



Local Government Pension Scheme including Discretion Policy (1160/2025)

Abstract

This policy outlines the Local Government Pension Scheme (LGPS) Discretions provided by Sussex Police through the West Sussex Pension Fund (administered by Hampshire Pension Services). Any queries regarding this policy should be directed to People Resolution Centre.

Policy

1. Introduction

1.1 The Local Government Pension Scheme (LGPS) is a statutory scheme. The rules and regulations governing the scheme are laid down under Act of Parliament.

1.2 There are some provisions of the scheme that are discretionary. Discretionary powers allow employers such as Sussex Police to choose how, or if, they apply certain provisions.

1.3 This policy outlines the Local Government Pension Scheme (LGPS) provided by Sussex Police through the West Sussex Pension Fund and outlines and summarises the discretions Sussex Police exercises as an employer in relation to the LGPS.

1.4 Further information on the LGPS Scheme can be found on the Local Government Pension Scheme website. [Home :: LGPS](#)

2. Scope

This policy provides details on the LGPS scheme, including the 50/50 scheme. It also provides a summary of the discretions Sussex Police as an employer, exercises in relation to the Local Government Pension Scheme. The policy has been updated to reflect the new regulations from 1st April 2014.

3. Policy Statement

3.1 Sussex Police are committed to the provision of the LGPS as a key element of the benefits package offered to police staff.

3.2 Overall line management responsibilities:

Policies and associated guidance should inform decision making which should consider organisational values, professional judgement (on the context and circumstances of each situation) and 'policing principles'. Decisions and subsequent action taken should be proportionate, legitimate and ethical as informed by the National Decision-Making Model.

Procedure

1. Policy Provisions

1.1 The policy has been grouped under the following headings:

- Joining Sussex Police;
- During your employment with Sussex Police;
- Leaving your employment with Sussex Police;
- Adjustments to your pension rights following ill health;
- Loss of pension rights as a result of a fraudulent offence or grave misconduct;

The pension discretions are contained within Sussex Police LGPS Pensions Discretions. They are reviewed at least on a 3 yearly basis, or as and when circumstances change, i.e. new legislation is released.

2. Joining Sussex Police

2.1 Further information can be found on the Local Government Pension Scheme website (Joining the LGPS).

2.2 How much will it cost?

You will pay between 5.5% and 12.5% of your pensionable pay which will include overtime. The contribution rate you pay depends on which LGPS pay band you fall into.

LGPS pay bands increase on 1 April each year. The Force has decided to review individual employee LGPS contribution rates each month, based on pensionable pay. This is calculated by taking permanent elements of pay as at 1st of the current month and then adding any temporary pensionable payments processed during the previous twelve months. Your contribution will be adjusted if there are any significant changes to your pensionable status, such as a change in salary or hours worked.

2.3 When will my pension contributions be deducted?

They will be deducted monthly from pay. The amount of your pension contribution is detailed within your payslip.

2.4 What elements of my pay are pensionable?

Pension contributions must be paid on all the salary, wages, allowances and other payments you receive as an LGPS member, and any benefit specified in your contract of employment as being pensionable.

Any element of pay that is being paid to you and complies with the definitions as described in the LGPS2013 Regulations listed above including non-contractual overtime will be regarded as pensionable. Non-contractual overtime became pensionable from April 2014.

Certain payments such as travel and subsistence expenses and pay in lieu of notice are excluded from this.

Only sums that are liable for income tax may be specified as pensionable.

2.5 Can I combine my previous pension benefits to my current period of scheme membership?

If you have previous LGPS pension benefits (deferred benefits), when you re-join the LGPS, you will have the ability to combine your deferred benefits with your current membership. However, the way you do this, depends on when the deferred benefits were accrued.

Deferred benefits post 1 April 2014:

Deferred benefits arising after 1 April 2014 will be automatically combined with your new active pension account when you rejoin the LGPS. However, you can choose to keep the deferred benefits separate by notifying us in writing within 12 months of rejoining.

