed that the current discretions are retained where regulations allow, and new discretions as proposed (set out in red) in Appendix 1 are approved. With the exception of those highlighted yellow, the discretionary policies mirror those proposed by the Local Government Pension Scheme Administrators.

## **5 Financial Implications**

- 5.1 There are no changes to existing financial arrangements.

## **6 Risk Assessment/Legal Implications**

- 6.1 Employers have a statutory requirement to prepare and publish a policy statement on employer discretions under the LGPS and other pension regulations.

## **7 Equality & Diversity Inc Welsh Language**

- 7.1 All practices are considered to comply with Equality, Inclusion and Diversity legislation, together with the requirements of the Welsh Language Act.

## **8 Human Resource & People Development**

- 8.1 A formal policy statement must be published and a period of 1 month must elapse before the new policies can come into effect.

## **9 Information and Communications Technology**

9.1 Considered not relevant.

## **10 Estates**

Considered not relevant.

## **11 Service Delivery**

11.1 The Service is committed to the continued employment and development of employees and early retirement/redundancy should only be considered in the circumstances where the employee's skills and abilities no longer meets the needs of the Service, or where there are circumstances that warrant early retirement/redundancy on compassionate grounds or the acceptance of voluntary severances to assist with organisational change. Accordingly, discretionary policies provide the Service with additional flexibility during workforce planning and are essential to workforce management during times of significant change.

## **12 Fire Authority Governance**

12.1 The Authority is required to formulate and publish a policy statement on the use of discretions under the LGPS.

## **13 Consultation and Communication**

13.1 Communication with employees and trade unions will be undertaken through the normal channels.

## **14 Evaluation**

14.1 Considered not relevant

## **15 Well-being of Future Generations (Wales) Act 2015**

15.1 The Service is committed to ensuring that the key principles of the Well-being of Future Generations (Wales) Act 2015 are supported.

## **16 Data Protection and Privacy Issues**

16.1 All personal and sensitive information is processed in accordance with the Authority's Data Protection procedures.

## **17 Recommendation**

17.1 That the employer discretions under the LGPS as recommended in Appendix 1 be approved.



## Local Government Pension Scheme Regulations 2013

Appendix 1

Discretionary policies from 1 April 2014 in relation to post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members).

Employer Discretion	Regulation	Recommendation
To whom to offer membership of the LGPS (designation bodies).	2(1B)(a) & Schedule 2, Part 2	All members eligible to join.
Which employees to designate for membership (admission bodies).	2(1C), 3(1)(b) & 4(2)(b)	All members 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 appropriate action depending on circumstances relating to each case.
Determine rate of employees' contributions.	9(1) & 9(3)	Apply this discretion.
<b>MANDATORY WRITTEN POLICY.</b> Whether, how much, and in what circumstances to contribute to a shared cost Additional Pension Contribution (APC) scheme.	16(2)(e)* & 16(4)(d)*	Not to apply this discretion.
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 reserve forces service leave).	16(16)	Extensions only in exceptional circumstances.
Whether, how much, and in what circumstances to contribute to shared cost Additional Voluntary Contribution (AVC) arrangements.	17(1) & Definition of SCAVC in	Not to apply this discretion.

	Schedule 1	
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.	19(2)	Take appropriate action depending on the circumstances relating to each case.
Specify in an employee's contract what other payments or benefits, other than those specified under Regulation 20(1)(a) and not otherwise precluded by Regulation 20(2), are to be pensionable.	20(1)(b)	Apply this discretion.
In determining Assumed Pensionable Pay (APP), whether a lump sum payment made in the previous 12 months is a "regular lump sum".	21(5)	Apply this discretion.
Where in the Employer's opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments) in the 3 months (or 12 weeks if not paid monthly) 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 having regard to the level of pensionable pay received by the member in the previous 12 months.	21(5A) & 21(5B)	Apply this discretion in appropriate circumstances.
Whether to extend the 12 month option period for a member to elect that post 31 March 2014 deferred benefits should not be aggregated with a new employment.	22(8)(b)	Extensions only in exceptional circumstances.
Whether to extend the 12 month option period for a member to elect that post 31 March 2014 deferred benefits should not be aggregated with an ongoing concurrent employment.	22(7)(b)	Extensions only in exceptional circumstances.
<b>MANDATORY WRITTEN POLICY.</b> Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible	30(6)*	Consider all applications taking into account all financial and service delivery issues.

