

## Employer Pensions Discretions Policy

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**The LGPS Regulations 2013**  
**and**  
**The LGPS Regulations 2014**  
(Transitional Provisions and Savings)  
**and**  
**The LGPS Regulations 2008**  
(Benefits, Membership and Contributions)  
**(as at 14<sup>th</sup> May 2018)**



**Employer name: Somerset County Council**

**Policy effective from: 20 February 2020**

These policies may be subject to review from time to time. Affected employees will be notified of any subsequent change to this Policy Statement.

**Print name of authorised officer: Vicky Hayter**

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**Job title: Strategic Manager, HR Business Relations**

**Date:**

\_\_\_\_\_  
**Signature of authorised officer:**

## Mandatory LGPS 2013 & 2014 discretions

### Power of employing authority to grant additional pension Regulation R31

An employer can choose to grant extra annual pension\* (at full cost to themselves) to:

- a) an active member; or
- b) to a member, within 6 months of leaving, whose employment was terminated on the grounds of redundancy or business efficiency

*\*(Current maximum additional pension allowed is £6,822 (figure at 1 April 2018))*

### Please state your decision below:

The Council will not normally exercise this discretion on the grounds of cost, except in the most exceptional of circumstances where there is clear merit and where the cost to the Council is not considered to be significant or material.

### Shared Cost Additional Pension Scheme Regulation R16(2)(e) and R16(4)(d)

Where an active member wishes to purchase extra annual pension by making additional pension contributions (APCs)\*, an employer can choose to voluntarily contribute towards the cost of purchasing that extra pension through a Shared Cost Additional Pension Contribution (SCAPC)

*\*(Current maximum additional pension allowed is £6,822 (figure at 1 April 2018))*

**NOTE:** this discretion does not relate to cases where a member has a period of authorised unpaid leave of absence and elects within 30 days of return to work (or such a longer period as the Scheme employer may allow) to pay a SCAPC to cover the amount of pension 'lost' during that period of absence. That is because, in those cases, the Scheme employer must contribute 2/3rds of the cost to a SCAPC; there is no discretion [regulation 15(5) of the LGPS Regulations 2013].

### Please state your decision below:

The Council will apply this discretion only in certain circumstances.

The Council will only apply this discretion in accordance with its published guidance on salary sacrifice Shared Cost Additional Voluntary Contributions with effect from 1<sup>st</sup> February 2018.

Where 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.

In exceptional cases 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.\*

## Flexible Retirement

### Regulation R30 (6) and TP11 (2)

Under the regulations, once an employee reaches age 55, they may remain in employment and draw their retirement benefits.

However, there are certain conditions that must be met:

- a) The employer must agree to the release of the pension.
- b) The employee must reduce either their hours, and/or their grade. *(The specific reduction required is not set out in the regulations, but instead must be determined by the employer, whom must specify the requirements within their flexible retirement policy).*

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).

**If flexible retirement is permitted, employers will need to publish a Flexible Retirement Policy and send Peninsula Pensions a copy. This can be done on the final section of this template.**

## Please state your decision below:

The Council will apply this discretion but only in accordance with its Flexible Retirement Policy.

## Waiving of actuarial reduction

### Regulation R30(8), TP3(1), TP Sch2, Para2(1), B30(5) and B30 (A) (5)

Employers have the power to waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to members' benefits paid on the grounds of flexible retirement.

## Please state your decision below:

Flexible -The Council will apply this discretion only in exceptional circumstances.

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 Policy on the following grounds only:

- Compassionate reasons
- Member has protected rights
- Exceptional cases where the Council is satisfied there is a clear

Employers may also waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to members' 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.

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 before age 60 and on or after age 60 and before Normal Pension Age (NPA).

business case.

Deferred/Suspended Tier 3 – The Council will apply this discretion only in exceptional cases in accordance with the Council's Deferred Pension Policy & Ill Health Retirement Policy

Active members – The Council will apply this discretion only in exceptional circumstances.

The Council may, in exceptional circumstances, waive all or part of the reduction, where it is satisfied there is a clear business case and on compassionate grounds.

**Power of employing authority to 'switch on' the 85-year rule (excludes flexible retirement) upon the voluntary early payment of benefits.**

**TP1(1)(c) Sch2**

The 85-year rule does not (other than on flexible retirement) automatically fully apply to members who would otherwise be subject to it and who choose to voluntarily draw their benefits on or after age 55 and before age 60.

An employer can therefore choose whether to switch on the 85-year rule for members:

- 1) who voluntarily draw their benefits on or after age 55 and before age 60 and,
- 2) former members who ceased active membership between 1<sup>st</sup> April 2008 and 31<sup>st</sup> March 2014 and choose to voluntarily draw their suspended tier 3 ill health pension (on or after 14 May 2018) on or after age 55 and before age 60 and,
- 3) former members who ceased active membership between 1<sup>st</sup> April 1998 and 31<sup>st</sup> March 2014) and elect for voluntary early payment of any deferred benefits

**Please state your decision below:**

1) The Council will apply this discretion only in exceptional circumstances. The Council will apply this discretion in accordance with its policy on Premature Retirement under 85 year rule.

