

# Pension Policy Discretions

*Finance Committee briefing paper October 2020*

Cranleigh Parish Council (CPC), as an employer that offers the Local Government Pension Scheme (LGPS) is subject to The Local Government Pension Scheme Regulations 2013. These regulations determine what an employee member and the authority are entitled to as part of the scheme. However, some circumstances dictate that the regulations need discretionary powers to mitigate unintended consequences and special conditions.

The Pensions Discretions Policy provides employing authorities (councils) using the LGPS, an opportunity to resolve disputes where rigorous definitions of the council's policy may prevent them from acting equitably and flexibly according to circumstances of individual cases at time of dispute or exception.

Surrey County Council (SCC) have analysed the LGPS regulations and recommend that we strengthen our defence in the light of potential vulnerabilities in this area from "fettering our discretion" as a result of not stating what we will and will not do for specific regulations. They site the example of an employee being, still, able to rely on being paid a pension, due to the inflexible wording of the employer's pension policy, despite having defrauded them, or there being an unintended and unreasonably unaffordable use of the policy in circumstances such as a pandemic, (i.e. many members are permanently disable, or lost, in a national pandemic. A circumstance for which the pension was never intended as a compensation scheme)

SCC's legal team have defined a series of defensive statements for policy discretions and recommended, wording each based on the principle of:

- not doing something unless exceptional circumstances prevail;
- doing something unless a particular case warrants otherwise;
- doing something only when the merits of a specific case have been considered.

The impact being that the council would legitimately be able to argue that an exception had occurred that allowed it to use its discretion on whether to compensate, not compensate or adjust compensation.

Surrey CC have identified regulations: 9, 10, 14, 17, 21, 22, 31 & 100 of Pensions Regulations; D11 of 1995 Regulations; 2, 10 & 11 of Transitional Regulations; 5, 6 & 14 of Compensation Regulations, as target for such a discretionary policy.

Currently, Cranleigh Parish Council, as an employer, has a Pensions Discretion Policy that covers only Sections 16 and 30 of the Pension Regulations. While these are similar to those suggested, the SCC wording is simpler and could easily replace them.

The three principles seem to work, well. Testing the corona virus outbreak against Section 14.1 of the Pension regulations, is an example:

1. whether to make an injury award to those who sustain an injury or contract a disease as a result of anything they were required to do in performing the duties of their job and in consequence of which they:
  - - suffer a reduction in remuneration, or
  - - cease to be employed as a result of an incapacity which is likely to be permanent and which was caused by the injury or disease, or
  - - die leaving a surviving spouse, civil partner or dependant,

It would appear that setting the discretion: "Cranleigh Parish Council will only pay injury allowances in exceptional circumstances." would be sufficient. Under exceptional circumstances of National Pandemic we could argue using our discretion.

The recommended discretions wording is provided on the "Discretions Defensive - Draft" sheet and should be reviewed by Finance Committee members.

Recommendations must then be made to the full Parish Council against which regulations to declare a discretionary policy position. There seems no reason not to name all those defined in the "Discretions Defensive- Draft", but the committee may want to test some examples before resolving to adopt.

The alternative of reading the regulations to create a bespoke discretionary policy against each, that we find are relevant, is too big a task. Though a brief discussion on consequences should be held. A summary "rule of thumb" scenario testing these, all seemed to survive.

Documents referred to in this paper are:

Covering Letter for IDRP; "Discretions Defensive- Draft"; Frontispiece for Discretions; How to exercise your discretions properly v2; Exercise of Pensions Discretions Policy\_May2019

Recommendation is to propose a resolution:

- a) To adopt the proposed wording in the "Discretions Defensive - Draft";
- b) To apply the appropriate wording to regulations: 9, 10, 14, 17, 21, 22, 31 & 100 of Pensions Regulations; D11 of 1995 Regulations; 2, 10 & 11 of Transitional Regulations; 5, 6 & 14 of Compensation Regulations, as target for such a discretionary policy.



