

# **West Sussex County Council Teachers' Pension Scheme Employer Discretions Policy**

## **Aim**

The Teachers' Pension Scheme (TPS) is a statutory scheme administered on behalf of the Department for Education, by Teachers Pensions.

There are some areas of the TPS that employers can determine whether and/or how to use their discretions. These are known as "Employer Discretions" and employers have to decide whether they will operate these discretions and subsequently advise staff accordingly.

This document provides some useful information on the TPS and how it applies to you at the various stages of your employment. It also summarises the discretions the County Council exercises as an employer in relation to the Teachers' Pension Scheme.

## **Scope**

This policy applies to all employees of *West Sussex County Council or who are employed in West Sussex Maintained Schools*, who are members of, or eligible to join the Teachers' Pension Scheme.

*Where this policy has been adopted by the Academy please delete the italicised text and enter your Academy's name or customise to fit your Academy's governance arrangements.*

## **Policy provisions**

The discretions have been grouped under the following headings:

- [Joining West Sussex County Council](#)
- [During your employment.](#)
- [Leaving your employment.](#)
- [Re-employment within West Sussex.](#)
- [Following your death, either in service or after, leaving employment.](#)

The discretions within this policy were approved by the Governance Committee on 1<sup>st</sup> July 2013 and updated to reflect amendments to the regulations in July 2016.

All discretions will be reviewed at least on a 4 yearly basis, or as and when circumstances change.

## **Joining West Sussex County Council**

### **Contributions – How much will it cost?**

*Teachers' Pension Scheme Regulations 2010 Regulations 18 & 27 and Paragraphs 2 & 3 of schedule 3*

The contribution rate you pay will depend on the band into which your salary falls, and may be reviewed from time to time. Further information can be found on the [Teachers' Pension website](#).

## **When will my pension contributions be deducted?**

*Teachers' Pension Scheme Regulations 2010 Regulation 28*

They will be deducted from your pay on your regular pay day.

## **Can I transfer my previous pension rights into the TPS from another scheme?**

*Teachers' Pension Scheme Regulations 2010 Regulations 31, 35 and 36*

Provided the previous scheme meets Her Majesty's Revenue and Customs (HRMC) requirements and you apply for a transfer within 12 months of entering pensionable employment, then you may be able to transfer in your benefits.

### **During your employment with West Sussex County Council**

#### **If I elect to pay contributions for additional pension, will you pay contributions on this too?**

*Teachers' Pension Scheme Regulations 2010 Regulations 73 and 75 and Schedule 4 paragraph 2 (2) & Teachers' Pension Scheme Regulations 2014 Schedule 2, paragraph 6(2) and 8(1)*

You are able to elect to pay additional contributions in order to be awarded additional pension in the Teachers' Pension Scheme when you retire or take phased retirement. Your employer may also elect to pay a lump sum into the scheme to purchase an additional pension for you in the scheme.

The County Council has chosen not to exercise this discretion to purchase additional pension for the benefit of scheme members.

### **Leaving your employment with West Sussex County Council**

#### **Can I take phased retirement?**

*Teachers' Pension Scheme Regulations 2010 Regulation 57 and Teachers' Pensions Schemes (Miscellaneous Amendments) Regulations 2017 Regulation 4*

Provided your employer agrees that you can take a reduction in your salary, you have the option to access your pension benefits from age 55 without having to give up work completely. You could take a post with less responsibility or you could work reduced hours.

Phased retirement allows you to decide how much you wish to take of the benefits you have accrued - up to a maximum of 75% of your total benefits.

You can take phased retirement without having a break in employment - but only if your pensionable salary reduces by at least 20% of the average salary you received in the previous 12 months. The reduction in salary has to be for a minimum of 12 months.

You could take a post with less responsibility or you could work reduced hours.

If, in the first 12 months following your phased retirement your contributing salary is subsequently increased to in excess of 80% of your contributing salary prior to phased retirement (ignoring standard increases) the phased retirement pension will cease. If you retire on phased grounds and then become re-employed your pension may be abated, but you would need to discuss this with Teachers' Pensions at that time.

