

**Discretions Policy:
 The Local Government Pension Scheme Regulations
 2013 and the Local Government Pension Scheme
 (Transitional Provisions & Savings) Regulations 2014**

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Please complete sign off boxes below prior to submission to Community Governance

Report Sign off	Seen by:	Name	Date
	Legal	Honor Clarke	6/11/17
	Corporate Finance	Kevin Nacey	6/11/17
	Human Resources	Chris Squire	6/11/17
	Cabinet Member	Anna Groskop	6/11/17
	Monitoring Officer	Julian Gale	6/11/17
Summary:	The HR Policy Committee is requested to approve how the Council will use the discretions employers have been given under the Local Government Pension Scheme.		
Recommendations:	<p>It is recommended that:</p> <p>1) Regulation R17(1) & TP15(1)(d) & A25(3), Shared Cost Additional Voluntary Contribution Arrangement is updated to enable the Council to introduce a salary sacrifice Shared Cost Additional Voluntary Contribution arrangement.</p> <p>Accordingly, the Committee is asked to approve the revised Discretions Policy attached at Appendix A to the report which includes the change listed.</p>		
Reasons for Recommendations:	<p>The Council's Discretions Policy aims to limit the cost of the Local Government Pensions Scheme to the employer, where it has the discretion to do so whilst giving scheme members some flexibility.</p> <p>The Council seeks to implement a Shared Cost Additional Voluntary Contribution (SCAVC) arrangement with effect from 1st February 2018, to enable both the employee and employer to benefit from the national insurance savings that can be made. This is in addition to the current income tax benefits enjoyed by employees who make Additional Voluntary Contributions (AVCs). The brand name for this offer will be AVC Wise. AVC Wise will be a salary sacrifice arrangement.</p>		

	<p>We need to amend the Discretion policy to allow us to implement this scheme without being in breach of the policy.</p>
<p>Links to Priorities and Impact on Service Plans:</p>	<p>The employer national insurance savings will reduce the total employer salary costs, thereby making savings on the staff budget.</p>
<p>Financial, Legal and HR Implications:</p>	<p>The Council's Discretions Policy aims to limit the cost of the Local Government Pension Scheme to the employer, where it has the discretion to do so.</p> <p>The Council already has a small number of employees with AVCs being deducted directly from their salary, thereby giving an employee saving on income tax paid. This has not impacted the Council apart from a minimal amount of administration in the HR Admin and Payroll Team, within HR&OD, to manage the deductions. The AVC Wise arrangement enables the employee and employer to save the national insurance (NI) that would normally have been due, on the AVC Wise contribution. This arrangement is in line with the Government's commitment to increase employee savings for retirement.</p> <p>In April 2017 the Government implemented a change to salary sacrifice schemes and ruled that pension schemes, childcare vouchers and the provision of cycles and cycling equipment should be considered exempt from benefit in kind reporting and therefore from income tax considerations.</p> <p>It is not known at this stage how much could be saved by the Council by introducing such a scheme. This would be entirely dependent upon the number of employees who take up the option.</p> <p>Analysis of current LGPS AVC contributors shows that there is an even spread of contributors across the grading structure from G15 to G6. Current contributions are just over £10,000 per month and if all changed to the AVC Wise scheme, monthly savings for the employer would be approximately £1400.</p>
<p>Equalities Implications:</p>	<p>An implication of the Equality Act 2010 and the Equality Act (Age Exceptions for Pension Schemes) Order 2010 is that all staff should be treated equally regardless of their age, unless different treatment can be objectively justified.</p> <p>Employees over the LGPS pensionable retirement age of 75 would not be able to join the scheme. We would be able to objectively justify this because it is in connection with pensions.</p> <p>National insurance contributions are only payable on earnings over the national insurance primary threshold. In 2017/18 this is £680 a month. Employees earning below this level will not benefit from the additional NI savings available from the AVC Wise scheme but can still have an AVC. Out of the total</p>