Surrey Pension Fund  
Surrey County Council  
County Hall, G40  
Penrhyn Road  
Kingston Upon Thames  
Surrey KT1 2DN

Date

Dear Sir or Madam,

### **Surrey Pension Fund**

I write to inform you about two new initiatives by the Pension Fund.

You should note the help with disputes in case you get a pension appeal – but you must respond to the exercise on discretions as it is a requirement for employing authorities to publish discretions policies under the LGPS regulations.

#### **Assistance with pension disputes**

Employing Authorities may be required to hear stage 1 appeals under the internal disputes resolution procedure (IDRP) if it relates to a decision they made (e.g. ill-health retirements, the reason for leaving, extending the deadline for bring in transfers). Some employer's may not have either the expertise or the capacity to consider appeals in which case the administering authority is able to offer them help and support.

Although we appreciate that you may not have any pension appeals outstanding, and it may be some time before you have one, so we suggest that you make a note of this facility as you may find it very useful if you do have one.

#### **Assistance with discretion policies – a response is required**

Employing authorities are required to publish a policy on how they propose to exercise certain discretions. The administering authority has prepared a document that adds the most useful optional discretions to the mandatory ones without (hopefully) being too onerous. This is supplemented by a brief tutorial which explains how to exercise discretion properly.

We have also included an annotated defensive policy, which includes the equitable options generally adopted by employers (statutory improved redundancy payments, protecting pay that has been undermined by illness) but excludes options that require immediate payments or strain costs (only in exceptional circumstances). The employing authority may adopt some of these policies that involve a cost, such as flexible retirement, share cost AVCs or discretionary compensation, in accordance with their preferences and policies. Alternatively, they can consider following the policies set out in Surrey County Council's policy document (attached), although it is about to be reviewed.

This list of discretions is up to date, including the 2018 amendment regulations. However, it does not include a few mandatory discretions under the discretionary compensation regulations 2000, which are either not appropriate for Surrey (SCC does not suspend pre-1998 survivors' pensions on remarriage or cohabitation) or are so rare that each case can be assessed on its merits (how to apportion children's pensions that solely attract to compensation pensions).

### **Help and support provided**

The Pension Fund Team will be happy to help employers who are having difficulties in completing their discretions policies. Please contact John Smith on 0208 213 2700 or [john.smith@surreycc.gov.uk](mailto:john.smith@surreycc.gov.uk)

Please do not hesitate to contact me if I can be of any assistance to you.

Yours faithfully,

John Smith  
**Senior Advisor**  
**Surrey Pension Fund**

**Signed on behalf of Surrey County Council**



## **How to exercise discretion properly**

Although it may seem daunting, completing a discretions policy is not as challenging as you may think. In essence, a discretion is a choice and the key to exercising discretion properly is maintaining your freedom to choose.

With this in mind, we recommend that you complete your discretions policy by choosing one of three stock phrases;

If you would like to do something you can employ; **the employing authority may award (discretion) but each case will be considered on its merits.**

If you do not want to do something you can say; **the employing authority will only award (discretion) in exceptional circumstances.**

If you are not sure about whether you will or will not do something you can say; **the employing authority will not generally award (discretion) but each case will be considered on its merits.**

The point of these phrases is that they indicate intent without restricting the employer's freedom to choose. An employer may be inclined to do something but they might not want to do it for an employee who has defrauded them. Equally, they might not want to do something but find themselves confronted by a particularly sensitive case. Moreover, discretion can only be exercised lawfully if the employer maintains their freedom to choose and, if they say they will always do this or never do that, they have restricted their freedom to choose and are said to have "fettered their discretion".

You should also be mindful of the Equalities Act 2010, which requires you treat all staff equally, regardless of age, unless any divergence can be objectively justified.

