

1 Introduction

- 1.1 NILGOSC is required to formulate, publish and keep under review a written policy statement on certain discretions in accordance with:
- Local Government Pension Scheme Regulations (NI) 2014
 - Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (NI) 2014
 - Local Government Pension Scheme (Administration) Regulations (NI) 2009 - in respect of leavers between 1 April 2009 and 31 March 2015 and
 - Local Government Pension Scheme Regulations (NI) 2002 - in respect of leavers between 1 February 2003 and 31 March 2009.
- 1.2 In addition, NILGOSC is also
- Recommended to formulate, publish and keep under review a written policy statement on one discretion under the Local Government Pension Scheme Regulations (NI) 2000 - in respect of leavers before 1 February 2003;
 - Required to formulate, publish and keep under review a written policy statement on certain discretions in accordance with Regulation 66 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (NI) 2007, effective from 1 October 2006; and
 - Required to formulate, publish and keep under review a written Statement of Policy on certain discretions in accordance with Regulation 25 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (NI) 2003, operative from 24 March 2003 for terminations of employment on redundancy or efficiency grounds that occurred prior to 1 April 2007.
- 1.3 In formulating its Policy Statement, NILGOSC has ensured that its discretionary powers:
- Are exercised reasonably
 - Will not be used for ulterior motive
 - Will be used with regard to all relevant factors
 - Will be duly recorded when used.
- 1.4 NILGOSC also confirms that in applying its Policy Statement its discretions will be applied reasonably, will not be fettered and will be used as necessary to assist in attracting and retaining staff and to compensate staff who leave.
- 1.5 NILGOSC reserves the right to conduct a full investigation and request further information into any request under the pension scheme regulations before making a final determination related to early retirement on compassionate grounds.
- 1.6 Decisions under this policy will be taken by the Secretary and will be subject to review by the Staffing Committee.
- 1.7 Throughout this policy statement, and unless otherwise stated, employee should also be taken to mean an active LGPS member; and NILGOSC should be considered to be the employer.

2 Employer Discretions

2.1 NILGOSC’s Statement sets out its policy in respect of the following:

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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

1. Discretion Power to grant extra annual pension (LGPS 2014, Regulation 32)

Explanation

Whether, at full cost to NILGOSC, to grant extra annual pension of up to £7,127 (figure at 1 April 2020) to an active scheme member or within six 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 grounds of business efficiency.

NILGOSC Policy

Employees who leave the Scheme	Additional pension up to a maximum of £7,127 (figure at 1 April 2020) may be awarded to those leaving NILGOSC's employment on redundancy or in the interests of efficiency of the service in accordance with NILGOSC's policy on Redundancy/ Efficiency (so long as the award is made within six months of leaving) or on compassionate grounds in accordance with section three below (page 14).
Employees joining the Scheme	Additional pension up to a maximum of £7,127 (figure at 1 April 2017) may be awarded in rare and exceptional circumstances when it deemed absolutely necessary as an inducement to attract and retain a new employee who has specialist skills and experience required by NILGOSC. This will be conditional on the employee remaining in NILGOSC employment for an agreed period of time.
Employees who are active members of the Scheme	Additional pension up to a maximum of £7,127 (figure at 1 April 2020) will only be awarded in rare and exceptional circumstances when it is deemed absolutely necessary as an inducement to prevent an employee who is an active member, who has exceptional specialist skills and experience required by NILGOSC, from leaving NILGOSC's employment. This will be conditional on the employee remaining in NILGOSC employment for an agreed period of time.

Each case above will be considered on the merits of the case put forward. The cost of any extra annual pension awarded will have to be paid to the Pension Fund as a lump sum payment unless it has been agreed to pay increased contributions to meet the cost.

2. Discretion Employer discretion to contribute towards the costs of purchasing extra pension (LGPS 2014, Regulation 18)

Explanation

Whether, where an employee wishes to purchase extra annual pension of up to £7,127 (figure at 1 April 2020) by making Additional Pension Contributions (APCs), NILGOSC will voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC). The employee must make an election to pay an APC within 30 calendar days of returning to work or any such longer period that the employer may permit.