retirement).		
<b>MANDATORY WRITTEN POLICY.</b> Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement.	30(8)*	Consider all applications taking into account all financial and service delivery issues.
<b>MANDATORY WRITTEN POLICY.</b> 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).	30(8)*	Consider all applications taking into account all financial and service delivery issues.
<b>MANDATORY WRITTEN POLICY.</b> 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).	31*	Apply this discretion up to a maximum sum equivalent to 3 added years.
Determine whether person in receipt of Tier 3 ill health pension has started gainful employment.	37(3) & (4)	Apply this discretion based on Medical Certification from Pension Fund Doctor.
Whether to recover any overpaid Tier 3 pension following commencement of gainful employment.	37(3)	Recover in appropriate circumstances.
Decide whether deferred beneficiary 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.	38(3)	Apply this discretion based on Medical Certification 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	38(6)	Apply this discretion based on Medical Certification from Pension Fund Doctor.

age because of ill health.		
<b>MANDATORY WRITTEN POLICY.</b> Whether to “switch on” the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60.	60*	Consider all applications taking into account all financial and service delivery issues.
Whether to extend six month period to lodge a stage one IDRП appeal.	74(4)	Extensions only in exceptional circumstances.
Decide procedure to be followed by adjudicator when exercising stage one IDRП functions and decide the manner in which those functions are to be exercised.	74(6)	Apply this discretion in line with the internal IDRП arrangement.
Whether to apply to Secretary of State for a forfeiture certificate where member is convicted of a relevant offence (a relevant offence is an offence committed in connection with an employment in which the person convicted is a member, and because of which the member left the employment).	91(1) & (8)	Take appropriate action depending on the circumstances relating to 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 appropriate action depending on the circumstances relating to 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 appropriate action depending on the circumstances relating to 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	93(2)	Take appropriate action depending on the circumstances relating to each case.

omission in connection with the employment and as a result of which the person has left employment.		
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 appropriate action depending on the circumstances relating to 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(6)	Extend 12 months to 3 years.

\* 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

Discretionary policies from 1 April 2014 in relation to post 31 March 2014 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members).

Employer Discretion	Regulation	Policy
Issue a certificate of protection of pension benefits where member fails to apply for one (pay cuts / restrictions occurring pre 1 April 2008).	3(1)(a)	Apply this discretion in appropriate circumstances.
Whether to extend the 12 month option period for a member (who did not become a member of the 2014 Scheme by virtue of Regulation 5(1)) to elect that pre 1 April 2014 deferred benefits should be aggregated with a new employment.	10(6)	Extensions only in exceptional circumstances.
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(2A)(b)	Application must be made within 3 months of termination.
<b>MANDATORY WRITTEN POLICY.</b> 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 all financial and service delivery issues.
<b>MANDATORY WRITTEN POLICY.</b> 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).	Schedule 2, paragraph 1(2) and 1(1)(c)*	Consider all applications taking into account all financial and service delivery issues.
<b>MANDATORY WRITTEN POLICY.</b> 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 1(1)(c)*	Consider all applications taking into account all financial and service delivery issues.