One last point to consider is that it is always a good idea to record the decision making process, particularly when it is a contentious case. This is necessary in order to resist challenges from disappointed active, deferred and pensioner members who may try to identify a comparator whose case has been approved. That is why you should always set out your reasons when considering a case that justifies making an exception to your published policy.

The key to doing this properly is;

- Acting in good faith and for a proper purpose;

- Complying with legislative procedures;
- Considering only relevant considerations and ignoring irrelevant ones;
- Acting reasonably and on reasonable grounds;
- Making decisions based on supporting evidence;
- Giving adequate weight to a matter of great importance but not giving excessive weight to a matter of no great importance;
- Giving proper consideration to the merits of the case;
- Providing the person affected by the decision with procedural fairness; and
- Exercising the discretion independently and not under the dictation of a third person or body.

In short, you cannot go far wrong if you aim for a decision that a reasonable person acting reasonably would make having regard for the principles set out above.

Although all this may seem intimidating, it may be helpful to note that the Pensions Ombudsman is generally reluctant to get involved in disputes about the exercise of discretion and he usually restricts himself to asking the employer to think again if he believes that they have mishandled it, albeit that he may sometimes award the appellant compensation for inconvenience and distress.

**XXXX (Employer's name)**

## **LOCAL GOVERNMENT PENSION SCHEME**

### **PAYMENT OF DISCRETIONARY COMPENSATION TO EMPLOYEES**

#### **POLICY ON EXERCISE OF EMPLOYER DISCRETIONS**

**XXXX** as an employer is under a legal duty to prepare and publish a written statement of its policy relating to certain discretionary powers under the Regulations which apply to the Local Government Pension Scheme ("the LGPS").

**XXXX** is also under a duty to formulate, publish and keep under review the policy that **XXXX** applies in exercising discretionary powers under Regulations relating to the payment of compensation to employees whose employment is terminated as a result of redundancy or certain other reasons.

This document is intended to comply with these duties and, in the following table, sets out the discretionary powers concerned, identifies the relevant Regulation that gives **XXXX** the discretion and describes how the discretion will be exercised.

The policy set out in this document will not be departed from except as provided for in the policy or following a variation to the policy approved by **XXXX**.

This statement is not a definitive statement of the law and is subject to the provisions of the relevant Regulations.

The Regulations that apply to the LGPS are:

- The Local Government Pension Scheme Regulations 2013 (these are referred to as the "Pensions Regulations");
- The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (referred to as the "Transitional Regulations");
- The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 applied to the LGPS before 1 April 2014, are preserved in part on a transitional basis by the Transitional Regulations and are referred to as the "Benefits Regulations"

The Regulations which apply to the payment of compensation to employees whose employment is terminated as a result of redundancy, other specified reasons or injury are:

- The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (referred to as the "Compensation Regulations").
- The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 (referred to as the "Injury Regulations").

In the table below:

- (1) "The Scheme" or "the Pension Scheme" means the LGPS and "the Fund" or "the Pension Fund" means the fund maintained under the LGPS;
- (2) "Member" means a member of the LGPS;
- (3) "Active member" means a member in employment and paying, or treated as paying, contributions to the LGPS, or absent from employment for a reason mentioned in Regulation 11 of the Pensions Regulations.
- (4) References to a member with transitional protection are those who can count membership accrued before 1 October 2006 and who have statutory transitional protection under the Transitional Regulations, wholly or partly, from changes that would otherwise be made to their pension entitlements and/or from actuarial reductions that would otherwise be applied to their pension benefits as a result of the coming into force of the Pensions Regulations on 1 April 2014.
- (5) References to a member meeting "the 85 year rule" are those a members whose age in whole years when added to the member's total membership in whole years is 85 years or more.

The power to exercise and to take any decision in relation to the each of the discretions is delegated to **XXXX**.

This statement was approved by **XXXX** and is intended to comply with **XXXX's** duties under Regulation 60 of the Pensions Regulations, Regulation 7 of the Compensation Regulations and Regulation 14 of the Injury Regulations.



