Compensation & Local Government Pensions Scheme (LGPS) Discretions Policy

EP29 / May 2025

Contents

Version control

Version number	Author/Owner	Approver	Date updated/ reviewed
01	**Head of HR**	**CEO**	**May 2025**

This policy sets out how Transport for the North (TfN) will make compensation payments in accordance with the Local Government Compensation Regulations (Early Termination of Employment) Discretionary Compensation (England and Wales) 2006; and apply its LGPS mandatory employer pension discretions introduced in accordance with the LGPS Administration Regulations 2013 and the LGPS (Administration) Regulations 2008.

1. Introduction

This Policy covers all employees, subject to the qualifying criteria set out within each section.

2. Compensation Policy

It is TfN's policy to make all compensation payments in accordance with prevailing legislation and regulations, and in accordance with the provisions of this Policy.

Calculation of Redundancy Payments

Redundancy is defined under the Employment Rights Act 1996 (Section 139, paragraph 1) and may be summarised as a dismissal wholly or mainly due to a business closure, a workplace closure or a reduced requirement for employees to undertake the work. The work itself may not have reduced – it is the need for employees which is the test.

TfN will make redundancy payments based on the employee's actual contractual week's pay, rather than the statutory week's pay as set under the Employment Rights Act 1996. TfN has the authority to make such payments under Regulation 5 of the Compensation Regulations.

Payment of Additional Lump Sum Compensation in the event of Redundancy

TfN is permitted to pay lump sum compensation payments (inclusive of any statutory redundancy pay) under the Compensation Regulations.

It is TfN's policy to pay in excess of the statutory redundancy payments. Statutory payments are based on age and number of years' service to work out the total number of week's redundancy pay an employee is entitled to. TfN will use the number of years' service and the employees age at the date of calculation (as set-out ready reckoner for calculating statutory payments in terms of the number of weeks' pay) and apply the following multipliers when calculating redundancy payment entitlements:

	Compulsory Redundancy Multiplier	Voluntary Redundancy Multiplier
All employees who transferred to TfN from Transport for Greater Manchester on 1 July 2018	x2	x2
All employees who transferred to TfN from MerseyTravel on 1 July 2018	x1.866	x1.866
All other TfN employees including new starters from 1 July 2018 onwards	x1	x1.5

TfN's enhanced scheme complies with the provisions of the Equality Act 2010.

Payment of Lump Sum Compensation in the Event of Termination of Employment in the Interests of the Efficiency of the Service
Where an employee is no longer capable of providing an efficient service to TfN or where the duties of a role have expanded such that the employee is no longer able to fulfil those duties, TfN may terminate their employment in the interests of the efficiency of the service.

In these cases, TfN may pay compensation to the employee either in the form of a lump sum payment or added pension in accordance with the LGPS Regulations (LGPS Regulations 2013, Regulation 31). Each case will be judged on its individual merits. However, in making those judgements TfN will be guided by the principles set out in **Appendix A** of this Policy.

Flexible Retirement

Under Regulation 30 (6) of the Pension Regulations, employees aged 55 or over who have reduced their contractual hours or grade (or both) may, subject to approval, elect to receive their pension benefits without having fully retired from employment. This is known as "Flexible Retirement".

Flexible retirement does not affect an employee's continuity of service for employment rights purposes. However, in accordance with the Authority's policy on flexible retirement, where flexible retirement is agreed the employee's post flexible retirement service is regarded as a new contract of employment for the purposes of starting salary (bottom of the grade), holiday entitlement (basic entitlement with no service days) and occupational sick pay scheme (first year entitlement).

Where flexible retirement is approved, all of the benefits that relate to any pre 1 April 2008 membership would be released to the employee and the employee can elect to draw all, none or some of the benefits that relate to membership from 1 April 2008.

Applications for flexible retirement will be considered on the merits of each case, guided by the principles set out in Appendix A to this Policy and for further details in relation to flexible retirement, refer to TfN's Flexible Retirement Policy.
TfN is aware that costs as a result of early payment of LGPS benefits as a result of Flexible Retirement will fall on the employer. TfN will not, however, waive any actuarial reduction that is applied to benefits which are paid before age 65.

3. LGPS Pension Discretions: Compulsory Discretions

Introduction

Under the Local Government Pension Scheme Regulations, TfN is required to publish a policy statement regarding the exercising of certain discretions under the Scheme. In the event of any change to these discretions, this policy will be duly amended and published again within one month of the change.

