



Local Government Pension Scheme (New Look) 2007 Employer Discretions

Introduction

This policy outlines Northgate Managed Services' policy on exercising its discretion under the Local Government (New Look) Pension Scheme 2007.

Northgate Managed Services has entered into the Avon pension Fund (A provider of LGPS) under an Admitted Body Status Agreement (ABS) from 2007.

Employees who TUPE transfer to Northgate Managed Services from Bristol City Council under the Building Schools for the Future (BSF) contract are entitled to remain in the LGPS.

Employees who TUPE transfer to Northgate Managed Services from 3rd party contractors (who already provide the Avon Pension Scheme via the ABS route) are also entitled to remain in the LGPS.

A member also has the right under the LGPS to become a member on application where he has previously opted out of it under regulation 13 (1) of the LGPS (Administration) Regulations 2008. This means employees who at transfer date are not yet LGPS members have the right to join at anytime during the period that they are employed in the delivery of the services which are the subject of the contract.

Within legislation, there is provision for employers to exercise discretion over the pension entitlements for current or past employees. This paper comprises Northgate Managed Services policy with regard Benefit Regulations 12, 13, 18 and 30.

In addition, information is provided on discretions Administration Regulations 22, 47, 72, 73, (73) and 76.

Northgate Managed Services asserts that these Discretionary powers:

- Will not be used for an ulterior motive and be exercised reasonably
- Will be used taking account of all relevant factors e.g. the cost to the organisation must be balanced against the benefit to the employer
- Will only be used when there is a real and substantial future benefit to the employer in return for incurring the extra costs.



Regulation 12

The power of the employer to increase total membership of active members (up to 10 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.

Northgate Managed Services will not make general use of this discretion however it may consider its use in exceptional circumstances. The exercise of this power will be at the discretion of the relevant Managed Services Managing Director.

Regulation 13

The power of the employer to award additional pension. This regulation allows an employer to resolve to award a member additional pension of not more than £5000 a year payable from the same date as his / her pension payable under any other provisions of the Benefit Regulations.

Additional pension may be awarded in addition to any increase of total membership resolved under Benefits Regulation 12.

Northgate Managed Services will not make general use of this regulation however it may consider its use in exceptional circumstances. The exercise of this power will be at the discretion of the relevant Managed Services Managing Director.

Regulation 18

The discretion of the employer relating to flexible retirement options. A member who has attained the age of 55 and with his / her employer's consent, reduces the hours he / she works, or the grade in which he / she is employed, may make a request in writing to the Avon Pension Fund to receive all or part of his / her benefits under the Benefits Regulations. However, payment of the benefits cannot be made without the employer's consent.

If the benefits are reduced in accordance with guidance issued by the Government Actuary, the employer may agree to waive, in whole or in part, any such reduction. If the benefits are reduced in accordance with guidance issued by the Government Actuary, the employer may agree to waive, in whole or in part, any such reduction.

The minimum retirement age is 55 for new scheme members from 1st April 2008 and 1st April 2010 for those who are members of the scheme on 31st March 2008. Therefore, from 1st April 2008 to 31st March 2010 the minimum retirement



age will be 50 for those who are members of the scheme on 31st March 2008.

Northgate Managed Services will not make general use of this regulation however it may consider its use in exceptional circumstances. The exercise of this power will be at the discretion of the relevant Managed Services Managing Director. It is not our policy to waive in whole or part any actuarial reduction to a scheme member's benefits.

Regulation 30

The policy of the employer with regard voluntary early retirement. When a member leaves an employment before he / she is entitled to the immediate payment of retirement benefits, once he / she has attained the age of 55 he / she may choose to receive payment of them immediately.

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

If the benefits are reduced in accordance with guidance issued by the Government Actuary, the employer may agree to waive, in whole or in part, any such reduction.

The minimum retirement age is 55 for new scheme members from 1st April 2008 and 1st April 2010 for those who are members of the scheme on 31st March 2008. Therefore, from 1st April 2008 to 31st March 2010 the minimum retirement age will be 50 for those who are members of the scheme on 31st March 2008.

Northgate Managed Services will not make general use of this regulation however it may consider its use in exceptional circumstances (i.e. where it can be demonstrated to be in Northgate's interests or for compassionate reasons). The exercise of this power will be at the discretion of the relevant Managed Services Managing Director. It is not our policy to fund any increase to a scheme member's retirement pension or grant benefit over and above their accrued entitlement.

Further Discretionary Policies

Extending the time limit for members to pay contributions following a period of absence - Regulation 22 - Administration

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.



Northgate Managed Services will not extend this period except where there is a legal obligation to do so or where a member can demonstrate they have not had sufficient notice to make their election within the 30 day period.

Exclusion of rights to a return of contributions - Regulation 47 - Administration

A scheme member who meets the normal criteria for a refund of pension contributions is not entitled to such a refund if he / she left his / her employment because of:

1. **an offence of a fraudulent character** - unless the employer directs that a total or partial refund may be made to the member.
2. **grave misconduct** - unless the employer directs that a total or partial refund may be made to the member, his / her spouse, civil partner, nominated cohabiting partner or any dependant of his / her.

Northgate Managed Services confirm that this decision will only be taken at the discretion of the relevant Managed Services Managing Director in conjunction with The Human Resources Manager for Managed Services.

Forfeiture of pension rights after conviction of employment-related offences - Regulation 72 & 73 - Administration:

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

Northgate Managed Services confirm that the decision to apply for a forfeiture certificate will only be taken at the discretion of the relevant Managed Services Managing Director in conjunction with The Human Resources Manager for Managed Services.

Interim payments directions - Regulation 73 - Administration

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 employer 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.



Northgate Managed Services confirm that this decision will only be taken at the discretion of the relevant Managed Services Managing Director in conjunction with The Human Resources Manager for Managed Services.

Recovery or retention where former member has misconduct obligation - Regulation 74 - Administration:

Where a member

- i. ceases employment in consequence of a criminal, negligent or fraudulent act or omission in connection with that employment and
- ii. has incurred a monetary obligation arising therefrom to the employer and
- iii. is entitled to pension benefits under the LGPS, the employer may recover the amount of the monetary obligation or the value of the members pension rights, if less (other than transferred in pension rights) from the Pension Fund and reduce the members benefits accordingly.

Northgate Managed Services confirm that this decision will only be taken at the discretion of the relevant Managed Services Managing Director in conjunction with The Human Resources Manager for Managed Services.

Transfers of sums from the pension fund to compensate for member's misconduct - Regulation 76 - Administration:

Where

- i. a member ceases employment in consequence of an offence involving **fraud or due to grave (or gross) misconduct** in connection with that employment, and
- ii. the employer has suffered **a direct financial loss** resulting therefrom, and
- iii. 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.

Northgate Managed Services confirm that this decision will only be taken at the discretion of the relevant Managed Services Managing Director in conjunction with The Human Resources Manager for Managed Services.

Inward transfers of pension rights - Regulation 83(8):

If a scheme member wishes to **transfer pension rights** into the LGPS he/she



must opt to do so **within 12 months** of joining the LGPS **or such longer period as the employer may allow.**

Northgate Managed Services will not allow an extension to this period.

Revision to policy

Northgate Managed Services undertake that this policy will be reviewed and revised as required