No.	Area	Regulation	Discretion	Policy Summary	Explanation
1	<b>Whether to vary an employee's contribution band</b>	Regulations 9 and 10 Pensions Regulations	Members must pay pension contributions at the appropriate rate set on 1 <sup>st</sup> April or the first day of active membership, if later. The employer may vary the contribution rate if there is a change in employment or a material change that affects the member's pensionable pay.	<b>XXXX may vary the employee's contribution rate if there is a material change and each case will be considered on its merits.</b>	Contribution bands are set on 1 <sup>st</sup> April but the employer may change them if a member changes jobs or has a material pay increase / decrease.
2	<b>Whether to increase assumed pensionable pay in certain specific circumstances</b>	Regulation 21(5), 21(5A) and 21(5B) Pension Regulations	If a member is absent as a result of illness, child related leave or reserve forces leave their pension benefits may be based on assumed pensionable pay (APP). If, in the employer's opinion, the member's APP is materially lower than their pay in the twelve months preceding the absence they can either include (1) a "regular" lump sum received during that period or (2) substitute a higher pensionable pay having regard for their earnings in that period.	<b>XXXX may increase assumed pensionable pay and each case will be considered on its merits.</b>	If a member's APP is lower than their regular pensionable pay the employer can either substitute a higher rate of pay, based on the pay they received in the year before the absence began, or, include regular lump sums received during that period.
3	<b>Funding of Additional Pension Contributions</b>	Regulations 16(2)(e) and 16(4)(d)	Whether to fund, in whole or in part, a shared cost additional pension contributions (SCAPC) on behalf of	<b>XXXX will only contribute towards APCs in</b>	The employing authority can choose to pay additional

		Pensions Regulations,	<p>an active member by regular contributions (Regulation 16(2)(e)) or by lump sum (Regulation 16(4)(d)).</p> <p><b>Note:</b> The amount of additional pension that may be credited to an active member's pension accounts may not exceed the overall additional pension limit of £7,026.00 (6<sup>th</sup> April 2019 and uplifted annually).</p>	<b>exceptional circumstances.</b>	pension contributions on behalf of active employees.
4	<b>Shared Cost Additional Voluntary Contributions (SCAVCs)</b>	Regulation 17(1) and Schedule 1 (definition of SCAVC) Pension Regulations.	Whether to contribute towards a Shared Cost Additional Contribution arrangement. Pre-2014 SCAVCs also fall under Regulation 17 by virtue of Regulation 15(2A) Transitional Regulations.	<b>XXXX will only contribute to SCAVCs in exceptional circumstances.</b>	An employer can choose to contribute towards a SCAVC.
5	<b>Whether to grant early payment of pension on compassionate grounds (pre-1<sup>st</sup> April 1998 leavers)</b>	Regulation D11(2)(c) of 1995 Regulations	Whether to agree to early payment of pension benefits from age 50 on compassionate grounds. The employer should note that pension benefits paid before age 55 may attract an unauthorised payments surcharge and they may have to pay a strain cost because the	<b>XXXX will only agree to early payment of pension in exceptional circumstances.</b>	The employer may agree to payment from age 50, but they may incur an unauthorised payments surcharge and/or a capital cost.

