



Access to the Local Government Pension Scheme for councillors in England

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From April 2003, regulations were introduced allowing councillors to be members of the Local Government Pension Scheme (LGPS) at the discretion of the local authority. This provision was introduced by the Labour Government on the basis that many councillors had lower occupational or personal pensions than they would otherwise had, as a result of their commitment to their duties as a councillor. Allowing access to the LGPS was intended to address this disincentive from serving in local politics. ([HC Deb 7 April 2003 c8WS](#)).

In December 2012, the current Government proposed that there would be no access for councillors to the LGPS in England from April 2014. Its argument was that councillors were volunteers, who received allowances to compensate for 'out-of-pocket' expenses. They were not "full-time politicians, nor should they be encouraged to become so" ([HC Deb 19 December 2012 c105-6WS](#)). The vast majority of respondents to the consultation, many of whom were councillors, said they were opposed to change. However, the Government decided to exclude any new membership from April 2014. Access for existing councillors would end with their current fixed term of office (for example, from May 2014). ([HC Deb 11 March 2014 c13-15WS](#)).

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Contents

- 1 Introduction 3**
- 2 The Labour Government’s policy 3**
 - 2.1 Introduction of access for councillors 3
 - Councillors’ Commission 2007 4
 - Comment 5
- 3 Policy of the current Government 6**
 - Consultation 7
 - Comment 8
 - The Government’s response 9

1 Introduction

The [Local Government Pension Scheme](#) (LGPS) is a defined benefit occupational pension scheme which operates on a funded basis. The scheme is sponsored centrally by the Department for Communities and Local Government (CLG), with the rules are in regulations made by the Secretary of State. It is administered, managed and funded at local level. There are 81 funds in England and 8 in Wales. Local authority employees are eligible to be members, as are the employees of certain other bodies specified in regulations.¹

A new scheme, [LGPS 2014](#), was introduced on 1 April 2014. This scheme was made under the [Public Service Pensions Act 2013](#). The details are in the [Local Government Pension Scheme Regulations 2013 \(SI 2013/2356\)](#). Key features of the scheme are:

- It provides benefits based on career average rather than final salary. Benefits accrue at a rate of 1/49th, revalued each year by the Consumer Prices Index (CPI);
- Individuals will have a normal pension age linked to their State Pension age;
- Employee contribution rates are tiered according to pay. Individuals can opt to pay 50% contributions for 50% of the pension benefit;
- There is transitional protection for those 'closest to retirement', to enable them to receive a pension at least equal to what they would have received in the scheme had it not changed on 1 April 2014.²

2 The Labour Government's policy

2.1 Introduction of access for councillors

In a report published in 2002, the Transport, Local Government and Regional Affairs Select Committee recommended that "local authorities should be given discretion over the payment of pensions to all councillors."³ In its response, the Government said it intended to:

[...] introduce amendments to the Local Government Pension Scheme in due course which will open it up to those councillors whose authorities, decide should be eligible for membership. We plan to consult interested parties on draft regulations coming into force in April 2013.⁴

In a statement on the day the regulations to enable this were laid, the then Minister for Local Government, Nick Raynsford, said that many people had lower occupational or personal pensions than they would otherwise had, as a result of being a councillor. Allowing access to the LGPS was intended to address this disincentive from serving in local politics:

The Local Government Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003 modify the Principal regulations, *The Local Government Pension Scheme Regulations 1997*. They are intrinsically linked to the allowances Regulations. In effect the amendments provide access to the Local Government Pension Scheme (LGPS) to those Councillor members' whose authorities,

¹ [SI 2013/2356, regulation 3](#)

² See [LGPS 2014 – What's different?](#)

³ Transport, Local Government and the Regions Committee, [How the Local Government Act 2000 is working](#), 14th Report of 2002-03, 12 September 2002

⁴ [The Government's response to the Transport, Local Government and Regional Affairs Select Committee's fourteenth report on how the Local Government Act 200 is working](#), Cm 5687, November 2002

acting on the recommendations of the locally appointed Independent Review Panel (IRP), decide should be eligible for membership.

The key changes to the LGPS as it applies to eligible Councillor members are: they will be treated as if they are in local government employment for the purposes of the regulations; an eligible councillor will have to positively elect to become a member of the LGPS; a councillor member's pay in any year comprises (a) the basic allowance and (b) any special responsibility allowance payable under the allowances Regulations; pension benefits will be calculated by reference to career average pay not final salary; the retirement age for a councillor will be age 70; and councillor membership will not count towards calculating any other period of local government employment/LGPS membership. An eligible councillor will be able to contribute to AVCs to enhance his pension benefits where appropriate. [...]