NILGOSC Policy

NILGOSC will voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC) where:

- an employee returns from a period of authorised leave of absence, and
- the employee does not, within 30 days of returning from the leave of absence, make an election to buy-back the amount of pension 'lost' during that period of leave of absence, and
- the employee subsequently makes an election to do so and it can be demonstrated that the reason for missing the original 30-day deadline was because he/she had not been made aware of that deadline, and
- the election is made no more than six months after the employee returns from the period of leave of absence or such longer period as NILGOSC may deem reasonable in any individual case.

A decision on whether the employee meets the above criteria (and on whether the six month period referred to should be extended in any individual case) will be taken by the Secretary and, where it is agreed that the conditions are met, NILGOSC will contribute 2/3rds of the cost of buying back the 'lost' pension via a SCAPC.

3. Discretion Flexible retirement (LGPS 2014, Regulation 31 and LGPS 2014 Transitional Regs, Regulation 10)

Explanation

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

- whether, in addition to the benefits the employee has accrued prior to 1 April 2009 (which he/she must draw if flexible retirement is agreed), to permit him/her to choose to draw
 - all, part or none of the pension benefits they accrued after 31 March 2009 and before 1 April 2015, and/or
 - all, part or none of the pension benefits they accrued after 31 March 2015, and
- 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).

NILGOSC Policy

NILGOSC will allow early payment of total accrued benefits to employees meeting its terms for early payment of benefits in cases of flexible retirement (a copy of which is available from HR), subject to cost.

Requests to waive the reduction in benefits will only be considered in exceptional circumstances on compassionate grounds (in accordance with the criteria specified in section three below – page 14) or where NILGOSC 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 require the approval of the Secretary).

Any strain on fund costs or any cost to waive the reduction in benefits will have to be met by, and paid to the Pension Fund, by NILGOSC.

4. Discretion 85 year rule for members voluntarily drawing benefits
(LGPS 2014 Transitional Regs, Schedule 3)

Explanation

Whether, to switch the 85 year rule back on in full for employees who would otherwise be subject to it and who choose to voluntarily draw their benefits on or after age 55 and before age 60.

NILGOSC Policy

NILGOSC will not agree to switch the 85 year rule on in full where employees choose to voluntarily draw their benefits on or after age 55 and before age 60 except where there are compassionate reasons for doing so in accordance with the criteria specified in section 3 (page 14). The cost to NILGOSC will be taken into consideration.

5. Discretion Waiving reduction on benefits which a member voluntarily draws before normal pension age
(LGPS 2014, Regulation 31 and LGPS 2014 Transitional Regs, Schedule 3)

Explanation

Under Regulation 31(5) of the LGPS Regulations (NI) 2014, employees voluntarily retiring on or after age 55 and before Normal Pension Age (NPA) may elect to immediately draw benefits and deferred members to draw benefits (other than on ill health grounds) on or after age 55 and before NPA, in each case reduced by the amount shown in actuarial guidance issued by the Department.

The amount of the reduction will vary in accordance with the age of the member, membership in the Scheme and the extent to which the transitional provisions with regard to the 85 Year Rule (Schedule 3 to the Transitional Regulations) apply to the individual member (if at all).

NILGOSC:

- Under Regulation 31(8), may agree to waive any relevant reduction under Regulation 31(5) in whole or in part in respect of membership from 1 April 2015. No ground is stipulated by the Regulations.
- Under Paragraph 2(1) of Schedule 3 to the Transitional Regulations, may determine on compassionate grounds to waive in full any relevant reduction calculated in accordance with Schedule 3.

NILGOSC Policy

NILGOSC will not agree under Regulation 31(8) to waive in whole or in part any reduction in benefits as described above except in circumstances where NILGOSC considers there are compassionate grounds in accordance with Section 3 at page 14 below and always subject to the approval of the Secretary.

As the employer, NILGOSC will have to meet the cost of the strain on the fund resulting from any waiver in actuarial reduction.

Each case will be considered on the merits the compassionate case put forward.

6. Discretion Shared Cost AVC
(LGPS 2014, Regulation 19)

Explanation

Whether, how much, and in what circumstances to contribute to a shared-cost Additional Voluntary Contribution (SCAVC) arrangement entered into on or 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.