			pension benefits cannot be reduced.		
6	<b>Flexible Retirement</b>	<p>Regulation 30(6), Pensions Regulations</p> <p>Regulations 11(2) and (3) of Transitional Regulations</p>	<p>Whether to agree to an employee aged 55 or over reducing their hours of work or their grade so that they may receive all or some of their retirement pension while still employed.</p> <p>Whether, in addition to any pre-1<sup>st</sup> April 2008 pension benefits which the member must draw, to permit the member to draw; (a) all, part or none of benefits accrued between 1<sup>st</sup> April 2008 and 31<sup>st</sup> March 2014 and (b) all, part or none of the pension benefits built up after 31<sup>st</sup> March 2014</p>	<b>XXXX will only agree to flexible retirement in exceptional circumstances.</b>	<p>The employing authority can agree to an employee aged 55 or over drawing all or some of their pension and continuing to work in the same employment on reduced hours, pay or grade.</p> <p>The employer should note that granting consent would trigger the 85-year rule and may require a capital payment.</p>
7	<b>Switching-on the 85-year rule</b>	Schedule 2 of Transitional Regulations	Whether to switch on the 85-year rule under Regulation 1(2) and 1(3) of Schedule 2 of the Transitional Regulations.	<b>XXXX will only switch-on the 85-year rule in exceptional circumstances.</b>	The employer can agree to switch on the 85-year rule, which may mitigate reductions that would, otherwise, apply but the employer may have to make a capital payment.



8	<b>Waiving of Actuarial Reduction to Pensions</b>	<p>Regulation 30(8), Pensions Regulations</p> <p>Schedule 2 of Transitional Regulations</p>	<p>(Post 2014) Whether to agree to waive, in whole or in part, any actuarial reduction that would otherwise apply to the pension paid to a former employee aged 55 or over under 30(5) or 30(6) [flexible retirement] using regulation 30(8) of the Pension Regulations.</p> <p>(Pre-2014) Whether to waive actuarial reductions entirely under 30(5) or 30A(5) [deferred pensioner members] of the Benefits Regulations and Regulation 2(1), of Schedule 2 of the Transitional Regulations.</p>	<b>XXXX will only waive actuarial reductions in exceptional circumstances.</b>	<p>The employing authority can agree to waive reductions to the pension of a member aged 55 or over who has left employment or been granted flexible retirement.</p> <p>The employer may be required to make a capital payment if they do so.</p>
9	<b>Award of Additional Pension</b>	Regulation 31, Pensions Regulations	<p>To award additional pension at full cost to the employer:</p> <ul style="list-style-type: none"> <li>(1) an active member; or</li> <li>(2) a former active member who was dismissed by reason of redundancy, business efficiency or mutual consent on grounds of business efficiency.</li> </ul> <p><b>Note:</b></p>	<b>XXXX will only award additional pension in exceptional circumstances.</b>	<p>This means the employing authority has the power to award additional pension to an active member.</p> <p>The employer can also award additional pension to members who leave on the grounds of redundancy, business</p>

			<p>Any additional pension awarded (including any additional pension purchased by the employer or the member under Regulation 16 of the Pensions Regulations) may not exceed the overall additional pension limit of £7,026.00 (6<sup>th</sup> April 2019 and uplifted annually).</p> <p>Additionally, in the case of a member falling within (2) above, the resolution to award additional pension must be made within 6 months from the date on which the employment ended.</p>		<p>efficiency or mutual consent on grounds of business efficiency – up to six months after termination.</p> <p>The employer would be required to make a capital payment (in addition to the cost of purchase) if the member retired early on any grounds apart from permanent ill-health.</p>
10	<b>Aggregation of Benefits: Concurrent Employments</b>	Regulation 22 (7)(b), Pensions Regulations	Whether to allow an active member with concurrent employments, who ceases an employment with an entitlement to a deferred pension, more than 12 months to elect <b>not</b> to have their deferred pension aggregated with their active member's pension account.	<b>XXXX will only extend the deadline in exceptional circumstances.</b>	The employing authority can allow a member who leaves one of two (or more) employments - held at the same time - longer than 12 months to elect <b>not</b> to combine the deferred pension with the ongoing active pension.