	<p>headcount of employees eligible to join the LGPS (excludes teachers) 25% earn less than the national insurance primary threshold. Of this 25%, 92% are female, clearly this means that proportionately more females than males will be unable to benefit from the National Insurance savings that this scheme offers.</p> <p>A salary sacrifice is only available to those who meet minimum wage requirements after the salary has been reduced by the agreed amount. This may mean some employees may not be eligible to join the salary sacrifice scheme, however they may still be able to make normal AVCs.</p> <p>This salary sacrifice scheme is only available to employees who contribute to the Local Government Pension Scheme but standard AVC's will still be available to employees who contribute to the Teachers' Pension or NHS schemes.</p>
Risk Assessment:	The changes proposed to the Discretions Policy aim to control the costs to the Council of the Local Government Pension Scheme.
Scrutiny comments / recommendation (if any):	Not applicable

1. Background

- 1.1. Under the Local Government Pension Scheme 2014, all employers who participate in the LGPS are required to formulate, publish and keep under review a discretions policy.
- 1.2. The Council's current Discretions Policy was agreed on 8th September 2014 and updated in March 2016.
- 1.3. The proposed amended Discretions Policy is attached as Appendix A to this report. The revisions are highlighted with tracked changes and comment boxes.
- 1.4. The changes highlighted are essential to enable us to implement the AVC Wise scheme without being in breach of this policy.
- 1.5. **Overview of the AVC Wise scheme**
AVC Wise is a salary sacrifice arrangement that enables employees to benefit from tax and NI savings on salary contributions made to the AVC Wise scheme. As with all salary sacrifice schemes the employee will benefit from tax and national insurance savings provided their income is subject to PAYE and is above the NI thresholds.

Why are they "shared cost"?

The employer will pay the employees chosen salary sacrifice contribution to the AVC provider, Prudential. This is the provider appointed by Peninsula Pensions to run the Somerset AVC scheme. The employee will also contribute £1 as a salary deduction and this £1 will benefit from income tax savings only.

Who is eligible?

All employees who contribute to the Local Government Pension Scheme (LGPS) can be part of AVC Wise, including part time employees however please note that:

- if by sacrificing salary, earnings would fall below the National Living/National Minimum Wage, employees will be unable to participate in AVC Wise
- higher salaried employees should be mindful of potential annual and lifetime pension allowance impacts.

What are the benefits of AVC Wise to employees?

Contributions to AVC Wise will be invested into the employee's choice of funds by Prudential. The funds should, hopefully, grow over time* and will be available at retirement to convert into an additional pension of the employee's choice or, subject to certain limits, a tax free lump sum or a combination of both.

* As with any investment, there are risks, investments can go up and down over time.

Employer Benefits

The employer will save the NI contributions that would have been paid on the normal salary payment, if it had not been sacrificed.

How The Scheme Operates Elsewhere

Portsmouth Unitary Authority has recently implemented the scheme and after extensive marketing, have almost a 10% take up from eligible staff. Current predictions for annual employer NI savings of £166,000

2. Options Considered

- 2.1.** To be able to implement this scheme the Discretions Policy must be updated. Therefore, the options are whether to implement the scheme or not.
- 2.2.** If approved, the changes to this discretion policy are required under pension regulations to be published for at least one month before implementation. An effective date of 1st February 2018 is suggested to allow time to appropriately promote and set up payroll process to manage this proposed change.

3. Consultations undertaken

- 3.1.** The suggested changes to the Discretion Policy were discussed with UNISON and Unite (GMB received the agenda but did not attend) at the Joint Negotiating Forum 13th September 2017 and no objections were raised.
- 3.2** Consulted with Peninsula Pensions in a meeting on 9th August 2017, via e-mail and telephone discussion on 12th September 2017.
- 3.3** The implementation of AVC Wise to Local Government Pension Scheme members will be supported by our Tax Advisors, PSTAX, who have worked directly with our current AVC provider, Prudential, to build a statutorily compliant scheme. PSTAX have recently implemented the scheme in another Local

Authority and they have received approval for the scheme from HMRC.

4. Implications

Financial

- 4.1** PSTAX will operate under a contingency fee basis of 15% of the employer's NI saving for a maximum period of 24 months from the launch of the offer to staff.
- 4.2** Prudential will supply marketing literature which will be edited to support the Council's launch of AVC Wise and PSTAX will provide a set of frequently asked questions and letters for existing AVC contributors and new joiners.
- 4.3** Existing LGPS AVC contributors will be given the option to remain in the current AVC scheme or to move to the new AVC Wise scheme, excluding those who have a life cover only AVC who must remain in the current scheme. There are currently 50 employees making AVC contributions.
- 4.3** An employee who pays PAYE as a 20% tax payer and NI at 12% will see a net reduction to their pay of £6.80 for every £10 contributed to the AVC Wise scheme. The employer will receive a NI saving of 13.8% (£1.38 for every £10) of the salary sacrificed.
- 4.4** SCC plans to market this scheme in the most effective way, it is a balance between getting the message to as many employees as possible, including support staff in schools, supporting Prudential with their presentations whilst minimising officer time.