<p><b>MANDATORY WRITTEN POLICY.</b> 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.</p>	<p>Schedule 2, paragraph 1(2) and 1(1)(c)*</p>	<p>Consider all applications taking into account all financial and service delivery issues.</p>
<p><b>MANDATORY WRITTEN POLICY.</b> Whether to “switch on” the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60.</p>	<p>Schedule 2, paragraph 1(2) and 1(1)(f)*</p>	<p>Consider all applications taking into account all financial and service delivery issues.</p>
<p><b>MANDATORY WRITTEN POLICY.</b> 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 Scheme before 1 October 2006 and will be 60 by 31 March 2016,</li> <li>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.</li> </ul>	<p>Schedule 2, paragraph 2(1) &amp; 3(1)*</p>	<p>Consider all applications taking into account all financial and service delivery issues.</p>

<b>MANDATORY WRITTEN POLICY.</b> Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under Regulation 30 of the Benefits, Membership & Contributions Regulations 2007 (member).	Schedule 2, paragraph 2(1)*	Consider all applications taking into account all financial and service delivery issues.
<b>MANDATORY WRITTEN POLICY.</b> Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under Regulation 30A Benefits, Membership & Contributions Regulations 2007 (pensioner member with deferred benefits).	Schedule 2, paragraph 2(1)*	Consider all applications taking into account all financial and service delivery issues.
<b>MANDATORY WRITTEN POLICY.</b> Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early.	Schedule 2, paragraph 2(1)*	Consider all applications taking into account all 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.
Whether to extend six month period to lodge a stage one IDR appeal.	23	Extensions only in exceptional circumstances.
Decide procedure to be followed by adjudicator when exercising stage one IDR functions and decide the manner in which those functions are to be exercised.	23	Extensions only in exceptional circumstances.

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

## Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007

Discretionary policies in relation to scheme members (excluding councillor members) who ceased active membership on or after 1 April 2008 and before 1 April 2014.

Employer Discretion	Regulation	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.
<b>MANDATORY WRITTEN POLICY.</b> Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under Regulation 30 (member).	30(5)*	Consider all applications taking into account all financial and service delivery issues.
<p><b>MANDATORY WRITTEN POLICY.</b> 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 Scheme before 1 October 2006 and will be 60 by 31 March 2016,</li> <li>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.</li> </ul>	30(5)* & 30A(5)*	Consider all applications taking into account all financial and service delivery issues.

<b>MANDATORY WRITTEN POLICY.</b> Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under Regulation 30A (pensioner member with deferred benefits).	30A(5)*	Consider all applications taking into account all 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 based on Medical Certification 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 based on Medical Certification from Pension Fund Doctor.

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

## Local Government Pension Scheme (Administration) Regulations 2008

Discretionary policies in relation to scheme members (excluding councillor members) who ceased active membership on or after 1 April 2008 and before 1 April 2014.

Employer Discretion	Regulation	Policy
No right to return of contributions where 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.	47(2)	Take appropriate action depending on the circumstances relating to each case.
Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund.	49(1) & (2)	Not to apply this discretion.
Whether to apply to Secretary of State for a forfeiture certificate where member is convicted of a relevant offence (a relevant offence is an offence committed in connection with an employment in which the person convicted is a member, and because of which the member left the employment).	72(1) & (6)	Take appropriate action depending on the circumstances relating to each case.
Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited.	72(3)	Take appropriate action depending on the circumstances relating to 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 appropriate action depending on the circumstances relating to each case.

<p>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.</p>	<p>74(2)</p>	<p>Take appropriate action depending on the circumstances relating to each case.</p>
<p>Whether to recover from Fund any financial loss caused by fraudulent offence or grave misconduct of employee (who has left employment because of that fraudulent offence or grave misconduct), or amount of refund if less.</p>	<p>76(2) &amp; (3)</p>	<p>Take appropriate action depending on the circumstances relating to each case.</p>

## Local Government Pension Scheme (Transitional Provisions) Regulations 2008

Discretionary policies in relation to scheme members (excluding councillor members) who ceased active membership on or after 1 April 2008 and before 1 April 2014.

Employer Discretion	Regulation	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	Application must be made within 3 months of termination.
Issue a certificate of protection of pension benefits where member fails to apply for one (pay cuts / restrictions occurring pre 1 April 2008).	Schedule 1	Apply this discretion in appropriate circumstances.