Exceptions:

If you opted out of the LGPS after 11 April 2015 and later rejoin, the deferred benefits from that opt-out cannot be combined with your new active pension account

Deferred benefits pre-1 April 2014:

Deferred benefits accrued before 1 April 2014 will remain separate unless you choose to combine them with your new active pension account. To do so, you must notify us within 12 months of rejoining.

In both scenarios, the Pensions Technical Lead will consider an extension to the time limit on a case-by-case basis if it is clear that you were unable to meet the normal time period due to circumstances beyond your control.

2.6 Can I transfer my previous pension into the LGPS?

You are allowed to transfer previous pension/s, including some (not all) from non-LGPS schemes into the LGPS.

Your request to move them must be made within 12 months of your original date of starting scheme membership.

The Pensions Technical Lead will consider an extension on a case-by-case basis if it is clear that you were unable to meet the normal time period due to circumstances beyond your control.

3. During your Employment with Sussex Police

3.1 What happens if I am on sick leave?

If you are off work due to sickness or injury and your contractual pay is reduced, or you do not receive any pay, then a notional pay figure is used to work out your pension to make sure your pension is not affected. This notional pay is called your assumed pensionable pay.

You will continue to pay your basic LGPS contributions on any pay that you receive while you are off sick. If you are on unpaid sick leave, you will not pay any contributions.

If you are in the 50/50 section of the scheme and your pay is reduced to zero due to unpaid sick leave, you will automatically be moved into the main section of the scheme from the beginning of the next pay period (if you are still not receiving any pay). This means from that point forward you will build up full pension benefits in the LGPS even though you are not paying pension contributions.

3.2 What happens if I am on maternity, adoption or paternity leave or shared parental leave?

During any period of relevant child related leave your pension is worked out using your assumed pensionable pay (where this is higher than the amount of pensionable pay you actually receive). Your assumed pensionable pay is a notional figure that is used to make sure your pension is not affected by the reduction in pay. This means that you will continue to build up a pension in the section of the LGPS you are in, as if you were working normally and receiving pay.

If you are in the 50/50 section and go onto no pay during ordinary maternity and adoption leave (usually the first 26 weeks) or paternity leave you will automatically be moved to the main section of the scheme from the beginning of the next pay period. This means from that point forward you will build up full pension benefits in the LGPS even though you are not paying pension contributions.

However, any period of unpaid additional maternity or adoption leave (normally from weeks 39-52) or unpaid shared parental leave will not count for pension purposes unless you elect to pay Additional Pension Contributions (APCs) to purchase the amount of pension lost during that period of unpaid absence. If you are interested in buying the pension lost, please contact the Sussex Pay Office.

If you make an election to pay APCs to purchase the amount of pension lost within 30 days of returning to work, the cost will be split between you and employer.

3.3 What happens if I am granted a period of authorised unpaid leave?

If your employer allows you to take a period of unpaid leave, including jury service, the period will not count for pension purposes unless you elect to pay APCs to purchase the amount of pension lost during that period of absence.

If you make an election to pay APCs to purchase the amount of pension lost within 30 days of returning to work, the cost will be split between you and employer. Please contact the Sussex Pay Office for more information.

3.4 What happens if I am on strike?

If you are away from work for a day or more due to a trade dispute, the period will not count for pension purposes unless you elect to pay APCs to purchase the amount of pension lost.

The cost of purchasing the amount of lost pension for the period of absence would be met fully by you.

3.5 What happens if I am on reserve forces leave?

If you are on reserve forces service leave and you elect to remain in the LGPS, your pension will be worked out using your assumed pensionable pay. Using your assumed pensionable pay ensures that you will continue to build up pension as if you were in work rather than on reserve forces service leave.

Your employer needs to tell you the amount of basic pension contributions you and the Ministry of Defence (MoD) must pay, any additional contributions you are paying and the amount of assumed pensionable pay those contributions must be collected on. You should pass the information to the MoD who will then deduct the appropriate pension contributions and pay them across to your LGPS pension fund along with the employer contributions that are due.