The provisions for pensions take into account the commitment of local councillors, and their contribution to public life. Many members of local authorities may have lower personal or occupational pension provision than they could otherwise have had, due to missing out on full time employment or forgoing promotions and other opportunities on account of their public duties. The pensions Regulations address this disincentive from serving in local politics ⁵

Under the [Local Government Pension Scheme and Discretionary Compensation \(Local Members in England\) Regulations 2003 \(SI 2003 No. 1022\)](#) councillors were eligible for membership of the LGPS on the recommendation of the local independent remuneration panel. If a panel did recommend access, it could stipulate whether it should apply to the basic allowance, special responsibilities allowance, or both. Pension benefits were based on career average pay and length of service, with a normal pension age of 70. The provisions were explained in [A guide to the LGPS for eligible councillors \(England and Wales\) \(updated April 2010\)](#) produced by Local Government Employers.

Councillors' Commission 2007

The Labour Government established a Councillors' Commission to report by the end of 2007 and make recommendations regarding the incentives and barriers to:

- encouraging suitably able, qualified and representative people to be candidates to serve as councillors of principal authorities;
- their retention and development once elected, or appointed under the *Local Government Act 2000*; and
- their being able to secure public interest and recognition for the work they carry out for their communities.⁶

The Commission found that less than half of authorities (42%) offered access to the scheme. Reasons for not doing so included cost and public opinion:

Many panels and councils who deny access to the scheme are influenced by two factors: cost and public opinion. The scheme is a defined benefit scheme (as opposed to a defined contribution scheme). The pension and related benefits are set by a formula linked to salary and length of service. Panels and councils are often reluctant to grant access to a defined benefit scheme when there is a general trend in the private sector to close such schemes to new employees.

⁵ [HC Deb 7 April 2003 c8WS](#)

⁶ [Councillors' Commission: Terms of Reference](#)

The main advantage of the scheme for councillors is that it offers a predictable benefit guaranteed by the council. It needs no set up costs and only marginal administrative costs, as the scheme is already in place for local government employees. The main perceived disadvantage – cost to the council – is relatively minor as a part of the overall cost of the scheme.⁷

It recommended that all councillors should be entitled to access to the LGPS:

All councillors should be entitled to access to the local government pension scheme, and any allowances for serving on joint authorities should also be taken into account. [...]

Granting access to the scheme is intended to remove one more barrier to service as a councillor. Councillors of working age may lose pension rights in respect of their employment, either by working part-time or by loss of promotion prospects. Access to the scheme can make good this loss. It is argued that service as a councillor ought not to impose any further financial disadvantage. If a substantial part of a councillor's working time is devoted to council duties at the expense of their job or promotion prospects, then it seems reasonable that they should be able to treat their allowances as pensionable. Evidence to the Commission suggests strong support for allowing councillors access to the scheme, as is the position in Scotland.⁸

The Department for Communities and Local Government responded that decisions on access were best made at local level:

The Councillors Commission recommended that pensions should be extended to all councillors. Most councillors can already join the Local Government Pension Scheme, at the discretion of their authority. We see no reason to alter this position because these decisions are best made at a local level (recommendation 58).⁹

Comment

The *Taxpayers' Alliance*, which campaigns for lower taxes, has argued for an end to the current arrangements. In 2008, for example, it called on the Conservative Party to prevent their councillors joining the local government pension scheme.¹⁰ In January 2012, it argued that one way of reducing costs of the LGPS was not to allow councillors to participate:

Individual local authorities cannot control how much they spend on employer – or taxpayer – contributions to the LGPS. However, they do have discretion over the added years benefits given to staff who retire early and over whether to allow councillors to participate in the scheme.

Councillors' Pensions

The purpose of a councillor is to represent the people of a local ward in their council. They are elected to bring their expertise and experience to address the specific needs of their local community. These duties are meant to be separate from their private and professional lives outside the council and their position is voluntary. Any payments they receive are not intended to represent earnings but instead to compensate them for incidental expenses incurred in fulfilling their duties in local government such as the use of their phones, transportation and office expenses. As these payments are described as reimbursements, the fact that many local authorities consider them to be

⁷ Councillors' Commission, [Representing the future. The report of the Councillors' Commission](#), December 2007

⁸ Ibid p113

⁹ DCLG, The Government Response to the Councillors Commission, 9 July 2008

¹⁰ 'LGPS boycott call for Tory councillors', 29 August 2008, Professional Pensions; See also, [Taxpayers' Alliance, 'Councillors Commission urges local politicians all aboard the gravy train'](#), 5 March 2009

pensionable pay calls into question the voluntary nature of participating in local government.¹¹

It claimed that some 4,548 councillors were participating in the scheme.