## Local Government Pension Scheme Regulations 1997 (as amended)

Discretionary policies in relation to active welsh councillor members, councillor members who ceased active membership on or after 1 April 1998, and any other scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008.

Employer Discretion	Regulation	Policy
Allow a councillor who has opted out more than once to re-join.	7(9)(a)	NA
Allow a late application by a councillor member to pay optional contributions for a period of absence.	18(6) & (7)	NA
Issue a certificate of protection of pension benefits where fails to apply for one (pay cuts / restrictions occurring pre 1 April 2008).	23(4)	Apply in appropriate circumstances.
<b>MANDATORY WRITTEN POLICY.</b> Grant application for early payment of deferred benefits on or after age 50 and before age 55.	31(2)*	Consider all Applications.
<b>MANDATORY WRITTEN POLICY.</b> Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early.	31(5)*	Consider all Applications.
<b>MANDATORY WRITTEN POLICY.</b> Optants out only to get benefits paid from NRD if employer agrees.	31(7A)*	NA
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)	NA
Decide, in the absence of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership.	34(1)(b)	Mid & West Wales FRS to choose which benefits are payable if the member doesn't do so within 3 months.

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 November 2001).	66(8) & former 66(9)(b)	Application must be 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.	71(7)(a)	Not to apply this discretion.
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.	88(2)	Take appropriate action depending on the circumstances relating to each case.
Employer may deduct contributions from a councillor's pay or reserve forces pay.	89(1) & (2)	NA
Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund.	92	Take appropriate action depending on the circumstances relating to each case.
<b>MANDATORY WRITTEN POLICY.</b> Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds.	106(1)*	Consider all Applications.
Forfeiture of pension rights on issue of Secretary of State's certificate following a relevant offence (a relevant offence is an offence committed in connection with an employment in which the person convicted is a member, and because of which the member left the employment).	111(2) & (5)	Take appropriate action depending on the circumstances relating to 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.	112(1)	Take appropriate action depending on the circumstances relating to 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).	113(2)	Take appropriate action depending on the circumstances relating to each case.
Recovery from Fund of financial loss caused by employee, or amount of refund if less.	115(2) & (3)	Take appropriate action depending on the circumstances relating to each case.

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

**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 Pension Scheme (Transitional Provisions) Regulations 1997

Discretionary policies in relation to scheme members who ceased active membership before 1 April 1998.

Employer Discretion	Regulation	Policy
<p><b><u>MANDATORY WRITTEN POLICY.</u></b> Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds.</p>	<p>4*</p>	<p>Consider all Applications.</p>

## Local Government Pension Scheme Regulations 1995 (as amended)

Discretionary policies in relation to scheme members who ceased active membership before 1 April 1998.

Employer Discretion	Regulation	Policy
<b>MANDATORY WRITTEN POLICY.</b> Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds.	11(2)(c)*	Consider all Applications.
Decide, in the absence of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership.	10	Mid & West Wales FRS to choose which benefits are payable if the member doesn't do so within 3 months.

**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. However, as the benefits had accrued prior to 6 April 2006, they would not generate a scheme sanction charge.

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

Discretionary policies in relation to employees of an employing authority that is defined under regulation 2 of The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended).

Employer Discretion	Regulation	Policy
<b>MANDATORY WRITTEN POLICY.</b> To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks pay limit.	5	To be based on an actual week's pay.
<b>MANDATORY WRITTEN POLICY.</b> 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	Discretion to award up to 60 weeks' pay for redundancy and release of accrued benefits For efficiency, the release of accrued benefits only.