Pension contributions will not be deducted from any pay you receive from your LGPS employer during this period.

3.6 Does Sussex Police have a shared cost Additional Voluntary Contribution (AVC) arrangement?

No. A shared cost AVC scheme is where Sussex Police contributes AVCs as well as yourself. Sussex Police does not intend to exercise this discretion.

Sussex Police does operate a non-shared AVC scheme where you can invest money through an AVC provider, often an insurance company or building society. The scheme provider for the West Sussex Pension Fund is Legal & General. AVCs are deducted directly from your pay and attract tax relief.

Further information on AVCs can be found on the Local Government Pension Scheme website (Your pension>Paying in>Paying more).

3.7 Does Sussex Police have a shared cost Additional Pension Contribution (APC) arrangement?

Sussex Police will not normally apply this discretion except in extenuating circumstances as decided by a member of People Services Senior Management Team.

A shared cost APC scheme is where Sussex Police contributes APCs as well as yourself, when you have chosen to pay additional monies to increase your pension benefits. Sussex Police does not intend to exercise this discretion.

The LGPS operates an APC scheme where you can purchase extra pension for your retirement (but Sussex Police will not share the cost of this). If you are in the main section of the scheme, you can pay more in contributions to purchase up to £8,344 of extra pension. Any extra pension you purchase is payable each year in retirement and is payable on top of your normal LGPS benefits. You cannot buy extra pension if you are in the 50/50 section of the LGPS.

Any extra regular contributions are taken from your pay, which you will receive tax relief on. You can also pay APCs by a one-off lump sum.

Further information regarding APCs can be found on the Local Government Pension Scheme website (Your pension>Paying in>Paying more).

3.8 What happens if I have an industrial injury?

Sussex Police does not intend to apply discretionary benefits in cases of industrial injury or death caused by work-related circumstances. However, the LGPS (for its actively contributing members), provides guaranteed benefits to support your family if you die in service (regardless of the cause of death). It provides:

- A lump sum death grant of three years pay, no matter how long you have been a member of the LGPS, provided you are under 75 at the date of death. For part-time employees, it is three times your actual part-time annual pensionable pay (not the full-time equivalent);
- An ongoing pension for your husband, wife, civil partner or nominated co-habiting partner. This increases every year in line with the cost of living and is payable for the rest of their life; and
- Children's pensions for your eligible children. These increase every year in line with the cost of living.

3.9 What happens if I want to opt out?

Opting out before 3 months:

If you opt out of the LGPS before completing 3 months' membership you will be treated as never having been a member and your employer will refund to you, through your pay, any contributions you have paid during that time.

Opting out with three or more months' membership and before the 2-year vesting period:

If you opt out of the LGPS when you have been a member for 3 months or more, but you have not completed the 2-year qualifying period (known as the vesting period) - you can take a refund of your contributions (less any statutory deductions) or transfer your pension to another qualifying pension scheme. If you were in the scheme before 1 April 2014 and opt out on or after that date with 3 or more months' membership and before completing the 2 years vesting period, you will also have the option of having deferred benefits in the scheme instead of taking a refund of your contributions (less any statutory deductions).

Opting out after meeting the 2-year vesting period:

If you opt out after meeting the 2-year vesting period, you will have deferred benefits. In general, these deferred benefits mirror those you would get by leaving before retirement. However, there are two key differences if you choose to opt out:

- You cannot access your deferred pension until you have stopped working for us, unless you reach age 75.
- If you later rejoin the LGPS, you cannot combine your past membership with your new membership, resulting in two separate sets of benefits. Under LGPS rules, opting out while remaining in the same job "locks in" your membership as a deferred benefit and, if you later start paying contributions again, that new membership is treated separately.

Further information about deferred benefits can be found on the Local Government Pension Scheme website (Your pension>Thinking of leaving>Opting out).