3 Policy of the current Government

In a Written Statement on 19 December 2012, Minister for Local Government Brandon Lewis said the Government intended that there should be no access to the LGPS for councillors in England from April 2014. This was on the basis that councillors were volunteers undertaking public service rather than council employees:

The Parliamentary Under-Secretary of State for Communities and Local Government (Brandon Lewis): On 12 September 2001, the then Department for Transport, Local Government and The Regions announced plans to give taxpayer-funded pensions to councillors, through access to the local government pension scheme.

The proposals came into force in 2003. The Councillors' Commission report of the last Administration noted that 912 councillors in England had joined that pension scheme by 2004. A taxpayers' alliance survey in February 2009, across the whole United Kingdom, found that 3,527 councillors had pensions as of 2007-08; a further survey in January 2012 found that figure had increased to 4,548 councillors by 2010-11. The trend is clear.

Abolition of taxpayer-funded pensions

Ministers in this Government take a fundamentally different view to the last Administration. We do not believe that taxpayer-funded pensions are justified. Councillors are volunteers undertaking public service; they are not and should not be employees of the council dependent on the municipal payroll. They are not professional, full-time politicians, nor should they be encouraged to become so.

Councillors do not receive a salary; rather, they receive allowances to compensate for their out-of-pocket expenses. Yet following changes made by the last Administration, allowances have slowly become a form of salary, a situation worsened by the state-funded pensions. This is a corrosive influence on local democracy and independent thought, blurring the distinction between council staff and councillors.

Every bit of the public sector needs to do its bit to help pay off the deficit inherited from the last Administration. Local government grants are being reduced. Ministers have cut and then frozen their salaries. Public sector pensions, including parliamentary pensions, are being reformed to reduce the burden on taxpayers. It is only right that councillors do their bit as well.

We do not believe that an occupational pension scheme intended for employees, and paid for by taxpayers, is an appropriate vehicle for councillors.

Existing pension rights

Subject to consultation, we propose that there will be no access for councillors to the local government pension scheme in England from April 2014. In the interests of fairness, those councillors already in the scheme would have their accrued rights up to

¹¹ TaxPayers' Alliance, [£1 in every £5 of council tax goes on council pensions: 4,548 councillors now claiming council pensions](#), Public Sector Pension 2: Research Note 101, 25 January 2012

April 2014 fully protected, but would not be able to accrue any further benefits after that date in the existing scheme.

This will not prevent councillors contributing to a personal pension: if they put aside part of their (taxable) allowances into such a pension, then that is a matter for them; they will continue to receive income tax relief like any ordinary member of the population, subject to the prevailing tax rules.

Although central records on councillors' participation in the scheme are not held by my department, initial rough estimates suggest that this could save £7 million a year in taxpayers' money. There is absolutely no case for increasing councillor allowances to compensate. Instead, councils may want to consider earlier, voluntary closure of the scheme to their councillors as a sensible saving.

Civic duty

Eligibility regulations for the local government pension scheme are overseen by my department. Although this is a centrally mandated change (as was its original introduction), we believe these reforms will assist localism and local democracy by encouraging a greater separation between councillors and officers. Robust local scrutiny of council spending requires councillors to be substantively independent of means and of thought from the body they are overseeing. Civic duty should not be bought.

We do not believe it will have any detrimental effect on people choosing to become councillors. The best thing we can do to encourage more people to take part in municipal public life is to decentralise power to local communities so being a councillor is a meaningful and rewarding role.

Elected mayors

We recognise that there is a greater expectation that an elected mayor is a full-time position. We therefore propose to consult on allowing elected mayors to remain in the scheme as a voluntary option (but not as an expectation), subject to local scrutiny, challenge and determination. The salaries of the mayor of London, members of the Greater London Assembly and police and crime commissioners will remain pensionable.

Timing

Statutory consultation is required and will commence in due course, as part of the planned consultation on the wider reform of the local government pension scheme. We will consult with the Welsh Assembly government in respect of access to the local government pension scheme for councillors in Wales.