**Note:** For the purposes of the above regulations '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. The employing authority must be a body that is defined in regulation 2 of the above regulations. Although the above regulations have not been updated to reflect the 2014 Scheme, essentially an employer defined under regulation 2 is a body that is listed under the following provisions of the LGPS Regulations 2013 (excluding admitted bodies, though an admitted body may use these regulations by analogy and, if they do so, might wish to have a written policy):

- Part 1 of Schedule 2 (scheduled bodies)
- Part 2 of Schedule 2 (designate bodies)
- Part 4 of Schedule 2 of the LGPS Regulations (a person employed by a body listed in Part 4 that is deemed to be a scheduled body)

### **Formulating and publishing a policy under the Discretionary Compensation Regulations 2006**

The employer must formulate, publish and keep under review a statement of their policy. If the employer decides to amend the policy, no change can come into effect until one month has passed since the date the amended policy statement was published.

In formulating and reviewing its policy an employer is required by the Regulations to:

- have regard to the extent to which the exercise of their discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service, and
- be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

## Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended)

Discretionary policies in relation to former employees of an employing authority that is a body that is a scheduled body, a designate body, or a body that is deemed to be a scheduled body under the LGPS Regulations 2013 and equivalent predecessor regulations (excluding admitted bodies).

Employer Discretion	Regulation	Policy
<p><b>MANDATORY WRITTEN POLICY.</b> 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.</p>	21(4)	Apportioned on same basis as main scheme benefits.
<p><b>MANDATORY WRITTEN POLICY.</b> 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.</p>	25(2)	Apportioned on same basis as main scheme benefits.
<p><b>MANDATORY WRITTEN POLICY.</b> 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.</p>	21(7)	CAY payments to continue in payment.
<p><b>MANDATORY WRITTEN POLICY.</b> 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, new civil partnership or cohabitation.</p>	21(5)	NA

<p><b>MANDATORY WRITTEN POLICY.</b> Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse 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 spouse's or civil partners annual CAY payment, the normal rule 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.</p>	21(7)	CAY payments to continue in payment.
<p><b>MANDATORY WRITTEN POLICY.</b> Whether 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.</p>	17	No longer abate. Mirrors DPF policy from 1.10.2006.
<p><b>MANDATORY WRITTEN POLICY.</b> How to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment in local government.</p>	19	No longer abate. Mirrors DPF policy from 1.10.2006.

**Note:** The list of discretions under the above regulations are in relation to compensatory added years made under those regulations and in their continuing application (i.e. not new awards made to current employees). The employing authority is a body that is a scheduled body, a designate body, or a body that is deemed to be a scheduled body under the LGPS Regulations 2013 and equivalent predecessor regulations (excluding admitted bodies, though an admitted body may use these regulations by analogy and, if they do so, might wish to have a written policy).

### **Formulating and publishing a policy under the Discretionary Compensation Regulations 2000**

The employer must formulate, publish and keep under review a statement of their policy.

If the employer decides to amend the policy, a new written statement must be published within a month of when the employer decided on the amendment(s). No change can come into effect until one month has passed since the date the amended policy statement was published. In formulating and reviewing its policy an employer is required by the Regulations to:

- have regard to the extent to which the exercise of their discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service, and
- be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

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

Discretionary policies which relate to injury allowances, apply only in respect of leavers, deaths and reductions in pay that occurred before 16 January 2012; and which relate to gratuities, apply only in respect of leavers and deaths that occurred before 16 January 2012.

Employer Discretion	Regulation	Policy
<b>MANDATORY WRITTEN POLICY.</b> 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)*	Mid & West Wales FRS has elected NOT to implement an Injury Allowance under the above Regulations.
<b>MANDATORY WRITTEN POLICY.</b> 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*	See 3 (1)
<b>MANDATORY WRITTEN POLICY.</b> Determine whether person continues to be entitled to an injury allowance awarded under Regulation 3(1) (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(2)*	See 3 (1)
<b>MANDATORY WRITTEN POLICY.</b> 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)*	See 3 (1)
<b>MANDATORY WRITTEN POLICY.</b> 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*	See 3 (1)