5. Background papers

- 5.1** Appendix A – Discretion Policy (with tracked changes)
- 5.2** Prudential terms of business (not attached, available on request)

Note: For sight of individual background papers please contact the report author.

SOMERSET COUNTY COUNCIL

Discretions Policy:**The Local Government Pension Scheme Regulations 2013 and
The Local Government Pension Scheme (Transitional
Provisions & Savings) Regulations 2014**

Policy effective from:.

HR Policy Committee approved on .

Unions consulted at JNF 13th September 2017.

The Council may revise the Policies at any time.

Regulation R16(2)(e) & R16 (4)(d)	Policy decision
Shared Cost Additional Pension Contributions Scheme	
<p>An employer can choose to pay for or contribute towards a member's Additional Pension Contributions via a Shared Cost Additional Pension Contributions (SCAPC).</p> <p>When the employee has elected to pay contributions for a period of unpaid or child-related leave within 30 days of receipt of written communication of this option or within 30 days of returning to work, whichever is the later, the payment has to be made via an SCAPC. In these circumstances the Council is required to make employer contributions as required by the regulations. Applying this discretion in these circumstances also allows the Council to extend the time limit in cases where there is a delay in the process of advising payroll.</p> <p>In exceptional circumstances, where there is a clear business case, the Council may award additional pension for an active member. This includes, but is not limited to, employees under notice of redundancy in accordance with the Redundancy & Early Retirement Discretionary Compensation Policy where the employee has agreed to give up part of their compensation to buy the additional pension (up to £6,755* per annum @ 1st April 2016)</p> <p>* this figure will be reviewed each April under Pensions Increase orders</p>	<p>The Council will apply this discretion only in certain circumstances</p>
Regulation R17(1) & TP15(1)(d) & A25(3)	Policy decision
Shared Cost Additional Voluntary Contribution	

Arrangement	
<p>An employer can choose to pay for or contribute towards a member's Additional Voluntary Contribution arrangement entered into on or after 1st April 2014 via a shared cost AVC.</p> <p>An employer can choose to pay for or contribute towards a member's Additional Voluntary Contribution arrangement entered into before 1st April 2014 via a shared cost AVC.</p> <p><u>The Council will only apply this discretion in accordance with its published guidance on salary sacrifice Shared Cost Additional Voluntary Contributions with effect from 1st February 2018.</u></p>	<p>The Council will not apply this discretion.</p> <p><u>The Council will apply this discretion only in certain circumstances.</u></p>
<p align="center">Regulation R30(6) & TP11(2) & R30 (8)</p>	<p align="center">Policy decision</p>
<p>Flexible Retirement & Waiving of Actuarial Reduction</p>	
<p>Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up while still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade based on a sound business case which is subject to the approval of Director of HR & OD.</p> <p>Where pension benefits are reduced in accordance with actuarial tables, the Council will use its discretion to waive the actuarial reduction in accordance with the Council's Flexible Retirement Process on the following grounds only:</p> <ul style="list-style-type: none"> • compassionate reasons • the member has protected rights • in exceptional cases, where the Council is satisfied there is a clear business case. 	<p>The Council will apply this discretion only in exceptional circumstances.</p>
<p align="center">Regulation R30(8)</p>	<p align="center">Policy decision</p>
<p>Waiving of Actuarial Reduction for Deferred Benefits & Suspended Tier 3 IHR</p>	
<p>Employers may also waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to member's benefits for deferred members and suspended tier 3 ill health pensioners who elect to draw benefits on or after age 60 and before normal pension age.</p> <p>The Council will apply this discretion in exceptional cases in accordance with the Deferred Pensions Policy & Ill Health Retirement Policy.</p>	<p>The Council will apply this discretion only in exceptional cases</p>
<p>Waiving of Actuarial Reduction where an active member chooses to voluntarily draw benefits on or after age 55 and</p>	<p align="center">Policy Decision</p>

