

**Statement of Employer Policy  
on  
Discretionary Provisions  
under  
NILGOSC Regulations**

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## Alternative Formats

This documentation can be made available in alternative formats such as large print, Braille, disk, audio tape or in an ethnic-minority language upon request. Requests for alternative formats can be made to the Probation Board using the following contact information:

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## 1. Introduction

As a result of the introduction of the new Local Government Pension Scheme (LGPS) Regulations from April 2015 employers are required to formulate, publish and send a copy of their Statement of Policy on Discretionary Provisions to NILGOSC. This written Statement of Policy must cover certain discretions that the employer can exercise from 1 April 2015.

Employers must also formulate, publish and keep under review a Statement of Policy on certain other discretions under earlier scheme regulations and under the Discretionary Compensation Regulations.

Employers are required to have policies on discretions under:

- The Local Government Pension Scheme Regulations (NI) 2014 in respect of members of the 2015 Career Average Revalued Earnings (CARE) Scheme.
- The Local Government Pension Scheme Regulations (Amendment and Transitional Provisions) Regulations (NI) 2014.
- Earlier Local Government Pension Scheme Regulations in respect of members who left before 1 April 2015
- The Local Government (Early Termination of Employment) [Discretionary Compensation] Regulations (NI) 2007 and earlier compensation regulations
- The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2016

In formulating and reviewing their policies under the scheme regulations employers are required to consider whether and to what extent the policy might lead to a serious loss of confidence in the public service.

In formulating and reviewing policies under the Discretionary Compensation Regulations employers are required to have regard to the extent to which the exercise of their discretionary powers could lead to a serious loss of confidence in the public service and must be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

## **2. Discretions to be exercised on and after 1 April 2015 under the LGPS Regulations (NI) 2014 in relation to active scheme members and members who cease active membership after 31 March 2015.**

### **2.1 Granting extra annual pension**

Whether, at full cost to the PBNI, to grant extra annual pension of up to £6,578 (figure at 1 April 2016) to an active scheme member or within 6 months of leaving to a member who is dismissed by reason of redundancy or business efficiency or whose employment is terminated by mutual consent on the ground of business efficiency.

#### **PBNI Statement of Policy on the above discretion:**

Given due regard to the PBNI's current financial situation it is not in a position to exercise this discretion at this time.

### **2.2 Employer contributing towards cost of SCAPC**

Whether, where an active member wishes to purchase extra annual pension of up to £6,578 (figure at 1 April 2016) by making Additional Pension Contributions (APCS) the PBNI will voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC).

#### **PBNI Statement of Policy on the above discretion:**

Given due regard to the PBNI's current financial situation it will not make use of this discretion to voluntarily contribute towards the cost of purchasing extra pension via a SCAPC.

### **2.3 Employer contributing towards cost of SCAVC**

Whether, how much, and in what circumstances to contribute to a shared cost Additional Voluntary Contribution (SCAVC) arrangement entered into after 1 April 2015 and whether, how much, and in what circumstances to continue to contribute to any shared cost Additional Voluntary Contribution (SCAVC) arrangement entered into before 1 April 2015.

#### **PBNI Statement of Policy on the above discretion:**

Given due regard to the PBNI's current financial situation the PBNI does not intend to enter into a Shared Cost Additional Voluntary Contribution Scheme (SCAVC) at this time.

Note: A member of staff who elects to pay additional voluntary contributions can contact the NILGOSC 'in-house' provider, Prudential.

## 2.4 Requests for flexible retirement for staff age 55 or over

Whether to permit flexible retirement for staff aged 55 or over, who with the agreement of the PBNI, reduce their working hours or grade and, if so, as part of the agreement:

- whether, in addition to the benefits the member has accrued prior to 1 April 2009 (which the member must draw if flexible retirement is agreed) to permit the member to choose to draw:
  - a) all, part or none of the pension benefits they accrued after 31 March 2009 and before 1 April 2015  
and
  - b) all, part or none of the pension benefits they accrued after 31 March 2015

Whether to waive, in whole or in part, any actuarial reduction which would otherwise be applied to the benefits taken on flexible retirement before normal pension age (NPA).

### **PBNI Statement of Policy on the above discretion:**

The PBNI will not agree to flexible retirement except in circumstances where PBNI considers it is in its financial or operational interests to do so. Each case will be considered on the merits of the financial and/or operational business case put forward and will set out whether, in addition to any pre 1 April 2009 benefits, the member will be permitted, to take

- a. all, part or none of the pension benefits they accrued after 31 March 2009 and before 1 April 2015  
and/or
- b. all, part or none of the pension benefits they accrued after 31 March 2015.