Funding of additional pension LGPS Regulations 2013, (Regulations 16(2) (e) and Regulation 16(4) (d)

This provision permits an employer to fund, in whole or in part, additional pension contributions to cover a period of absence, where the employee has opted for this arrangement. These absences are in respect of child related, reserve forces leave, absence due to illness/injury and unpaid leave with permission. This does not cover absence due to trade union disputes.

In these circumstances, TfN will meet ⅔ of the cost of the lost pension, with the employee paying the remaining ⅓. To qualify, the employee must elect to buy the lost pension within 30 days of their return to work. If the employee elects to buy the lost pension more than 30 days after their return, the full cost of buying back the lost pension falls to the employee.

Awarding additional pension LGPS Regulations 2013, (Regulation 31)

TfN will not award additional pension to active scheme members.

Flexible Retirement LGPS Regulations 2013, (Regulation 30(6)

As stated in paragraph above, TfN operates a scheme of flexible retirement in accordance with the LGPS Regulations.

TfN may give consent for a scheme member aged 55 or more who reduces his or her hours and or grade or both to receive all or part of his/her retirement benefits immediately despite remaining in employment with TfN.

TfN may waive, in whole or part, any actuarial reduction in benefits payable. In exercising this discretion, TfN will take account of the principles contained in **Appendix A** of this Policy.

Waiving of Actuarial reduction LGPS Regulations 2013, (Regulation 30 (8)

Where benefits payable on retirement prior to the normal pension age are normally reduced for early payment, TfN may agree to waive all or part of the actuarial reduction.

In exercising this discretion, TfN will take account of the principles contained within **Appendix A** of this Policy.

The 85 year rule LGPS Regulations 2013

In regard to benefits from pre 1 April 2014 membership, TfN may agree to apply the 85 year rule for a scheme member voluntarily drawing his or her benefits between age 55 and 60.

TfN may also agree to waive, on compassionate grounds, the actuarial reduction applied to benefits from pre 1 April 2014 membership where it has agreed to use its discretion outlined above to apply the 85 year rule for a member voluntarily drawing benefits between the ages of 55 and 60.

In exercising these discretions, TfN will take account of the principles contained in **Appendix A** of this Policy.

Early Payment of Pension (LGPS Benefits, Membership and Contributions Regulations 2007)

TfN may give consent for a member aged between 55 and 60 who has left its employment prior to 1 April 2014 without an entitlement to immediate LGPS benefits to receive them immediately regardless. In this connection, if the benefits would normally be reduced for early payment, TfN may agree to waive all or part of the reduction on compassionate grounds.

In exercising this discretion, TfN will take account of the principles contained in **Appendix A** of this Policy.

Early Payment of Pension (LGPS Benefits, Membership and Contributions Regulations 2007)

TfN may give consent to the early payment of a pre-1 April 2014 suspended Tier 3 ill health retirement pension where a member aged 55 or over applies for its release prior to age 60. If the benefits payable would normally be reduced for early payment, TfN may agree to waive all or part of the reduction on compassionate grounds.

In exercising this discretion, TfN will take account of the principles contained in **Appendix A** to this Policy.

4. LGPS Pension Discretions: Non-Compulsory Discretions

Contributions payable by active members (LGPS Regulations 2013, Regulation 9(3), 2007 Regulation 3(4)

TfN will assess the appropriate contribution rate for each employee in a reasonable and consistent manner. Banding rates will be reviewed at least annually but this will be more frequent, particularly for those who work regular overtime, which affects their pensionable pay. The average of the pensionable pay to date will be annualised and a contribution rate will be calculated according to this level of pensionable pay. Where an employee moves into a new pension contribution rate banding due to a change in pensionable pay (e.g. as a result of a promotion or demotion), the changes to their banding will be applied in the month that the new salary is implemented within the payroll system.

Re-employed and rejoining deferred members (LGPS Regulations 2013, Regulation 22(8), 2007 Regulations 16(4) (b) (ii)

Unless there are exceptional circumstances, TfN will not normally extend the statutory 12 month window within which a scheme member can elect to aggregate deferred LGPS benefits into their current employment.

Power to set up a Share Cost AVC Scheme (LGPS Regulations 2013, Regulation 17, 2007 Regulation 25(3)

TfN will not make use of the discretionary power to establish a Share Cost AVC Scheme whereby costs would be shared by TfN.

Power to forfeiture Pension Rights after employment related offences (LGPS Regulations 2013, Regulation 91, 92 & 93, 2007 Regulation 47(2)

Where an employee is convicted of employment-related offences, e.g. work-related fraud, negligence TfN may exercise the discretion to forfeit all or part of the employee's pension benefits.