For further information about phased retirement please visit the [Teachers' Pension Scheme website](#).

### **Can I request early retirement?**

*Teachers Pension Scheme Regulations 2010 Schedule 7(10)*

The County Council **does not normally** approve the voluntary retirement of employees between the age of 55 and their normal retirement age.

However a Teacher may make a request to their school to retire and access their pension benefits on a reduced basis – this is known as Actuarially Adjusted Benefits (AAB).

The Authority may withhold its permission for immediate release of pension on this basis, but only for a maximum of 6 months.

Where a Teacher has been made redundant and is aged 55 or over and they wish to access their pension on an actuarially adjusted basis, provided that they meet the relevant criteria, permission will not reasonably be withheld.

Please refer to the access to pension on retirement policy following the link below.

[https://www.westsussex.gov.uk/learning/west\\_sussex\\_grid\\_for\\_learning/support\\_for\\_school\\_staff/human\\_resources/schools\\_human\\_resources\\_guide/section\\_11\\_-leaving\\_the\\_organ/teachers\\_access\\_to\\_pension\\_on.aspx](https://www.westsussex.gov.uk/learning/west_sussex_grid_for_learning/support_for_school_staff/human_resources/schools_human_resources_guide/section_11_-leaving_the_organ/teachers_access_to_pension_on.aspx)

### **If I am made redundant what payments will I be entitled to?**

*Teachers' (Compensation for Redundancy and Premature Retirement) Regulations 2015 Regulation 5 and 8*

The County Council has decided to pay statutory redundancy payments based on an actual week's pay rather than the statutory cap.

In addition, regardless of your age, the County Council provides an enhanced redundancy payment to compensate you for loss earnings if you have two or more years' continuous service (as defined by the Redundancy Payments Modification Order).

Further information can be found by following the link below.

[https://www.westsussex.gov.uk/learning/west\\_sussex\\_grid\\_for\\_learning/support\\_for\\_school\\_staff/human\\_resources/schools\\_human\\_resources\\_guide/section\\_11\\_-leaving\\_the\\_organ/model\\_staffing\\_reductions\\_poli.aspx](https://www.westsussex.gov.uk/learning/west_sussex_grid_for_learning/support_for_school_staff/human_resources/schools_human_resources_guide/section_11_-leaving_the_organ/model_staffing_reductions_poli.aspx)

The Teachers' Pension Scheme provides that the Authority/School cannot release premature retirement benefits AND award an enhanced redundancy payment.

Therefore teachers aged 55 and over, who are made redundant, will not be awarded premature retirement benefits. Instead they may choose to access their pension on an actuarially adjusted or an age basis.

### **If my employment is terminated on the grounds of the efficiency of the service will I be entitled to compensation?**

*Teachers' (Compensation for Redundancy and Premature Retirement) Regulations 2015 Regulation 5, 8 and 17*

The County Council may choose to either:

- Pay a lump sum to compensate an employee in the event that their employment is terminated on the grounds of the efficiency of the service; or
- Pay premature retirement benefits to employees aged 55 or over who are members of the Teachers' Pension Scheme. In exceptional circumstances additional service may be granted when premature retirement benefits are paid.

The amount or type of payment will be determined in accordance with the scheme policy and subject to the overall package not totalling any more than the employee would be entitled to if their employment is terminated on the grounds of redundancy.

Full details of the scheme can be found by following the link below:

[https://www.westsussex.gov.uk/learning/west\\_sussex\\_grid\\_for\\_learning/support\\_for\\_school\\_staff/human\\_resources/schools\\_human\\_resources\\_guide/section\\_11\\_-leaving\\_the\\_organisation/teachers\\_compensation\\_for.aspx](https://www.westsussex.gov.uk/learning/west_sussex_grid_for_learning/support_for_school_staff/human_resources/schools_human_resources_guide/section_11_-leaving_the_organisation/teachers_compensation_for.aspx)

**If I am granted premature retirement when will my pension payments be made?**

*Teachers' (Compensation for Redundancy and Premature Retirement) Regulations 2015. Regulation 39*

West Sussex County Council pension payments will be made on a monthly basis.

