

# **MERLIN HOUSING SOCIETY**

## **PENSION DISCRETIONS POLICY**



### **1. INTRODUCTION**

The Admission Agreement between Merlin Housing Society Limited and the Avon Pension Fund Local Government Pension Scheme requires Merlin to publish a Pension Discretions Policy setting out how it will apply the discretions available to it.

### **2. PURPOSE**

This policy lists the regulations where Merlin has discretion and sets out the recommended course of action.

### **3. LEGAL & REGULATORY REQUIREMENTS**

Under the rules of the Local Government Pension Scheme (LGPS) in which Merlin Housing Society has admitted body status, each employer is required to prepare a written statement of its policy in relation to the exercise of its functions under the following Benefits Regulations:

- Regulation 12 (power of employing authority to increase total membership of active members);
- Regulation 13 (power of employing authority to award additional pension);
- Regulation 18 (flexible retirement);
- Regulation 30 (choice of early payment of pension).

In addition there are a number of other regulations where the employer also has discretion:

- Regulation 22 (Extending the time limit for members to pay contributions following a period of absence)
- Regulation 47 (Exclusion of rights to a return of contributions)
- Regulation 72 & 73 (Forfeiture of pension rights after conviction of employment-related offences)
- Regulation 73 (Interim payments directions)
- Regulation 74 (Recovery or retention where former member has misconduct obligation)
- Regulation 76 (Transfers of sums from the pension fund to compensate for member's misconduct)
- Regulation 83(8) (Inward transfers of pension rights)

Guidance from the Avon Pension Fund states that discretionary power must::

- Not be used for an ulterior motive and be exercised reasonably;
- Be used with regard to all relevant factors e.g. the cost to tenants must be balanced against the benefit to the employer;
- Only be used when there is a real and substantial future benefit to the employer in return for incurring the extra costs;
- Be duly recorded when used.

In drawing up policy statements, employers must satisfy themselves that they are:

- Applying the discretions reasonably;
- Not fettered i.e. being used in such a way that individual circumstances cannot be considered or usual practice rigidly followed.

The statement must be published to members of the LGPS and copied to the Avon Pension Fund. The employer must keep its statement under review and make appropriate revisions following a change in its policy. If the statement is revised it must be published within one month of the date it is revised and sent to members of the LGPS and a copy sent to Avon Pension Fund within that month.

In preparing or reviewing and making revisions to its statement, the employer must have regard to the extent to which the exercise of any of the functions in accordance with its policy could lead to a serious loss of confidence in the public service.

#### **4. SCOPE**

This policy covers the discretions detailed in section 3 above. It applies to all Merlin employees who are members of the Avon Pension Fund.

##### **4.1 Regulation 12 – Augmentation of LGPS membership (added years)**

This regulation allows an employer to resolve to increase the total membership of a member who is currently paying contributions to the Scheme. The member's increase in membership under this regulation (including additional membership in respect of different employments) must not exceed 10 years. Increasing membership will always involve additional ongoing costs.

Augmenting LGPS entitlement through additional membership would not be supported unless exceptional circumstances apply (see section 4.12).
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##### **4.2 Regulation 13 – Awarding Additional Pension**

This regulation allows an employer to resolve to award a member additional pension of not more than £5,000 a year payable at the same date as their pension payable under any other provisions of the Benefit Regulations. Providing additional pension for a member will always involve additional ongoing costs.

Additional pensions would not be awarded to employees unless exceptional circumstances apply (see section 4.12).

### **4.3 Regulation 18 – Flexible Retirement**

The minimum retirement age is 55 for new scheme members from 1<sup>st</sup> April 2008. For those who were already members of the scheme on 31<sup>st</sup> March 2008 the minimum retirement age will be 50 for the period between 1<sup>st</sup> April 2008 and 31<sup>st</sup> March 2010, after which time it will be 55.