Where PBNI as the employer will be charged an actuarial cost for a strain on the pension fund for flexible retirement, consent will be required from members of the Board. Requests will be considered by Board members under the auspices of the Remuneration Committee, with final approval being sought from the Department of Justice (DOJ) and the Department of Finance and Personnel (DFP).

The process to be followed for requesting flexible retirement is set out under the PBNI Retirement Policy and Procedure.

Given due regard to the PBNI's current financial situation, where individual pension benefits are reduced to take account of early payment under flexible retirement before NPA, the PBNI will not waive any reduction either wholly or in part.

### **Note:**

Normal pension age (NPA) has been re-defined and is the employee's State Pension Age (with a minimum of age 65) for any benefits built up from 1 April 2015.

## 2.5 Early Retirement - applying the 85 rule

Whether, as the 85 year rule does not (other than on flexible retirement) automatically apply to members who would otherwise be subject to it and who choose to voluntarily draw their pension benefits on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members.

### **PBNI Statement of Policy on the above discretion:**

The PBNI will not agree to switch the 85 year rule on in full where members choose to voluntarily draw their benefits on or after age 55 and before age 60 except in circumstances where the PBNI considers it is in its financial and/or operational interests to do so. Each case will be considered on the merits of the financial and /or operational business case put forward.

As PBNI as the employer will be charged an actuarial cost for a strain on the pension fund for switching on the 85 year rule in full, consent will be required from members of the Board. Requests to switch on the 85 year rule for early retirements will be considered by Board members under the auspices of the Remuneration Committee, with final approval being sought from the Department of Justice (DOJ) and the Department of Finance and Personnel (DFP).

The process to be followed for requesting the 85 rule be switched on is set out under the PBNI Retirement Policy and Procedure. Section 5.2.4 sets out the various aspects that will be considered including financial benefits/costs to the PBNI.

### **Note:**

If PBNI as the employer does not apply the 85 year rule then the member would meet the cost of the strain on the fund by an actuarial reduction in their pension. In such cases employer consent is not required for early retirement on or after age 55 and before NPA.

## 2.6 Waiving of actuarial reduction for retirements on after age 55 and before normal pension age

For active members voluntarily retiring on or after age 55 and before normal pension age who elect under regulation 31(5) of the LGPS Regulations (NI) 2014 to immediately draw benefits, and for deferred members who elect under regulation 31(5) of the LGPS (NI) 2014 to draw benefits (other than on ill-health grounds) on or after age 55 and before normal pension age and who:

- Were not members of the LGPS before 1 October 2006 whether to:
  - waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits, if any accrued before 1 April 2015
  - and/or
  - waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2015.

- Were members of the LGPS before 1 October 2006 and will be 60 or more on 31 March 2016, whether to:
  - waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April 2016  
and/or
  - waive, in whole or in part (on any grounds) , any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2016.
  
- Were members of the LGPS before 1 October 2006 and will not be 60 or more on 31 March 2016 and will not attain age 60 between 1 April 2016 and 31 March 2020, whether to:
  - waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April 2015  
and/or
  - waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2015.
  
- Were members of LGPS before 1 October 2016 and will not be 60 or more on 31 March 2016 but will attain age 60 between 1 April 2016 and 31 March 2020, whether to:
  - waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April 2020  
and/or
  - waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2020.

**PBNI Statement of Policy on the above discretion:**

Given due regard to the PBNI's current financial situation, where benefits are reduced to take account of early payment before NPA, the PBNI will not waive any reduction either wholly or in part.

In regards to former employees (deferred members), PBNI is not in a position to offset the actuarial costs involved and therefore will not waive any reduction either wholly or in part.



## **2.7 Extension of the 12 month time limit not to have deferred LGPS benefits aggregated with new LGPS membership**

Whether to extend the 12 month time limit within which a scheme member with concurrent employments ceases an employment with entitlement to a deferred pension may elect not to have their deferred benefits aggregated with those in their ongoing employment's active member pension account.

### **PBNI Statement of Policy on the above discretion:**

The PBNI believes the 12 month time limit available to members to choose whether to have their deferred benefits aggregated is reasonable. The PBNI will therefore not extend the 12 month time limit within which a scheme member with concurrent employments ceases an employment with entitlement to a deferred pension may elect not to have their deferred benefits aggregated with those in their ongoing employment's active member account.

## **2.8 Extension of the 12 month time limit for a deferred member to elect to aggregate LGPS deferred benefits with new LGPS membership**

Whether to extend the 12 month time limit within which a deferred member who becomes an active member again may elect to aggregate the benefits in the deferred pensions account with those in the new active member's pension account.