NILGOSC Policy

NILGOSC allows all employees to increase their death in service grant. NILGOSC will contribute 50% of the SCAVC cost for any employee who takes out an SCAVC arrangement with the in-house scheme AVC provider to provide further death in service cover to a maximum of two years pensionable pay.

Discretion Aggregating benefits
7. (Concurrent Employments and Deferred Members)
(LGPS 2014, Regulation 24)

7a - Aggregating benefits – Concurrent Employments

Explanation

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

NILGOSC Policy

NILGOSC will only extend the 12-month time limit within which an employee 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:

- a) where NILGOSC agrees that the available evidence indicates the employee had not been informed of the 12-month time limit due to maladministration
- b) where NILGOSC agrees that the available evidence indicates the employee had made an election within 12 months of ceasing the concurrent employment but the election was not received by NILGOSC (as the scheme administrator) e.g. the election form was lost in the post; or
- c) where the employee has pre 1 April 2015 membership and NILGOSC agrees the available evidence indicates that, due to maladministration, the member had not been informed of the implications of having separate benefits.

7b - Aggregating Deferred Benefits

Explanation

Whether to extend the 12-month time limit within which an employee, who has a deferred LGPS benefit in Northern Ireland following the cessation of employment, may elect to have the deferred benefits aggregated with those in their new active member pension account.

NILGOSC Policy

NILGOSC will only extend the 12-month time limit within which an employee, who becomes an active member again (i.e. who has a deferred LGPS benefit in NI), may elect to aggregate the benefits in their deferred pensions account with those in their new active member pensions account:

- d) where NILGOSC agrees that the available evidence indicates the employee had not been informed of the 12-month time limit due to maladministration
- e) where NILGOSC agrees that the available evidence indicates the employee had made an election within 12 months of joining the LGPS but the election was not received by NILGOSC (as the scheme administrator) e.g. the election form was lost in the post; or
- f) where the employee has pre 1 April 2015 membership and NILGOSC agrees the available evidence indicates that, due to maladministration, the member had not been informed of the implications of having benefits aggregated and would, in consequence, suffer a detriment to their pension benefits (e.g. where an employee's whole-time equivalent pensionable pay on commencing with NILGOSC is, in real terms after allowing for inflation, significantly more than the whole-time equivalent pensionable pay upon which the deferred benefits were calculated).

8. Discretion Determining contribution rates for employees (LGPS 2014, Regulation 11)

Explanation

How the pension contribution band/rate to which an employee is to be allocated on joining the Scheme, and at each subsequent April, will be determined and the circumstances in which (following a material change which affects 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.

NILGOSC Policy

NILGOSC has written a separate policy in respect to this discretion. A copy of the Contribution Banding Policy is available to staff on the Intranet.

9a. Discretion Assumed Pensionable Pay and determination of whether a lump sum that was received by the member was a regular lump sum (LGPS 2014, Regulation 23(5))

Explanation

Employers must provide NILGOSC with a member's Assumed Pensionable Pay (APP) when a member:

- is absent due to illness or injury and on reduced contractual pay or no pay
- is absent on child-related leave (as defined) and the actual pay received is not greater than APP would be for that period
- is absent on reserve forces service leave
- where an ill-health retirement or death has occurred

APP is calculated in accordance with Regulation 23. The annual rate of APP must include any regular lump sum payment received by the member in the 12 months prior to the relevant event, as set out above (Reg 23(4)(a)(iv) and 23(5)(a)(iv)). Regulation 23(5)

defines a regular lump sum payment as "a payment for which the member's employer determines there is an expectation that such a payment would be paid on a regular basis."

The employer must therefore determine in relation to any lump sum the member received in that 12-month period whether or not there was an expectation that that payment would be paid on a regular basis. Where it determines that there is such an expectation, the lump sum must be included in the calculation of the annual APP figure.

NILGOSC Policy

NILGOSC does not currently make any 'regular lump sum payments' to its employees. Therefore, if any lump sum payment were made to an employee, generally there would be no expectation that such a payment would be regular. However, NILGOSC will consider each case on its merits and any final decision will rest with the Secretary.