<p><b><u>MANDATORY WRITTEN POLICY.</u></b> Determine whether person continues to be entitled to an injury allowance awarded under Regulation 4(1) (loss of employment through permanent incapacity).</p>	4(2)*	See 3 (1)
<p><b><u>MANDATORY WRITTEN POLICY.</u></b> Whether to suspend or discontinue injury allowance awarded under Regulation 4(1) (loss of employment through permanent incapacity) if person secures paid employment for not less than 30 hours per week for a period of not less than 12 months.</p>	4(5)*	See 3 (1)
<p><b><u>MANDATORY WRITTEN POLICY.</u></b> Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a Regulation 3 payment (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job) was being made at date of cessation of employment but Regulation 4 (loss of employment through permanent incapacity) does not apply.</p>	6(1)*	See 3 (1)
<p><b><u>MANDATORY WRITTEN POLICY.</u></b> Determine amount of any injury allowance to be paid under Regulation 6(1) (payment of injury allowance following the cessation of employment).</p>	6(1)*	See 3 (1)
<p><b><u>MANDATORY WRITTEN POLICY.</u></b> Determine whether and when to cease payment of an injury allowance payable under Regulation 6(1) (payment of injury allowance following the cessation of employment).</p>	6(2)*	See 3 (1)
<p><b><u>MANDATORY WRITTEN POLICY.</u></b> 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.</p>	7(1)*	See 3 (1)

<p><b>MANDATORY WRITTEN POLICY.</b> Determine amount of any injury allowance to be paid to the spouse, civil partner, nominated co-habiting partner (for awards made on or after 1 April 2008 the requirement to nominate a co-habiting partner has ceased due to the outcome of the Elmes v Essex high court judgement) or dependent of an employee under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).</p>	7(2) and 8*	See 3 (1)
<p><b>MANDATORY WRITTEN POLICY.</b> Determine whether and when to cease payment of an injury allowance payable under Regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).</p>	7(3)*	See 3 (1)

**Note:** For the purposes of the above regulations '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. The employing authority is a body that is a scheduled body, a designate body, or a body that is deemed to be a scheduled body under the LGPS Regulations 2013 and equivalent predecessor regulations (excluding admitted bodies, though an admitted body may use these regulations by analogy and, if they do so, might wish to have a written policy).

### **Formulating and publishing a policy under the Injury Allowances Regulations 2011\***

Each LGPS employer (other than an Admitted Body) 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.

If the employer decides to change the policy, no change can come into effect until one month has passed since the date the amended policy statement is published.

In formulating and reviewing its policy an employer is required by the Regulations to:

- have regard to the extent to which the exercise of their discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service, and
- be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

## Local Government (Discretionary Payments) Regulations 1996 (as amended)

Discretionary polices which relate to injury allowances, apply only in respect of leavers, deaths and reductions in pay that occurred before 16 January 2012; and which relate to gratuities, apply only in respect of leavers and deaths that occurred before 16 January 2012.

Employer Discretion	Regulation	Policy
Suspend or discontinue injury allowance if person becomes capable of working again.	34(4)	Apply this discretion.
Amount of injury allowance following reduction in pay after sustaining an injury or contracting a disease as a result of anything required to do in carrying out duties of job.	35(3) and 38	Pay to be assessed at the rate which would have applied if he had not been absent from work.
Amount and duration of injury allowance following cessation of employment where regulation 35 payment (injury allowance following reduction in pay after sustaining an injury or contracting a disease as a result of anything required to do in carrying out duties of job) was being made but regulation 34 (injury allowance following loss of employment through permanent incapacity after sustaining an injury or contracting a disease as a result of anything required to do in carrying out duties of job) does not apply.	36	Injury allowance to cease upon retirement.
Amount and duration of a dependant's, spouse's or civil partner's injury allowance following death of employee after sustaining an injury or contracting a disease as a result of anything required to do in carrying out duties of job.	37(3), 37(6) and 38	Injury allowance to cease upon death of scheme member