### **PBNI Statement of Policy on the above discretion:**

The PBNI believes the 12 month time limit available to deferred members to choose whether to have their deferred benefits aggregated to a new active member's pension account is reasonable. The PBNI will not extend the 12 month time limit within which a deferred member who becomes an active member again may elect to aggregate the benefits in the deferred pensions account with those of the new active member's pension account.

## **2.9 Pension contribution band/rate allocation**

How the pension contribution band/rate to which an employee is to be allocated on joining the pension scheme, and at each subsequent April, will be determined and the circumstances in which, following a material change to the terms and conditions of a member's employment which affects the member's pensionable pay in the course of a scheme year (1 April to 31 March), the pension contribution band/rate to which an employee has been allocated will be reviewed.

**PBNI Statement of Policy on the above discretion:**

The PBNI will allocate the pension contribution band/rate to employees on joining the scheme and at each subsequent April by their annual rate of contractual pay.

The PBNI will reassess the contribution rate for all scheme members at 1 April each year and reallocate members to a new band/rate where applicable. Members will be notified of the contribution/band rate as soon as possible from the beginning of the new scheme year.

Once set the contribution rate will remain in force for the rest of the Scheme year however PBNI as an employer is permitted to attribute an employee a different band/rate part way through the year where there is a material change to the terms and conditions of a member's employment which affects their pensionable pay (eg promotion, demotion, re-grading, variation to a member's contracted hours).

Staff can obtain further information about their pension banding by emailing [payroll@pbni.gsi.gov.uk](mailto:payroll@pbni.gsi.gov.uk).

Under LGPS (NI) 2015 Regulations, any member who wishes to lodge an appeal against their pension bandings can do so via the County Court.

**Note:**

From 1 April 2015, part-time members' contribution rates will be assessed on actual pensionable pay rather than full-time equivalent.

**2.10 Calculation of assumed pensionable pay and inclusion of a regular lump sum payment**

Whether or not, when calculating assumed pensionable pay when a member is:

- on reduced contractual pay or no pay due to sickness or injury,
- absent during ordinary maternity, paternity or adoption leave
- absent during paid additional maternity, paternity or adoption leave
- absent on reserve forces leave
- retires with a Tier 1 or Tier 2 ill-health pension
- dies in service

to include in the calculation the amount of any 'regular lump sum payment' received by the member in the 12 months preceding the date the absence began or the ill-health retirement or death occurred.

**PBNI Statement of Policy on the above discretion:**

In assessing assumed pensionable pay (APP) the PBNI will not include in the calculation any regular lump sum payments.

**Note:**

Assumed pensionable pay (APP) replaces the concept of notional pay and must be used when an employee moves to a period of reduced contractual pay or nil pay as a result of the types of absence set out in the above bullet points. The employee will pay contributions on any pensionable pay received during the periods of absence but the employer will pay contributions on the APP.

**2.11 Whether to allow an active member longer than 30 days following return to work after a period of absence to decide to apply to cover the lost pension through an Additional Pension Contract**

Whether to allow an active member longer than 30 days following return to work after a period of absence with permission (not due to illness, child related or reserve forces service leave) to decide to apply to cover the lost pension through an Additional Pension Contract.

**PBNI Statement of Policy on the above discretion:**

The PBNI believes the 30 day limit on return to work is a reasonable timeframe and will therefore not make use of this discretion to extend the 30 day deadline following an active member's return to work after a period of authorised absence where they can decide to apply to cover the lost pension through an Additional Pension Contract.

**3 Discretions to be exercised on and after 1 April 2015 under the LGPS Regulations in relation to scheme members who ceased active membership between 1 April 2009 and 31 March 2015.****3.1 Whether to waive any actuarial reduction that would apply to deferred benefits paid before age 65**

Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.

**PBNI Statement of Policy on the above discretion:**

Given due regard to the PBNI's current financial situation PBNI is not in a position to offset the actuarial costs involved in meeting the strain on the pension fund and therefore will not waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.

### **3.2 Deferred Members – applying the 85 year rule**

Whether, as the 85 year rule does not (other than on flexible retirement) automatically apply to members who would otherwise be subject to it and who choose to voluntarily draw their deferred benefits on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members.

#### **PBNI Statement of Policy on the above discretion:**

Given due regard to the PBNI's current financial situation PBNI is not in a position to offset the actuarial costs involved in meeting the strain on the pension fund and will therefore not agree to switch on the 85 year rule on in full where deferred members choose to voluntarily draw their deferred benefits on or after age 55 and before age 60.