Discretion Whether to substitute a revised pensionable pay in calculating 9b. APP (LGPS 2014, Regulation 23(5A) and (5B))

Explanation

Where the pensionable pay received by a member in the relevant reference period for the calculation of APP under Regulation 23 is materially different from the level of pensionable pay that member normally received ("normal pensionable pay"), the employer may substitute in the calculation of APP a revised level of pensionable pay that reflects the member's normal pensionable pay.

The employer must have regard to the level of pensionable pay received by the member in the previous 12 months.

NILGOSC Policy

In calculating APP, NILGOSC will usually substitute a revised pensionable pay for the actual pensionable pay received in the reference period where it is materially different to the pay normally received by the member. The revised pensionable pay used will reflect the member's normal pensionable pay.

In determining the member's normal pensionable pay, NILGOSC will take into account the pensionable pay received by the member in the previous 12 months.

Each case will be determined on its merits and exceptional circumstances will be taken into account.

Discretion Time limit for elections to cover lost pension due to a 10. permitted absence. (LGPS 2014, Regulation 18)

Explanation

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

NILGOSC Policy

NILGOSC will only extend the 30-day deadline following an employee's return to work after a period of authorised absence where he/she can decide to apply to cover the lost pension through an APC where:

- an employee returns from a period of authorised leave of absence (other than illness, child related leave or reserve forces service leave), and
- the employee does not, within 30 days of returning from the leave of absence, make an election to cover 'lost' pension through an APC, and
- the employee subsequently makes an election to do so, no more than six months after the return work, and it can be demonstrated that the reason for missing the original 30 day deadline was because he/she had not been made aware of that deadline.

A decision on whether the employee meets the above criteria will be taken by the Secretary and, where it is agreed that the conditions are met, NILGOSC will contribute 2/3rds of the cost of buying back the 'lost' pension via a SCAPC.

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

11. Discretion Waiving reduction to deferred benefits
(LGPS 2009, Regulation 30)

Explanation

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

NILGOSC Policy

Requests to waive the reduction in benefits on compassionate grounds will only be considered in exceptional circumstances in accordance with section three below – page 14.

NILGOSC will have to meet the cost of the strain on the fund resulting from a decision to waive any actuarial reduction.

12. Discretion application of 85 year rule for deferred members
(LGPS 2014, Transitional Regs, Schedule 3)

Explanation

Whether, as the 85 year rule* does not (other than on flexible retirement) automatically apply to former employees 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.

**The 85 year rule is satisfied if the person was an LGPS member on 30 September 2006 and if the member's age at the date they draw their benefits and their scheme membership (each in whole years) add up to 85 or more. If they are part-time, their membership counts towards the 85 year rule at its full calendar length.*

NILGOSC Policy

NILGOSC will not agree to switch the 85 year rule on in full where a deferred member chooses to voluntarily draw their benefits on or after age 55 and before age 60 except in circumstances where NILGOSC 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 require the approval of the Secretary.

NILGOSC will have to meet the cost of the strain on the fund resulting from a decision to pay benefits before age 60 i.e. where the member has met the 85 year rule or would meet it before age 60.

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

13. Discretion Waiving reduction to deferred benefits
(Local Government Pension Scheme Regulations (Northern Ireland) 2002, reg 5)

Explanation

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

NILGOSC Policy

Requests to waive the reduction in benefits on compassionate grounds will only be considered in exceptional circumstances in accordance with section three below – page 14.

NILGOSC will have to meet the cost of the strain on the fund resulting from a decision to agree to waive any actuarial reduction.

14. Discretion application of 85 year rule for deferred members
(LGPS 2014, Transitional Regs, Schedule 3)

Explanation

Whether, as the 85 year rule* does not (other than on flexible retirement) automatically apply to former employees 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.

**The 85 year rule is satisfied if the person was an LGPS member on 30 September 2006 and if the member's age at the date they draw their benefits and their scheme membership (each in whole years) add up to 85 or more. If they are part-time, their membership counts towards the 85 year rule at its full calendar length.*

NILGOSC Policy

NILGOSC will not agree to switch the 85 year rule on in full where a deferred member chooses to voluntarily draw their benefits on or after age 55 and before age 60 except in circumstances where NILGOSC 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 require the approval of the Secretary.