11	<b>Aggregation of Benefits: Deferred Member becoming Active Member</b>	Regulation 22 (8)(b), Pensions Regulations	Whether to allow a deferred member who becomes an active member longer than 12 months in which to elect <b>not</b> to have their deferred benefits aggregated with the benefits in their active member's pension account.	<b>XXXX will only extend the deadline in exceptional circumstances.</b>	<p>The benefits are usually aggregated (joined-up), <b>unless</b> the member elects to keep them separate.</p> <p>The employing authority can agree to a former member having longer than 12 months to choose not to combine their pensions.</p>
12	<b>Aggregation of Benefits: Deferred Member becoming Active Member (pre-2014 membership)</b>	Regulation 10(6)(b) Transitional Regulations	Whether to allow a deferred member who becomes an active member longer than 12 months in which to <b>elect</b> for their pre-2014 deferred benefits to be aggregated with their active member's pension account (but, technically, they would lose the final salary link if they have not made an election under 5(5) Transitional Regulations within twelve months of becoming an active member of 2013 scheme).	<b>XXXX will only extend the deadline in exceptional circumstances.</b>	<p>The pre-2014 preserved benefits will be kept separate <b>unless</b> the member makes a positive election to aggregate them.</p> <p>The employing authority can agree to a former member having longer than 12 months to choose to combine their pensions.</p>



13	<b>Inward Transfer of Pension Rights</b>	Regulation 100, Pensions Regulations	<p>Whether to allow an employee who has been an active member in their current employment for more than 12 months to ask for the transfer of certain accrued pension rights to be considered.</p> <p><b>Note:</b> Regulation 100(6) of the Pensions Regulations requires that a request must be made within 12 months beginning with the date on which the member first became an active member in an employment or such longer period as the employer and the Administering Authority may allow. The discretion is, therefore, only exercisable if <b>both</b> the Employing Authority and the Administering Authority agree.</p>	<b>XXXX will only extend the deadline in exceptional circumstances.</b>	Members who have been in the pension scheme for more than twelve months can ask for a transfer-in to be considered - but it will only be investigated if <b>both</b> the employing authority and the administering authority agreed.
14	<b>Redundancy Payments</b>	Regulation 5, Compensation Regulations 2006	Whether to base redundancy pay on actual pay where actual pay exceeds the statutory maximum under the Employment Rights Act 1996 (£525.00 from 1 <sup>st</sup> April 2019).	<b>XXXX may pay statutory improved redundancy payments and each case will be considered on its merits.</b>	The employer can base the calculation of a week's pay for redundancy on actual pay if it is higher than the statutory limit (currently £508 in April 2018).

15	<b>Compensation for loss of Employment</b>	Regulation 6, Compensation Regulations 2006	<p>Whether to pay compensation to a person whose employment ceases</p> <ul style="list-style-type: none"> <li>- by reason of redundancy;</li> <li>- in the interests of the efficient exercise of the employing authority's functions; or</li> </ul> <p>in the case of a joint appointment, because the other holder of the appointment leaves</p> <p><b>Note:</b> Compensation may not be paid under this Regulation if:</p> <ul style="list-style-type: none"> <li>- a person's period of membership of the Pension Scheme has been increased under Regulation 12 of the Benefits Regulations 2007 (see above); or</li> <li>- a person has been awarded an additional pension under Regulation 13 of the Benefits Regulations 2007 see above).</li> </ul> <p>In all cases the amount of compensation paid under this Regulation may not exceed 104 weeks' pay <u>less</u> any redundancy payment payable.</p>	<p><b>XXXX will only award compensation for loss of employment in exceptional circumstances.</b></p> <p><b>Note; the employer should be aware of age discrimination issues when formulating a policy.</b></p> <p><b>It should be wary of using the redundancy ready reckoner for any other type of leaver. This is because it is only exempt from age discrimination legislation for redundancy and</b></p>	The employing authority can make an award of up to 104 week's pay (less any redundancy payment payable).
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			<p>In all cases the decision to pay compensation under this Regulation must be made no later than 6 months after the date of termination of the person's employment.</p>	<p><b>only then in its original form and not multiples thereof.</b></p> <p><b>When it is used for any other purpose, the ready reckoner may be directly discriminatory (the number of week's pay in respect of each year increases with age) and indirectly discriminatory (only older members can accrue the maximum 20 years).</b></p>	
16	<b>Injury Allowances</b>	14(1) of the Compensation Regulations 2011	<p>Scheme employers (LGPS employers), <b>apart from admission bodies</b>, must formulate, publish and keep under review a policy on:</p>	<p><b>XXXX will only pay injury allowances in exceptional circumstances.</b></p>	<p>An employing authority may award an injury allowance to employees who contract an injury or</p>