Paragraph 1(1)(c) & 1(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014

For discretions which apply to members who left the scheme between 1 April 2008 and before 1 April 2014. TfN has the discretion to consider 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.

A member with a deferred benefit who left the scheme voluntarily between 1 April 2008 – 31 March 2014 and who has subsequently become a deferred pensioner may now claim their benefits from age 55 without their employer's consent. However, these benefits will be reduced for early payment. Where a member has reached the 85-year rule at the point of retirement, an employer can consent to switching on the 85-year rule. Any 'strain' to the Fund will be payable by the Scheme employer.

TfN have a policy of "switching off" the rule of 85 protections for affected members on a case-by-case basis. This would allow those employees who wish to retire under the 85-year rule and take the actuarial reduction themselves (at no cost to TfN), to do so.

B30(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014

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):

- *on compassionate grounds (pre 1 April 2014 membership) and / or, 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*
- *on compassionate grounds (pre 1 April 2014 membership) and / or, 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*
- *on compassionate grounds (pre 1 April 2016 membership) and / or, 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*
- *on compassionate grounds (pre 1 April 2020 membership) and / or, 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.*

In exercising these discretions, TfN will take account of the principles contained in **Appendix A** of this Policy.

5. Redundancy Payments and Compensatory Added Years

Where a pension becomes payable as a result of redundancy (compulsory or voluntary) detailed information regarding the qualification & calculation of redundancy pay can be found in TfN's Security of Employment (Redundancy) Policy. Any employee who is at risk of redundancy will receive information regarding potential pension entitlement and benefits as part of the consultation process in accordance with TfN's Security of Employment (Redundancy) Policy.

The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended) [SI 2006/2914]" regulation 5 and 6.

(5)To base redundancy payments on an actual week's pay where this exceeds the statutory weeks' pay limit.

(6)To award lump sum compensation of up to 104 week's pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment.

Please refer to Section 2 of this policy in relation to redundancy payments and an award of lump sum compensation pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment.

In exercising these discretions, TfN will take account of the principles contained in **Appendix A** of this Policy.

The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended) [SI 2000/1410]"and the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011[SI 2011/2954]

These discretionary policies enable the employing authority to make a decision on whether to apply in the exercise of its discretionary powers to make any award in respect of leavers, deaths and reductions in pay that occurred post 15 January 2012.

In exercising these discretions, TfN will take account of the principles contained in **Appendix A** of this Policy.

Appointment of Specified Person to consider applications for adjudications of disagreements (LGPS Regulations 2013, Regulation 74, 2007 Regulation 57(5)

Where an employee has a dispute in relation to decisions made by the employer concerning their rights or liabilities under the LGPS, the matter will be referred to TfN's Chief Executive (the "adjudicator") for consideration. The Chief Executive may delegate the consideration to an appropriate independent referee.

Appendix A

1. Compensation Policy - Exercise of Discretions

Reasons for the Framework

Where Transport for the North intends to exercise its unfettered discretion under the Compensation and LGPS Discretions Policy and there is a need to make a judgement on the merits of the individual case, officers will take account of various factors within a framework in order to make appropriate recommendations.

The following factors primarily cover four particular situations. Namely:

- Assessing compensation where a termination of employment is deemed to be in the interests of the efficiency of the service
- Assessing whether or not the award of added pension is appropriate in accordance with the Regulations of the Local Government Pension Scheme (LGPS)
- Assessing whether or not to apply any of the LGPS discretions in regard to any scheme member
- Assessing applications for flexible retirement.

However, TfN also reserves the right to use the framework should other decisions be required under this Compensation and LGPS Discretions Policy.

2. Factors

There is a legal requirement under LGPS 2013, Regulation 60(5) for TfN as a scheme employer to have regard to the extent to which the policy on exercising LGPS discretions may lead to a serious loss of confidence in the public service. Accordingly, decisions appertaining to its LGPS discretions are underpinned by this legal obligation. Other factors to be taken into account are in regard to compensation arrangements and LGPS discretions are:

- Business efficiency
- Operational efficiency
- Financial reasons/costs
- To achieve a desired change to staffing structures
- In recognition of exceptional personal factors and/or compassionate grounds
- where this is deemed to be appropriate
- To seek to comply with best practice or other efficiency measures which may be underpinned by Government legislation
- To respond to external factors

Any other factors which may be relevant to the efficient exercise of the functions of TfN.

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