### **4 Discretions to be exercised on and after 1 April 2015 under the LGPS Regulations in relation to scheme members who ceased active membership between 1 February 2003 and 31 March 2009.**

#### **4.1 Whether to waive any actuarial reduction that would apply to deferred benefits paid before age 65**

Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.

#### **PBNI Statement of Policy on the above discretion:**

Given due regard to the PBNI's current financial situation, PBNI is not in a position to offset the actuarial costs involved in meeting the strain on the pension fund and therefore will not waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.

### **4.2 Deferred members – applying the 85 year rule**

Whether, as the 85 year rule does not (other than on flexible retirement) automatically apply to members who would otherwise be subject to it and who choose to voluntarily draw their deferred benefits on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members.

#### **PBNI Statement of Policy on the above discretion:**

Given due regard to the PBNI's current financial situation PBNI is not in a position to offset the actuarial costs involved in meeting the strain on the pension fund and will therefore not agree to switch on the 85 year rule on in full where deferred members choose to voluntarily draw their deferred benefits on or after age 55 and before age 60.

**5 Discretions to be exercised on and after 1 April 2015 under the LGPS Regulations in relation to scheme members who ceased active membership before 1 February 2003.**

**5.1 Whether to grant applications for early payment of deferred pension benefits on or after age 50**

Whether, with the agreement of the NILGOSC, to grant applications for the early payment of deferred pension benefits on or after 50 and before age 65 on compassionate grounds.

**PBNI Statement of Policy on the above discretion:**

Given due regard to PBNI's current financial situation, it is not in position to offset the actuarial costs involved in meeting the strain on the pension fund.

Where a former scheme member who left the service before 1 February 2003, requests early release of deferred benefits on or after age 50 and before age 65 (on grounds other than ill health) approval will only be given with the agreement of NILGOSC and if there is no cost to the PBNI as the employer.

**6 Discretions to be exercised under the Local Government (Early Termination of Employment) [Discretionary Compensation] Regulations (NI) 2007.**

**6.1 Whether to base a redundancy payment on an employee's actual week's pay**

Whether to base a redundancy payment on an employee's actual week's pay where this exceeds the statutory week's pay limit (currently £500 per week as at 6 April 2016).

**PBNI Statement of Policy on the above discretion:**

Any redundancy payment will be calculated on an employee's weekly pay but, other than in exceptional circumstances (i.e. in line with any service the PBNI can avail of), weekly pay will be limited to the statutory week's pay limit where pay exceeds that limit.

In line with PBNI's Redundancy Policy and Procedure consultation will take place with Trade Unions on the method of redundancy payments to be made to those who are being dismissed, taking account of any service that PBNI can avail of at that time.

**6.2 Whether to make a termination payment (inclusive of any redundancy payment)**

Whether to make a termination payment (inclusive of any redundancy payment) up to a maximum of 104 weeks' pay to employees whose employment is terminated on the grounds of redundancy or efficiency of the service.

**PBNI Statement of Policy on the above discretion:**

A termination payment will not automatically be paid to employees. The PBNI will determine each case on its merits, taking account of business and operational factors.

In line with PBNI's Redundancy Policy and Procedure consultation will take place with Trade Unions on the method of redundancy payments to be made to those who are being dismissed, taking account of any service that PBNI can avail of at that time.

**7. Discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (NI) 2003.**

**7.1 How a person's annual compensatory added years pension is to be abated**

How a person's annual compensatory added years pension is to be abated during, and following the cessation of, any period of re-employment by an employer who offers membership of the LGPS to its employees (except where the employer is an Admitted Body, in which case abatement only applies if the person is in, or eligible to be in, the LGPS in the new employment).

**The PBNI Statement of Policy on this discretion:**

The PBNI will, during any period of re-employment in local government, abate a person's annual compensatory added years' payment by the 'excess' if the aggregate of

- the annual compensation and
- the annual pension from LGPS  
and
- the annual rate of pay from the new employment

exceeds the pay the person would have received from the employment in respect of which the compensatory added years were granted, based on the annual rate of pay at the date of ceasing the former employment as increased by the relevant cost of living expenses (ie as increased by the rate at which an 'official pension' is increased under the Pensions [Increase] Act 1971) Index.