A member who has attained the age of 55 and with their employer's consent, reduces the hours they work, or the grade on which they are employed, may make a request in writing to the Avon Pension Fund to receive all or part of their benefits under the Benefits Regulations. However, payment of the benefits cannot be made without the employer's consent.

Flexible retirement would be allowed, subject to it not being detrimental to the needs of the business.

If the benefits are reduced in accordance with the guidance issued by the Government Actuary, the employer may agree to waive, in whole or in part, any such reduction. To waive a reduction in pension benefit will always result in a one off cost to the employer, which will normally equate to the employers contribution for the number of months between early and normal retirement.

Unreduced retirement benefits would not be granted to a person who retires before their normal retirement age unless exceptional circumstances apply (see section 4.12).

### **4.4 Regulation 30 – Early payment of pension at the request of a member**

Normal retirement age under the LGPS is 65 years and benefits are paid automatically from this age. Merlin Housing Society may pay benefits early under its Redundancy and Workforce Change policy or, where a member suffers permanent ill-health, under its Sickness policy. This discretion only applies to early payment of pension at the request of a member.

Individuals who choose to retire early may elect to receive their accrued pension benefits early. However, unless the member has protected benefits under the "rule of 85" (i.e. age + membership  $\geq$  85), their pension benefits will be actuarially reduced.

The minimum retirement age is 55 for new scheme members from 1<sup>st</sup> April 2008. For those who were already members of the scheme on 31<sup>st</sup> March 2008 the minimum retirement age will be 50 for the period between 1<sup>st</sup> April 2008 and 31<sup>st</sup> March 2010, after which time it will be 55.

When a member leaves an employment before they are entitled to an immediate payment of retirement benefits, they may choose to receive payment of them immediately on reaching age 55.

A choice made by a member aged less than 60 is ineffective without the consent of their employer or former employer.

Early payment of pension with actuarial reduction would be allowed, subject to Merlin incurring no additional costs.

If the benefits are reduced in accordance with the guidance issued by the Government Actuary, the employer may agree to waive, in whole or in part, any such reduction. To waive a reduction in pension benefit will always result in a one off cost to the employer, which will normally equate to the employers contribution for the number of months between early and normal retirement.

Unreduced retirement benefits would not be granted to a person who requests payment of retirement benefits before their normal retirement age unless exceptional circumstances apply (see section 4.12).

#### **4.5 Regulation 22 – Extending the time limit for members to pay contributions following a period of absence**

This regulation covers employees who are away from work with permission for reasons other than sickness absence. This would include those on unpaid leave or sabbaticals and those on additional maternity or adoption leave. It also applies to employees away from work without permission because of a trade union dispute.

A scheme member may elect to pay optional contributions to cover a period of absence from duty providing the option is made within 30 days of return to work/cessation of employment or such longer period as the employer allows.

The 30 day period for optional contributions will not be extended unless exceptional circumstances apply (see section 4.12).

#### **4.6 Regulation 47 – Exclusion of rights to return of contributions**

A scheme member who meets the normal criteria for a refund of pension contributions is not entitled to a refund if they leave their employment because of:

- An offence of a fraudulent character – unless the employer directs that a total or partial refund be made to the member.

- Gross misconduct – unless the employer directs that a total or partial refund be made to the member, their spouse, civil partner, nominated cohabiting partner or any dependant of theirs.

No refund be made if employment ceases due to an offence of a fraudulent character or due to gross misconduct.

#### **4.7 Regulation 72 & 73 – Forfeiture of pension rights after conviction of employment related offences**

If a scheme member is convicted of, and ceases employment as a result of an offence in connection with their employment which was gravely injurious to the State or liable to lead to a serious loss of confidence in the public service, the employer may apply to the Secretary of State for the issue of a forfeiture certificate. If the Secretary of State issues a certificate, the employer may direct that any of the person's rights be forfeited.

Member's rights will be forfeited if the Secretary of State issues a certificate.