before age 60	
Employers also have the power to waive, in whole or in part, the actuarial reduction applied to active members benefits when a member chooses to voluntarily draw benefits on or after age 55 and before age 60. The Council may, in exceptional circumstances, waive all or part of the reduction, where it is satisfied there is a clear business benefit in accordance with the Early Retirement/Redundancy Compensation Policy.	The Council will apply this discretion only in exceptional cases
Regulation TPSch 2, para 2(2) & 2(3)	Policy decision
Power of employing authority to 'switch on' the 85 Year Rule	
An employer can choose whether to "switch on" 85 year rule for members who voluntarily retire on or after age 55 and before age 60. The Council will apply this discretion in accordance with its policy on Premature Retirement under 85 year rule.	The Council will apply this discretion only in exceptional circumstances
Waiving of Actuarial Reduction where employer has switched on 85 year rule	Policy Decision
An employer can also choose to waive, on compassionate grounds, the actuarial reduction applied to benefits for a member voluntarily drawing benefits on or after age 55 and before age 60. The Council will apply this discretion in accordance with its policy on Premature Retirement under 85 year rule.	The Council will apply this discretion
Regulation R31	Policy decision
Power of employing authority to grant additional pension	
An employer can choose to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,755* per annum @ 1 st April 2016) * this figure will be reviewed each April under Pensions Increase orders	The Council will not apply this discretion
Regulation R100 (6)	Policy Decision
Late Inward Transfers of pension rights (requests after 12 months scheme membership)	
An active member with relevant pension rights may request the appropriate administering authority (via Peninsula Pensions) to	The Council will apply this

<p>accept a transfer value for some or all of those rights from the relevant transferor.</p> <p>The notice must be made in writing, given to the appropriate administering authority (via Peninsula Pensions) and the Scheme employer (SCC), before the expiry of the period of 12 months beginning with the date on which the person first become an active member in an employment (or such longer period as the Scheme employer and administering authority may allow).</p> <p>The Council will apply this discretion to accept requests after 12 months only where there are exceptional circumstances. For example: where there is evidence to support a reason why an earlier request was not practically possible, such as, a significant personal event within the first 12 months.</p>	<p>discretion only in exceptional circumstances.</p>
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Please see page 5 & 6 below for 2008 Regulations

The Local Government Pension Scheme Regulations 2008

(Benefits, Membership and Contributions)

Policy effective from: 14 April 2016

Regulation B18	Policy decision
<p>Flexible retirement & Waiving of Actual Reduction</p>	
<p>Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up while still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade based on a sound business case which is subject to the approval of Director of HR & OD.</p> <p>Where pension benefits are reduced in accordance with actuarial tables, the Council may waive the actuarial reduction in accordance with the Council's Flexible Retirement Policy on the following grounds:</p> <ul style="list-style-type: none"> • compassionate reasons • a member has protected rights • in exceptional cases where the Council is satisfied there is a clear business case. 	<p>The Council will apply this discretion only in certain circumstances</p>
<p>Regulation B30(2)</p>	<p>Policy decision</p>
<p>Early payment of deferred pension</p>	
<p>Employers can also allow the early payment of deferred benefits to former members of the LGPS between the ages of 55 and before age 60.</p> <p>The Council will apply this discretion only where there is no cost to the Somerset Fund and where ex-employees are willing to suffer an actuarial reduction in accordance with the Council's Deferred Pension Policy.</p> <p>Please note where a deferred member left the LGPS before 1 April 2008 the employer policy under the 1997 Regulations will apply.</p>	<p>The Council will apply this discretion only in exceptional circumstances.</p>
<p>Regulation B30(3)</p>	<p>Policy Decision</p>
<p>Reinstatement of suspended Tier 3 IHR</p>	
<p>Employers may also grant an application for reinstatement of a</p>	<p>The Council will</p>

<p>suspended tier 3 ill health pension on or after age 55 and before age 60.</p> <p>The Council will apply this discretion only where there are compassionate grounds.</p>	<p>apply this discretion only in exceptional circumstances.</p>
<p>Regulation B30(5)</p>	<p>Policy Decision</p>
<p>Waiving of Actuarial Reduction for deferred pensions & reinstated tier 3 IHR</p>	
<p>In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights.</p> <p>The Council will apply this discretion only where there are compassionate grounds in accordance with the Council's Deferred Pensions Policy.</p>	<p>The Council will apply this discretion only in exceptional circumstances.</p>