As a former councillor myself, I would like to pay tribute to their often unsung and ongoing work in standing up for their local residents. We hope these reforms will further strengthen the integrity and independence of councillors and increase the respect within their communities for the voluntary work they undertake as champions of the people.¹²

Consultation

A consultation published on 10 April 2013, [Taxpayer-funded pensions for councillors and other elected local office holders](#), identified three options for consultation:

¹² HC Deb, 19 December 2012, c105-6WS

Option 1: No access to the new Local Government Pension Scheme from April 2014 through being directly elected to local office. Thus, councillors; elected mayors; the Mayor of London and members of the London Assembly would be excluded from active Scheme membership – **this is the government’s preferred position**;

Option 2: Two-tier membership - continued access for ‘front bench’ councillors only. This option could include just elected mayors (including the Mayor of London) and elected leaders or could encompass all those with a special responsibility allowance (including members of the London Assembly) – the government would welcome views on which councillors and elected local office holders should be eligible if this option were to be pursued;

Option 3: No change. Access to the taxpayer-funded Local Government Pension Scheme remains for all councillors and elected local office holders on the same basis as at present.¹³

Whichever option was pursued, those already in the Scheme would have their accrued rights up to April 2014 fully protected.¹⁴

Comment

A survey conducted by the Local Government Chronicle found that more than half (53%) of council leaders thought councillors should remain eligible for LGPS membership.¹⁵

In its response to the consultation, the Labour Group of the LGA said it would “rigorously defend the continuation of current pension arrangements, which enable individual councils to decide whether to offer pensions to their elected members, based on their own local needs and circumstances.”¹⁶ The Local Government Chronicle [LGC] reported that the Conservative Group would also oppose the change.¹⁷ Both groups criticised the argument that councillors were volunteers rather than paid representatives:

The LGA Conservative Group said: "Such statements are demonstrably incorrect since (a) unlike volunteers, councillors are paid allowances, which are subject to PAYE and National Insurance deductions, and (b) many councillors who hold leadership positions do so full-time."

Labour's response argued that councillors make "significant salary sacrifices", impairing their ability to build a pension. As a result, the 2003 change in regulations which allowed councillors to join the LGPS resulted in serving councillors making "important choices based on the expectation this created".

Both groups also questioned the appropriateness of government ministers seeking to remove state-backed pensions from elected public officials when MPs will continue to receive a publicly funded scheme.¹⁸

The trade union UNISON agreed, arguing that working around 20 hours a week was not unusual and that being a councillor often meant making sacrifices in career prospects and earnings:

¹³ CLG, [Taxpayer-funded pensions for councillors and other elected local office holders](#), April 2013, para 1.26

¹⁴ Para 1.27

¹⁵ [Mark Smulian, Leaders blast Lewis over councillor pensions, Local Government Chronicle, 7 January, 2013](#)

¹⁶ [Pensions for councillors and other elected local office holders – Response from the LGA Labour Group](#)

¹⁷ [Mark Smulian, Leaders blast Lewis over councillor pensions, Local Government Chronicle, 7 January, 2013; LGC, Last-ditch attempt at councillor pensions compromise, 18 March 2014](#)

¹⁸ [Conservative, Labour councillors back LGPS access, Professional Pensions, 30 July 2013](#)

We support this because we recognise that the nature of councillor's work is in many respects analogous to paid employment. The allowance is not based on the number of meetings attended but is effectively remuneration for the hours a councillor should put in fulfil their duties. For all practical purposes it is treated as pay; income tax and national insurance contributions are deducted in the same way as any other pay. We recognise that hours vary significantly between councillors but working around 20 hours a week is not unusual, and for those who have cabinet responsibilities it is effectively a full time job. In any case the councillor is likely to have made sacrifices in career prospects and earnings to be able to become a councillor. There are real issues especially for councillors trying to raise young families. It seems completely wrong that councillors should be denied the right to save for their retirement in a similar way as members of staff who work for the council. UNISON would argue access to a pension arrangement that is fit for purpose like the LGPS would have a positive not negative effect on local democracy and enhance the independence of councillors to represent their local community.¹⁹

The Government's response

The Government issued its response to the consultation in March 2014. It noted that 82% of respondents to the consultation were councillors, 8% were councils and 10% other (representative bodies, pension funds, pension committees and panels and members of the public).²⁰ Nearly nine in ten (87%) respondents had said they preferred to keep access to the LGPS the same and just over one in ten (12%) wanted to end access.²¹ Having considered the responses, the Government had decided to proceed to exclude membership in England of new councillors and other elected local office holders in the new Local Government Pension Scheme, which would come into effect on 1 April 2014. For existing members of the current scheme, membership would be protected until the end of the term of office which members were serving on that date:

After consideration of all responses to the consultation, the Government has decided to proceed to exclude membership in England of new councillors and other elected local office holders in the new Local Government Pension Scheme, which comes into effect on 1 April 2014. For existing members of the current Scheme, membership will be protected until the end of the term of office which members are serving on 1st April 2014.