**Where compensatory added years were awarded on or after 24 March 2003**, the PBNI will reduce a person's annual compensatory added years' payment following the cessation of a period of re-employment in local government to the extent necessary to secure that if: the period of compensatory added years granted in respect of the former employment

plus

the period of membership the person has accrued in the LGPS (or would have accrued had he /she joined the scheme when first eligible to do so) during the period of re-employment in local government, counted at its part-time length, if the person was part-time

exceeds the period of membership the person would have accrued during the period from the cessation of the former employment until age 65 on the assumption that he / she had continued in that former employment to age 65 (again counted at its part-time length if the person was part-time at the date of cessation of the former employment)

then

the annual pension and lump sum from the first job combined with the annual pension and lump sum from the second job (based on the assumption that the employee joined the LGPS when first eligible to do so), plus the annual compensation and lump sum compensation, shall not in aggregate exceed the pension and lump sum the person would have achieved if he / she had remained in the first job through to age 65.

Where there is an excess, the annual compensation will be reduced by the excess pension and, if the annual compensation is not reduced to nil, the amount of the remaining (reduced) basic annual compensation will then be suspended until the excess lump sum (if any) is recovered.

In calculating whether or not, in aggregate, the annual pension and lump sum from the first job, plus the annual pension and lump sum (if any) from the second job (based on the assumption that the employee joined the LGPS at the first opportunity), plus the annual compensation and lump sum compensation, exceeds the pension and lump sum the person would have achieved if he/she had remained in the first job through to age 65 it will be necessary to compare

a) the actual LGPS pre 1 April 2009 1/80th pension and 3/80ths lump sum, plus the actual LGPS post 31 March 2009 1/60th pension (ignoring any commutation for a lump sum), plus the actual 1/80th annual compensation and 3/80ths lump sum compensation

with

b) the 1/80th LGPS pension and 3/80ths lump sum the member would have achieved in their first job to 31 March 2009, plus the 1/60th LGPS pension the member would have achieved in their first job (ignoring any potential commutation for a lump sum), if the member had stayed in the first job through to age 65.

In determining the benefits the employee could have achieved had he / she remained in the first employment through to age 65 it will be necessary to determine the pensionable pay to be used in the calculation. For this purpose, the pensionable pay figure used in the calculation of the pension benefits in the first job will be used as brought up to date by increasing it in line with the Pensions Increase (Review) Orders.

If a person has been awarded more than one previous period of compensatory added years, e.g. as a result of being made redundant more than once, the abatement / claw back provisions are modified. In such a case, the rules under the former Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001 will be applied where a person ceases a period of re-employment in local government and has previously been granted more than one period of compensatory added years, but using the pay in the first job as increased in line with inflation (i.e. ignoring regulations 17(5)(a)(ii), 17(6) and 17(7) of the Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001.

**Where compensatory added years were awarded before 24 March 2003, the PBNI will reduce a person's annual compensatory added years' payment following the cessation of a period of re-employment in local government in accordance with the Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001.**

**Note:**

'Local government' means employment with an employer who offers membership of the LGPS to its employees, regardless of whether or not the employee chooses to join the LGPS (except where the employer is an Admitted Body). Technically, an employee of an Admitted Body (i.e. a body that has applied to the administering authority to allow its employees to join the LGPS and has entered into a formal admission agreement) is only employed in 'local government' if he / she is a member of the LGPS.

**7.2 How any surviving spouse or civil partner's annual compensatory added years pension is to be apportioned**

How any surviving spouse or civil partner's annual compensatory added years pension is to be apportioned where the deceased person is survived by more than one spouse or civil partner.

**The PBNI Statement of Policy on this discretion:**

The PBNI will apportion any surviving spouse or civil partner's annual compensatory added years pension where the deceased person is survived by more than one spouse or civil partner in such proportions as, at its sole discretion, it sees fit (based on the merits of the individual cases).

**7.3 Whether the spouse's or civil partner's annual compensatory added years pension will continue to be paid if he/she remarries/cohabits or enters civil partnership**

Whether, if the spouse or civil partner of a person who ceased employment before 1 February 2003 remarries, enters into a civil partnership or cohabits after 1 February 2003, the normal annual compensation suspension rules will be disapplied ie the spouse's or civil partner's annual compensatory added years pension will be paid.

**The PBNI Statement of Policy on this discretion:**

If a spouse or civil partner of a person who ceased employment before 1 February 2003 remarries, enters into a new civil partnership or cohabits after 1 February 2003, the normal annual compensation rules will not be dis-applied ie the spouse's or civil partner's annual compensatory added years will cease to be payable.



**7.4 Whether the spouse's or civil partner's annual compensatory added years pension should be reinstated after the end of the period of remarriage, new civil partnership or cohabitation.**

**The PBNI Statement of Policy on this discretion:**

Where a spouse's or civil partner's annual compensatory added years pension is suspended as a result of remarriage, entering into a new civil partnership or cohabitation, the spouse's or civil partner's annual compensatory added years pension will not be reinstated after the end of the period of remarriage, new civil partnership or cohabitation.