4. Leaving your Employment with Sussex Police

4.1 Can I receive a refund of my contributions?

If you leave Sussex Police; your pension options are the same as if you are opting out of the scheme.

4.2 Can I convert scheme AVCs into membership credit?

In certain circumstances you can use your AVC fund to buy membership in the pension scheme. An application should be made within 30 days of leaving. However, the Pensions Technical Lead will consider an extension on a case-by-case basis if it is clear there was no fault on your part for not being able to meet the normal time period.

4.3 Flexible Retirement Policy - Can I request to take partial / flexible retirement?

You can request to take flexible retirement. Sussex Police will consider your request on a case-by-case basis. Sussex Police has a flexible retirement policy to help you phase into your retirement. Flexible retirement lets you continue working on reduced hours, or reduced grade basis and, depending on when your membership of the LGPS commenced, draw all, part or none of your accrued pension benefits subject to certain qualifying criteria.

To be eligible to make a request for Flexible Retirement under the LGPS regulations, you must:

- Be actively making contributions to the LGPS;
- Be aged 55 or over;
- Have two years or more membership in the LGPS;
- Be taking at least a 20% reduction in your hours and/or your salary.
- Flexible Retirement will have a cost attached to it and a business case must be made setting out the reason for supporting the flexible retirement.

Further information can be found by referring to Flexible Retirement Policy (Surrey and Sussex) (1032).

4.4 Can I retire early without my employers' consent?

Yes. The scheme allows you to retire from age 55 without the need for Sussex Police's consent. However, if you retire between 55 and 60 and had protection under what is called the "85-year rule" (i.e. if you add your age and length of service in whole years and this equates to 85), this will not automatically apply in full, and your benefits might therefore be subject to actuarial reduction as you will be receiving them earlier than you would have done.

The regulations allow us as your employer to 'switch on' the 85-year rule. Your benefits may still be subject to an actuarial reduction; however, it may be less than if the 85-year rule was not 'switched on'.

As Sussex Police would have to meet the cost of 'switching on' the 85-year rule if you chose to retire between age 55 and 60, it would only consider doing so if there are exceptional or compassionate grounds for doing so.

If Sussex Police chooses to switch on the 85-year rule in your case, it then has the discretion on compassionate grounds (as defined in the new regulations) to waive the pre-1st April 2014 reduction. Where this is the case, it would be subject to the approval of the Director of People Services and / or the Director of Finance.

4.5 Access to Pension on Retirement

Further information on retirement, in addition to this policy, can be found on the Local Government Pension Scheme website (Thinking of Leaving).

4.6 Will my pension be reduced if I receive my pension benefits early?

Yes. Sussex Police does not normally agree to waive the costs of your actuarial reduction, and your pension and lump sum will therefore be reduced as you will be receiving your pension earlier than you would have done.

However, there may be exceptional or compassionate grounds that may justify Sussex Police waiving the actuarial reduction. Where this is the case, the grounds for doing so must be included in the business case for the early release of pension and is subject to the relevant approval processes.

Sussex Police will treat each case fairly based on the circumstances and merits of the case.

4.7 If I am made redundant, what payments will I be entitled to?

If you are made redundant aged 55 and over, you will be entitled to receive immediate payment of your LGPS retirement benefits, as earned to the rate of redundancy. These benefits will be made without reduction.

If you are aged under 55 when you are made redundant, you cannot receive the immediate payment of your LGPS benefits. They will instead be deferred and will be increased annually in line with the cost of living increase and will become payable from your scheme's normal retirement age (State Retirement Age with a minimum age of 65).

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

For further information, please refer to Organisational Change, Redundancy and Redeployment Policy (Surrey and Sussex) (190).

4.8 If I have a drop in pay is my pension protected?

Your final year's pay when you leave the LGPS will still be used to work out your benefits built up before 1 April 2014. This means that any future pay increases will be included in the final pay used to work out these benefits.