In deciding to exclude any new membership from 1 April 2014, the Government recognises the strength of feeling from individual councillors and other elected local office holders who have been eligible to join the Local Government Pension Scheme on the recommendation of local independent remuneration panels since 2003. However, the Government remains firmly of the view that councillors are not full-time politicians or salaried town hall staff, and that continuing membership of the Local Government Pension Scheme would only serve to exacerbate the blurring between elected volunteers and paid employees. The Mayor of London and members of the London Assembly are in a different position by being paid a salary, but as a matter of principle, the Government's position remains that membership of the taxpayer funded Local Government Pension Scheme should extend to paid employees only.

In reaching this decision, the Government does not believe, as some have argued, that councillors are employed by local authorities or that they are workers or part-time

¹⁹ 5 July 2013– UNISON Response to the DCLG consultation “ Taxpayer-funded pensions for councillors and other elected local office holders”

²⁰ representative bodies, pension funds, pension committees and panels and members of the public

²¹ [CLG, Taxpayer-funded pensions for councillors and other elected office holders. Government response to consultation](#), March 2014

workers. The Government therefore remains of the view that taxpayers, via the Local Government Pension Scheme, should not be funding pensions for councillors or other elected local office-holders.²²

It estimated that this change will save local government in the region of £7 million per annum in employer contributions. It would consult on the status of Welsh councillors in the Scheme.²³

In a Written Statement of 11 March 2014, the Minister announced that he was laying the regulations to provide for this:

In my written statement of 19 December 2012, *Official Report*, column 105WS, we announced our intention to abolish taxpayer-funded pensions for councillors. A statutory consultation to this effect was undertaken between April and July 2013.

The regulations we have laid also abolish such taxpayer-funded pensions for new councillors in England and other elected office holders from 1 April 2014, and terminate access for existing councillors at the end of their current fixed term of office (for example, from May 2014, in relation to councillors with elections this year). The rationale for the reforms is outlined in my statement from December 2012.

Taken together, I believe these necessary reforms deliver on the coalition Government's pledge to reform public sector pensions and provide a fair deal for public service workers and taxpayers. The reforms ensure that local government pensions are fair, affordable and sustainable in the long term, particularly in the light of changing demographics, and are justifiable to taxpayers who foot the bill for employer contributions.²⁴

Chair of the LGA, Sir Merrick Cockell, said it was the wrong decision:

'This is a kick in the teeth for those who have dedicated their life to public service and undermines government's commitment to give local people greater responsibility for the running of vital local services,' said LGA chair Sir Merrick Cockell. 'It is perplexing that ministers who have been busy adding to the workload of councillors by transferring functions from central to local government are now arguing that those same councillors – and the Mayor of London – should be classed as volunteers.' He noted that, of the 700 responses to the government's consultation, only two were from members of the public who objected to councillors being members of the LGPS. 'This is the wrong decision and will create a double standard where councillors in England will be denied a pension scheme which councillors in Scotland, Wales and Northern Ireland will still be a part of. We will be urging government to listen to the feedback from its consultation and think again.'²⁵

The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (SI 2014/525) are subject to the negative resolution procedure in Parliament, which means they become law on the date specified but will be annulled if either House passes a motion calling for their annulment within a certain time.²⁶ The leader of the Opposition has tabled an [early day motion](#) praying against the regulations.²⁷

²² [CLG, Taxpayer-funded pensions for councillors and other elected office holders. Government response to consultation, March 2014; HC Deb 11 March 2014 c14WS](#)

²³ [Ibid](#)

²⁴ [HC Deb 11 March 2014 c13-15WS](#)

²⁵ [Richard Johnstone, 'Plans to block councillors' access to LGPS confirmed' *Public Finance*, 11 March 2014](#)

²⁶ [House of Commons Information Office Statutory Instruments, Factsheet L7](#)

²⁷ [Early day motion 1226 Public service pensions](#)