			<p>1. whether to make an injury award to those who sustain an injury or contract a disease as a result of anything they were required to do in performing the duties of their job and in consequence of which they:</p> <ul style="list-style-type: none"> <li>○ - suffer a reduction in remuneration, or</li> <li>○ - cease to be employed as a result of an incapacity which is likely to be permanent and which was caused by the injury or disease, or</li> <li>○ - die leaving a surviving spouse, civil partner or dependant, and</li> </ul> <p>2. if the Scheme employer has a policy to make such payments, how it will determine the amount of injury allowance to be paid?</p>		illness related to their employment.
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Name of Employer      CRANLEIGH PARISH COUNCIL

**EXERCISE OF PENSION DISCRETIONS REGULATION 60 OF THE LOCAL  
GOVERNMENT PENSION SCHEME REGULATIONS 2013**

<u>Reference:</u>	<u>Discretion</u>	<u>SCC Employer's Policy</u>	<u>Employer's Policy</u>
<p>Regulation 31</p> <p>Power of employing authority to award additional pension to an active member or within 6 months of leaving to a member whose employment is terminated on redundancy/efficiency grounds.</p> <p>See 7(i) of LGE guidance</p> <p>Regulation 16 (2)(e) &amp; (4)(d)</p> <p>Power of employing authority to voluntarily contribute towards the cost of purchasing extra pension through a Shared Cost Additional Pension Contribution (SCAPC).</p>	<p>To award an additional pension of up to £6,500 a year.</p> <p>See note (i)</p>	<p>There should be no general application of the power to award an additional pension of up to £6,500 a year to a scheme member.</p> <p><i>There should be no general application of voluntarily contributing towards the cost of purchasing a SCAPC for a scheme member.</i></p> <p><i>[Note: This policy does not apply where an employer contribution is compulsory (i.e. in cases of unpaid leave where the member elects</i></p>	<p>There should be no general application of the power to award an additional pension of up to £6,500 a year to a scheme member.</p> <p>There should be no general application of voluntarily contributing towards the cost of purchasing a SCAPC for a scheme member</p>

<u>Reference:</u>	<u>Discretion</u>	<u>SCC Employer's Policy</u>	<u>Employer's Policy</u>
See 7(ii) of LGE guidance		<i>within 30 days of returning to work).]</i>	
<p>Regulation 30 (6)</p> <p>Power of employing authority to grant flexible retirement</p> <p>Power of employing authority to waive in whole or in part any actuarial reduction that would otherwise be applied.</p> <p>See 7 (iii) of LGE guidance</p>	<p>To permit members who are aged 55 or over who voluntarily reduce their working hours or grade to draw their accrued pension and continue working for the employer.</p> <p>To consider waiving any actuarial reductions that would otherwise be applied.</p> <p>See note (ii) and note (iii)</p>	<p>See attached policy.</p>	<p>There should be no general application of allowing all or some pension benefits to be paid if a member aged 55 or over reduces their hours/grade and continues to work (flexible working).</p> <p>There should be no general application of waiving actuarial reductions that would otherwise be applied.</p>
<p>Regulation 30 (8)</p> <p>Waiving of all or part of an actuarial reduction to pension benefits payable to an employee who requests early retirement</p> <p>See 7 (iv) and (v) of LGE guidance</p>	<p>Employees aged 55 or over may retire voluntarily (without their employer's permission) and request payment of their pension benefits. The council may waive all or part of the actuarial reduction that would normally apply to allow for early payment of the benefits.</p>	<p>The benefits payable will normally be reduced to ensure there is no cost to the council.</p> <p>However, in exceptional circumstances, when it is in the operational interests of the council or on compassionate grounds, the council may waive all or</p>	<p>The benefits payable will normally be reduced to ensure there is no cost to the council.</p> <p>However, in exceptional circumstances, when it is in the operational interests of the council or on compassionate grounds, the council may waive all or part of the reduction if</p>