Reinstate spouse's or civil partner's injury allowance following earlier cessation due to cohabitation, remarriage or registration of a new civil partnership.	37(4)	Not to apply this discretion.
Amount of gratuity payable to surviving dependant, spouse or civil partner where amount of annuity payments fall short of their capital value at date of award.	41(4)	Not to apply this discretion.
Amount of gratuity payable to surviving dependant, spouse or civil partner where amount of redundancy annuity payments fall short of their capital value at date of award.	42(4)	Not to apply this discretion.
Amount of gratuity payable to any other surviving dependant, spouse or civil partner where amount of annuity payments paid under Regulation 42(4) fall short of their capital value at date of award.	42(7)	Not to apply this discretion.
Formulate and keep under review the injury allowance and gratuity policies to be operated by the authority.	46A	Apply this discretion.

## **Mid & West Wales Fire & Rescue Authority**

### **Early Voluntary Retirement / Redundancy Policy Statement for Support Staff and Service Control Employees**

#### **1.0 Introduction**

The Authority is required to publish its written policy in respect of the Discretionary Compensation Regulations under the Local Government Pension Scheme (LGPS). The full written policy statement is available on the @work site. These discretions are subject to change, either in line with any change in regulations or by due consideration by the Authority. These provisions do not confer any contractual rights.

#### **2.0 Principles**

This document sets out the principles under which those delegated with the responsibility for the application of the Authority's Early Voluntary Retirement / Redundancy (EVR) provisions must operate.

Except in circumstances of Chief Officers, all applications for EVR, will be considered for approval by the Service Director with responsibility of the affected function, together with the Director of Resources. In considering such matters Officers must have regard to the extent to which the exercise of their discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service and ensure that they are workable, affordable and reasonable, having regard to cost.

#### **3.0 Timeframes**

Following any changes to the Authority's discretions, this will not take effect until one month has passed since the date of publication of the written policy statement concerning the exercise of discretionary functions.

#### **4.0 Policy Provisions**

Set out below is the range of policy discretions currently exercised by the Authority, which constitute the Authority's policy for dealing with early retirement / redundancy and flexible retirement for Support Staff and Service Control employees.

##### **4.1 Voluntary Redundancy / Compensation Pay Values**

The Fire and Rescue Authority's current policy is to base voluntary redundancy and/or compensation payments at actual pay levels, as opposed to the statutory redundancy limit.

## 4.2 **Compensation Awards**

The Authority's current policy as detailed below is considered to be a balance in terms of affordability, whilst still retaining effective management tools to manage workforce change.

**Redundancy** Individuals will be granted the option of receiving a single compensation payment based on the statutory redundancy calculator, which provides an award up to a maximum of 30 weeks redundancy payment, uplifted by a factor of 2, i.e. a maximum of 60 weeks. Where an individual has reached age 55, they will also receive release of unreduced pension benefits built up to the date of termination.

**or**

receiving statutory redundancy to a maximum of 30 weeks, and where over the age of 55, release of unreduced pension benefits together with an enhancement to pension under the LGPS to a sum equivalent to 3 added years.

**Efficiency** For efficiency retirements where an individual has reached age 55 they will receive release of unreduced pension benefits built up to the date of termination.

## 4.3 **Bumped Redundancy**

Bumped redundancy is locally defined as being within 3 tiers of the redundant employee's level.

## 4.4 **Pay in Lieu of Notice**

Pay in lieu of Notice may be paid if this is considered appropriate by reference to the Service's business and operational needs.

## 4.5 **85 Year Rule**

Each case will be considered on its individual merits and the prevailing regulations in being at the time of the request.

#### **4.6 Flexible Retirement**

Each case will be considered on its merits having fully considered service delivery and financial implication issues.

#### **5.0 Business Case**

The following stipulations must be met in the application of the Authority's Discretions:

- A business case must be produced in all cases of early retirement.
- The direct cost of early retirement must be recovered over a period of no greater than 4\* years. This must be clearly demonstrated in the business case presented.

\*It is a requirement of the LGPS that costs associated with early retirement are recovered by the Pension Fund within 3 years. The 4-year period relates to additional non-pension fund costs such as redundancy awards.