The definition of final pay for benefits built up before April 2014 remains the same as it was before the Scheme changed. Your final pay is normally the pay in respect of your

final year of scheme membership on which you paid contributions, or one of the previous 2 years if this is higher. This remains so from April 2014.

In addition, if your pay is reduced, or increases to your pay are restricted in your last 10 years of continuous employment you continue to have the option to have all your pre-April 2014 membership based on the average of any 3 consecutive years' pay in the last 13 years (ending on a 31 March).

If you have a certificate of protection which was issued for a reduction or restriction in pay beyond your control before 1 April 2008 and you leave the LGPS within 10 years of the reduction or restriction, then this protection continues to apply after April 2014 for benefits built up in the final salary scheme.

If you failed to apply for a certificate of protection but have subsequently realised that you should have done so, the Pensions Technical Lead will consider issuing a certificate of protection on a case-by-case basis if it is clear that you were unable to apply at the time due to circumstances beyond your control.

4.9 Adjustments to your pension following ill health

If your employment is being terminated for reasons of ill health and you are in the pension scheme, Sussex Police must decide whether or not you are entitled to an ill health retirement pension. To help with this decision a certificate will be required from an independent registered medical practitioner who will assess whether "as a result of "ill health or infirmity of mind or body", you are permanently incapable of "discharging efficiently the duties of the employment you were engaged in" and, if so, whether you are not "as a result of ill health or infirmity of mind or body", immediately capable of undertaking any "gainful employment" (see definition below).

The LGPS has 3 tiers of ill-health provision

- Tier 1: If you are unlikely to be capable of undertaking gainful employment before your Normal Pension Age. (State Retirement Age with a minimum age of 65).
- Tier 2: A) If you are not entitled to Tier 1 benefits. B) are unlikely to be capable of undertaking any gainful employment within three years of leaving your employment; but C) are likely to be able to undertake gainful employment before reaching Normal Pension Age.
- Tier 3: If you are likely to be capable of undertaking gainful employment within three years of leaving their employment, or before Normal Pension Age.

The following discretions relate to the LGPS ill-health provisions.

4.10 What happens if I am able to work again or the medical advisor deems me fit to work?

If you have received an award under tier 3, Sussex Police has to review your award after 18 months. You will be paid a tier 3 award for no more than 3 years (provided you are not in "gainful employment" or considered capable of undertaking such employment).

You must inform Sussex Police immediately if you obtain 'gainful employment' at any time between your tier 3 ill health pension award commencing and the expiry of the three years.

For the purposes of a tier 3 award, "gainful employment" is considered to be paid employment for at least 30 hours each week for a contract period of at least 12 months.

As part of a review of a tier 3 ill health award, Sussex Police may cease payment of the award from the date you gain obtained gainful employment or were considered by an independent medical adviser as capable of undertaking gainful employment.

Additionally, if you are still receiving your tier 3 ill health pension after you have obtained gainful employment, or where a medical advisor has determined you as capable of undertaking gainful employment, Sussex Police will seek to recover any overpayment made to you.

4.11 What if my condition has not improved or has deteriorated?

If you have a tier 3 ill health pension and your condition has not improved, or has deteriorated, Sussex Police will decide whether you have an entitlement to a tier 2 ill health pension. A decision to convert your tier three award to a tier two award can be taken at any time and must be no later than 3 years of the date that payment of your benefits under tier 3 has stopped, or before you reach your normal retirement age.

4.12 Can I receive my pension benefit early?

This only applies if you stopped paying into the pension scheme on or after 1st April 2008 but before 1st April 2014.

If your tier 3 ill health pension has been stopped, you can ask to receive payment of your benefits on or after age 55. As there is a cost associated with the early payment of your pension, Sussex Police will not normally agree to the early payment of your pension unless there is a significant financial or business reasons to do so, or on compassionate grounds.

Sussex Police may choose to waive, on compassionate grounds, the actuarial reduction applied to benefits payable where your tier 3 ill health pension was stopped, and you have applied for early access and your request has been approved.