**If I am granted premature retirement, who pays my pension?**

*Teachers' (Compensation for Redundancy and Premature Retirement) Regulations 2015 Regulation 37*

The County Council through its partner Capita, makes pension payments to Teacher pensioners through the pensioners payroll.

**If I am granted premature retirement, and the salary used to calculate my pension has been restricted will you make contributions towards an additional pension?**

*Teachers' Pension Scheme Regulations 2010 Schedule 4 para 2 (3)*

In circumstances where you have ceased pensionable employment in the Teachers' Pension Scheme and have suffered a restriction in your average salary your employer may choose to purchase you an additional pension.

The County Council has chosen not to exercise this discretion, and will not pay contributions for additional pension.

**Re-employment with West Sussex County Council**

**Can I be re-employed with West Sussex County Council (or another Authority), immediately after I have taken my pension?**

*Teachers' Pensions Regulations 2010 Regulation 64, as amended by the Teachers' Pensions (Miscellaneous Amendments) (No.2) Regulations 2014 Regulation 15 and Teachers' (Compensation for Redundancy and Premature Retirement) Regulations 2015 Regulation 31*

In order to access their pension, teachers must cease all pensionable employment, regardless of whether the employment is held at different schools or within a different County Council.

Teachers are not permitted to take a 'token break' in service in order to access their pension benefits. There must be a genuine cessation of employment otherwise the Authority will not certify the release of pension benefits.

If you access your pension benefits and wish to return to employment, the expectation of the Department for Education is:

- You would be re-employed under a new contract of employment with a new employer, following a recruitment process;
- If you return to the same employer, then you would have moved to a substantially changed role; or
- If you return to substantively the same post, you will have been appointed as the result of some form of recruitment process.

### **Will my pension be affected if I am re-employed by WSCC or any other TPS employer?**

*Teachers' Pensions Regulations 2010 Regulation 64, as amended by the Teachers' Pensions (Miscellaneous Amendments) (No.2) Regulations 2014 Regulation 15 and Teachers' (Compensation for Redundancy and Premature Retirement) Regulations 2015 Regulation 31*

Teachers who have voluntarily accessed their pension on an unreduced basis, may have their pension reduced on re-employment, in accordance with the rules of the Teachers' Pension Scheme (the provisions about a short term break as outlined above apply here as well). All re-employment must be declared to the TPS, to prevent the TPS seeking recovery of overpayment

### **Following your death**

#### **Discretion to pay pension benefits to a person under the age of 18 years or who is permanently incapable, to another person as the County Council considers appropriate.**

*Teachers' (Compensation for Redundancy and Premature Retirement) Regulations 2015. Regulation 39 (4)*

If a person entitled to payment of compensation has not attained the age of 18, or is incapable by reason of infirmity of mind or body of managing their own affairs, the County Council may pay the benefit to any person having the care of the person entitled, or apply it for the benefit of the person entitled or their dependants.

The Authority/Academy will take all reasonable steps to determine who, of anyone, it considers to be responsible for the care of any entitled person. Such responsibility may be proven and authorised via the beneficiary signing a waiver form provided by the Authority/Academy or may require the production of a letter of probate to the benefit of the carer or responsible person in order that the award pension benefits can be made.

### **Can I receive a supplementary death grant?**

*Teachers' (Compensation for Redundancy and Premature Retirement) Regulations 2015 Regulation 12*

If you have been granted premature retirement and pass away within 5 years of your retirement the Authority/Academy will not exercise its discretion to pay a supplementary death grant of the balance of five times the annual compensation.

**Produced by:** Corporate Human Resources

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**Reviewed:** July 2016 to reflect changes to the regulations