NILGOSC will have to meet the cost of the strain on the fund resulting from a decision to pay benefits before age 60 i.e. where the member has met the 85 year rule or would meet it before age 60.

Discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007

15. Discretion Redundancy payment
(Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2007, Regulation 4)

Explanation

Whether to base a redundancy payment on an employee's actual weeks' pay where this exceeds the statutory week's pay limit of, currently £560 per week (as at April 2020).

NILGOSC Policy

Any redundancy payment will be calculated on an employee's actual week's pay where this exceeds the statutory maximum. An actual week's pay will include employer pension contributions.

16. Discretion Enhanced compensation
(LGPS 2007 Regulation 5)

Explanation

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

NILGOSC Policy

An employee whose employment is terminated early due to redundancy or business efficiency will receive a termination payment (inclusive of any redundancy pay) calculated using the statutory redundancy payment formula but based on an actual week's pay, enhanced by a multiplier of 3.46.

Discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003

17. Discretion Abatement of annual compensatory added years pension
(Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003, regulations 16 and 18)

Explanation

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 NILGOSC, regardless of whether or not the employee chooses to join the LGPS.

NILGOSC Policy

NILGOSC has a policy of no abatement and any pensioner currently re-employed, or re-employed in the future, with NILGOSC will not be subject to a reduction or suspension of his/her annual compensatory added years pension.

18. Discretion Survivor compensatory added years apportionment
(Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003, regulation 20(4))

Explanation

How any surviving spouse's 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.

NILGOSC Policy

NILGOSC will apportion any surviving spouse's 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 case).

19. Discretion Annual compensation suspension rules
(Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003, regulation 20(5))

Explanation

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 i.e. the spouse's or civil partner's annual compensatory added years pension will continue to be paid.

NILGOSC Policy

If the 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 spouse or civil partner's annual compensatory added years pension will continue to be paid.

20. Discretion Annual compensation suspension rules (reinstatement)
(Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003, regulation 20(7))

Explanation

Whether, 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 should be reinstated after the end of the period of remarriage, new civil partnership or cohabitation.

NILGOSC Policy

N/A -NILGOSC will not suspend a spouse's or civil partner's annual compensatory added years pension due to remarriage, entering into a new civil partnership or cohabitation.

15 Consideration of requests on compassionate grounds

- 15.1 Each request on compassionate grounds will be considered on its own merits regardless of cost.
- 15.2 The main criteria NILGOSC will consider as compassionate grounds are
- to allow employees or former employees to care for a sick spouse, civil partner, co-habiting partner, parent, child, sibling or other dependant as that person's sole or main carer; and/or
 - on grounds of long-term severe financial hardship.
- 15.3 Proven long-term severe financial hardship means that the member's long-term expenditure on basic living requirements (e.g. food, heat, electricity, rent or mortgage, clothing) exceeds the member's income from all sources and the member has either no or minimal savings. Long-term means greater than 12 months.
- 15.4 The member must provide NILGOSC with relevant information and evidence supporting his or her application. If the member refuses to provide information to NILGOSC, then NILGOSC may proceed to make a decision without that information.
- 15.5 Relevant information and documents may include (without limitation):
- Where the member wishes long-term severe financial hardship to be considered:
 - Full details of long-term severe financial hardship.
 - Details of all employments held since leaving the NILGOSC's employment.
 - Details of all income, pensions deferred or in payment and any other benefits receivable including state benefits and crisis loans.
 - Details of savings accounts or savings-type insurance policies.
 - Copies of bank statements.
 - Detailed list of expenditure.
 - Where the member wishes caring responsibilities to be considered:

- Medical reports, if appropriate, to support a case of retirement to look after an elderly or infirm spouse, civil partner, co-habiting partner, child, parent, sibling or other dependant.
- Evidence that the member is the sole or main carer.

NILGOSC may also request any such other information and evidence as may be relevant to the decision, where it is reasonable to request same from the member.

16 Policy Review

- 16.1 Committee's Policy Statement on Employer's Discretions was last reviewed in May 2020. The next review will be due in May 2023.