Each case will be considered fairly based on its circumstances and merits and is subject to approval by the Director of People Services.

Any cost to the pension fund will be met by the relevant Department.

5. Early Payment of Deferred Benefits:

5.1 Can I receive my deferred pension early?

Pre-31st March 2014 leavers

- Sussex Police will not automatically agree to bring your deferred benefits into payment early, unless there are exceptional or compassionate grounds for doing so.

- Each case will be considered fairly by the Pensions Technical Lead based on the circumstances and merits of the case.
- If Sussex Police agrees to early payment of your deferred benefits under the LGPS Regulations 1995 and 1997, you should note that this will only be from age 55 or date of application (if later than 55), as you and Sussex Police would otherwise have to pay unauthorised payment charges under the Finance Act 2006 for any payment made before the minimum pension age of 55.

Post 31st March 2014 leavers

- Your deferred benefits are normally payable from your normal retirement age which is linked to your state retirement age, with a minimum age of 65.
- You can choose to take early payment of your deferred benefits from age 55 without your former employer's consent. However, you must be aware that your benefits will normally be reduced to take into account early payment.
- Sussex Police may choose to waive, on compassionate grounds, the actuarial reduction applied to benefits payable.
- Each case will be considered fairly based on the circumstances and is subject to approval by the Director of People Services.

Can I receive my deferred pension early due to my poor health?

The Pensions Technical Lead will decide whether or not you can receive your deferred pension early. To help them make this decision they have to obtain a certificate from an independent registered medical practitioner to determine:

Pre-31st March 2014 leavers

Whether you are suffering from a condition that renders you “permanently incapable of discharging efficiently the duties of the relevant employment because of ill-health or infirmity of mind or body”.

and, if so:

Whether as a result of that condition you have “a reduced likelihood of being capable of undertaking any gainful employment” before reaching normal retirement age, or for at least three years, whichever is the sooner.

Post 31st March 2014 leavers

Whether you are suffering from a condition that renders you “permanently incapable of discharging efficiently the duties of their former employment because of ill-health or infirmity of mind or body”.

and, if so:

Whether as a result of that condition you are “unlikely to be capable of undertaking any gainful employment” before reaching normal pension age, or for at least three years, whichever is the sooner.

6. Internal Dispute Resolution Procedure (IDRP)

6.1 What do I do if I do not agree with a decision that has been made regarding my pension?

If we have taken a decision in relation to your membership of the LGPS which you are not satisfied with, you have the right to use the Internal Dispute Resolution Procedure (IDRP). Similarly, if you believe that we should have taken a decision in relation to your membership of the scheme and that our failure to do so means that you have been adversely affected, you have the right to use the IDRP.

The formal complaint procedure has two stages. Many complaints are resolved at the first stage. Any complaint you make is treated seriously and considered thoroughly and fairly. For further details please refer to the Internal Dispute Resolution Procedure (IDRP).

7. Loss of pension rights as a result of fraudulent offence or grave misconduct

7.1 Is my pension benefit affected if I leave employment due to a fraudulent offence or grave misconduct

If you leave your employment with Sussex Police due to a fraudulent offence, grave misconduct, negligence, or any work-related criminal offence that results in financial loss to the Force, the Force will, in exceptional circumstances, seek to reduce the value of your pension benefits commensurate with the offence.

There is no automatic entitlement to a refund on your pension contributions, if you leave your employment with less than 3 month's scheme membership, as a result of a fraudulent offence or grave misconduct, and Sussex Police would seek to withhold any such amount where considered appropriate. Each case will be referred to the Director of People Services.

8 Employment Data

8.1 Sussex Police collect and process personal data relating to police officers and police staff to manage the employment relationship. It is important that individuals understand how that data is collected and used in order to meet the Force's data protection obligations. Further details can be located on intranet by searching for 'Privacy Notice'.

Team: People Services Department