#### **4.8 Regulation 73 – Interim payments directions**

Where the Secretary of State has issued a forfeiture certificate but the employer has not applied the certificate nor notified the scheme member of an award of benefits under the LGPS, the Company may direct that interim payments are made out of the pension fund until such time as it decides to apply the forfeiture certificate or to make an award of benefits.

No interim payments will be made until the decision is taken to apply the forfeiture certificate.

#### **4.9 Regulation 74 – Recovery or retention where the former member has a misconduct obligation**

Where a member:

1. ceases employment as a consequence of a criminal, negligent or fraudulent act or omission in connection with that employment; and
2. has incurred a monetary obligation to the Company; and
3. is entitled to pension benefits under the LGPS, the Company may recover or retain the amount of monetary obligation or the value of the members pensions rights, if less, (other than transferred in pension rights), from the Pension Fund and reduce the members benefits accordingly.

The monetary obligation, or the value of the members pensions rights if less, will be recovered or retained.

#### **4.10 Regulation 76 – Transfer of sums from the Pension Fund to compensate for member’s misconduct**

1. Where a member ceases employment as a consequence of an offence involving fraud or gross misconduct in connection with that employment; and
2. the Company has suffered a direct financial loss as a result; and
3. the member is entitled to benefits under the LGPS and a forfeiture certificate has been applied, or the member is entitled to a refund of pension contributions

The employer may direct that the amount of the direct financial loss (or the refund of contributions, if less) be recovered from the Pension Fund,

The amount of the direct financial loss, or the refund of contributions, if less, will be recovered from the Pension Fund.

#### **4.11 Regulation 83(8) – Inward transfer of pension rights**

If a scheme member wishes to transfer pension rights into the LGPS they must opt to do so within 12 months of joining the LGPS or such longer period as the employer will allow.

Member’s will not be allowed to transfer pension rights into the LGPS after the initial 12 month period unless exceptional circumstances apply (see section 4.12).

#### **4.12 Exceptions to the discretions**

There may be rare occasions where Merlin Housing Society wishes to apply a discretion differently than detailed above. There must be an overwhelming business case to support this and it must be approved in advance by the Board. Reasons for applying a discretion differently may include recruitment or retention of key staff/roles, serious illness, efficiency restructuring, avoiding indirect discrimination, or compassionate grounds. A member’s personal financial situation is not a suitable reason for exceptional use of discretions.

The initial and ongoing cost to Merlin Housing Society must be considered as part of the business case.

### **5. VALUE FOR MONEY**

Any improvements to pensions will result in additional one-off or ongoing costs which it may not be possible to quantify at the time the decision is made. The initial and on-going costs of apply discretions have been considered when drawing up this policy and must be considered as part of any business case for exceptional use of the discretions.

## **6. CONSULTATION**

The staff consultative committee was consulted on this policy.

## **7. CUSTOMER CARE & ACCESS**

Treating employees fairly is shown to result in better customer satisfaction. This policy will be accessible to all staff.

## **8. EQUALITY & DIVERSITY**

We will ensure that this policy is applied fairly and consistently to all our employees. We will not directly or indirectly discriminate against any person or group of people in accordance with our equality and diversity policy.

We will act sensitively towards the diverse needs of individuals.

This policy has been equalities impact assessed and does not show discrimination.

This policy is available on request in other formats (for example in an alternative language, in Braille, on tape, in large type).

## **9. ROLES, RESPONSIBILITY & AUTHORITY**

## **10. IMPLEMENTATION, MONITORING & REVIEW**

The Head of Service will monitor the effectiveness of this policy, taking into account customer and staff feedback. The policy will be reviewed to build upon its performance.

**This policy is linked to Merlin Housing Society's Business Plan.**

**Corporate Reference: <insert>**

**Cross references: <insert>**

**This version: <insert DATE>**

**Next review: <insert DATE>**

**Lead Officer: <insert JOB TITLE>, e.g., Head of Housing Services**

**Approved by - <insert DATE>**