<u>Reference:</u>	<u>Discretion</u>	<u>SCC Employer's Policy</u>	<u>Employer's Policy</u>
	See note (ii)	<p>part of the reduction if the employee's circumstances satisfy the criteria contained in the council's early retirement scheme for waiving the reduction.</p> <p><i>[Note: The Council's policy under Regulation 30 (8) also reflects our discretion under Schedule 2 of the Transitional Regulations as to whether or not to switch on the 85 year rule. We will not switch on the 85 year rule apart from in the circumstances above. But it is important to note this <u>does not</u> mean the member will not have any 85 year rule protections – it means that the protections will still be applied but only to the extent that there is no cost to the employer.]</i></p>	employee's circumstances are agreed by the Council and satisfy any criteria laid down by legislation.

<u>Reference:</u>	<u>Discretion</u>	<u>SCC Employer's Policy</u>	<u>Employer's Policy</u>
<p>Regulation 30 (8)</p> <p>Waiving of all or part of an actuarial reduction to the pension benefits payable to a former employee who requests early retirement.</p> <p>See 7 (iv) and (v) of LGE guidance</p>	<p>Former employees aged 55 or over may request early payment of their pension benefits. The council may waive all or part of the actuarial reduction that would normally apply to allow for early payment of the benefits.</p> <p>See note (ii)</p>	<p>The benefits payable will normally be reduced to ensure there is no cost to the council.</p> <p>However, in exceptional circumstances, the council may waive all or part of the reduction on compassionate grounds if the employee's circumstances satisfy the criteria contained in the council's early retirement scheme.</p>	<p>The benefits payable will normally be reduced to ensure there is no cost to the council.</p> <p>However, in exceptional circumstances, the council may waive all or part of the reduction on compassionate grounds if the employee's circumstances are agreed by the Council and satisfy any criteria laid down by legislation.</p>

I CERTIFY THAT THE ENTRIES CONTAINED IN THE LAST COLUMN OF THE ABOVE TABLE ACCURATELY REFLECT THIS EMPLOYER'S POLICY STATEMENT REGARDING THE PENSION DISCRETIONS SET OUT ABOVE. ANY AMENDMENT TO THE POLICY WILL BE NOTIFIED TO THE ADMINISTERING AUTHORITY WITHIN ONE MONTH OF THE DECISION BEING TAKEN.

19 April 2018

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Signed

Position Held

## **NOTES**

**In preparing, or reviewing and making revisions to, its policy statement, an employing authority must have regard to the extent to which the exercise of any of the functions in accordance with its policy could lead to a serious loss of confidence in the public service.**

- (i) The employing authority must pay the capitalised cost of awarding these benefits to the pension fund. This would normally be by payment of an immediate lump sum but as an alternative it may be possible to make 3 annual payments.
- (ii) Any cost associated with granting flexible retirement and/or waiving any actuarial reduction must be paid to the pension fund by the employing authority. This would normally be by payment of an immediate lump sum but as an alternative it may be possible to make 3 annual payments.
- (iii) There may be a cost to the employer of awarding flexible retirement (even where no reductions are being waived) if a member has met, or would have met, the 85 year rule before age 60. (The 85 year rule is the persons age plus number of year's contributions)

April 2019

**Policy Review Date: April 2022**