2) The Council will not apply this discretion.

3) The Council will not apply this discretion.

## Recommended LGPS 2013 & 2014 discretions

**Regulation R17(1) and TP15(1)(d) and A25(3) and definition of SCAVC in R Sch 1**

### **Shared Cost Additional Voluntary Contribution Arrangement (SCAVC)**

An employer can choose to pay for or contribute towards a member's Additional Voluntary Contribution through a shared cost arrangement (SCAVC). An employer will also need to 1<sup>st</sup> February 2018 decide how much, and in what circumstances to contribute to a SCAVC arrangement.

**Please state your decision below:**

The Council will apply this discretion only in certain circumstances.  
The Council will apply this discretion in accordance with its published guidance on salary sacrifice Shared Cost Additional Voluntary Contributions.

**Non-mandatory policies but recommended by Peninsula Pensions:**

**Reg 16(16)** - An employer can extend the 30-day deadline for a member to elect for a SCAPC upon return from a period of absence from work with permission with no pensionable pay (otherwise than because of illness or injury, relevant child-related leave or reserve forces service leave).

**Reg 22(7) and (8)** - Whether to extend the 12-month time limit for a member to elect not to aggregate post 31<sup>st</sup> March 2014 (or combinations of pre-April 2014 and post March 2014) deferred benefits.

**Reg 27 of the LGPS (Amendment) Regs 2018** - Whether to extend the 12-month option period for a member to elect to aggregate pre-1st April 2014 deferred benefits.

**R100(6)** - Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS

**R9(1) & R9(3)** - Determine rate of employees' contributions and when the contribution rate will be assessed

**Please state your decision below:**

The Council will apply this discretion only in certain circumstances. See R16 above  
Applying this discretion in these circumstances allows the Council to extend the time limit in cases where there is a delay in the process of advising payroll.

The Council will apply this discretion only in exceptional circumstances where there is evidence of maladministration or evidence of a life changing event.

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SAP automatically recalculates the pension contribution % if there is a contractual change and will recalculate each month if it is backdated. If temporary pensionable allowances are paid they will be considered in the month of payment and the band changed if necessary. Please note for example, 5 months of additional hours all paid in one month may change the band whereas if they were paid over 5 months they may not have done so.

## Pre LGPS 2014 discretions

To cover scheme members who ceased active membership on or after 1 April 2008 and before 1 April 2014 (no need to complete if not applicable).

Reg 30(5) , TP2(1) Sch2, Reg 30A(5) TP2(1) Sch 2	Policy decision
<p><b>Early payment of benefits</b></p> <p>Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65</p> <p>Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to any suspended tier 3 ill health pension benefits which are brought back into payment before age 65</p>	<p>The Council will apply this discretion only in exceptional circumstances. The Council will apply this discretion only where there are compassionate grounds in accordance with the Council's Deferred Pension Policy.</p> <p>The Council will apply this discretion only in exceptional circumstances.</p>

To cover scheme members who ceased active membership between 1 April 1998 and 31 March 2008 (no need to complete if not applicable).

Regulation 31(2), 31(5), 31(7A) of the LGPS Regulations 1997 and paragraph 2(1) of Schedule 2 to the LGPS (TP) Regs 2014	Policy decision
<p><b>Early payment of benefits</b></p> <p>Employers can allow the early payment of deferred benefits to former members of the LGPS between the ages of 50 and 55.</p> <p>Employers can also choose, on compassionate grounds, to waive any actuarial reduction that would normally be applied to benefits which are paid before age 65</p> <p><b><u>Regulation D11(2)(c) of the LGPS Regulations 1995</u></b></p> <p><b>In relation to members who ceased active membership before 1 April 1998:</b></p> <p>Whether to grant applications for the early payment of deferred pension benefits on or after age 50 and before NRD on compassionate grounds.</p>	<p>The Council will apply this discretion only in exceptional circumstances. The Council will apply this discretion only where there is no cost to the Somerset Fund and where the ex employee is willing to suffer an actuarial reduction in accordance with the Council's Deferred Pension Policy.</p> <p>The Council will apply this discretion only in exceptional circumstances and only where there are compassionate grounds in accordance with the Council's Deferred Pension Policy.</p> <p>The Council will apply this discretion only in exceptional circumstances and only where there are compassionate grounds in accordance with the Council's Deferred Pension Policy.</p>

## Flexible Retirement Additional Policy

### Flexible Retirement (Regulation R30(6) and TP11(2)) This must be completed if you allow flexible retirement

You will need to consider; -

1. The minimum reduction in hours or grade required.
2. Whether the employee should commit to a reduction in hours or grade for a minimum period.
3. Whether the employee should commit to remaining in employment with the employer for a minimum period

You should also state; -

1. Whether, in addition to the benefits the member has accrued prior to 1<sup>st</sup> April 2008 (which the member must draw) to permit the member to choose to draw;
  - All, part, or none of the benefits they accrued after 31<sup>st</sup> March 2008 and before 1<sup>st</sup> April 2014 and/or,
  - All, part, or none of the benefits accrued after 31<sup>st</sup> March 2014, and,
  - Whether to waive, in whole, or in part, any actuarial reduction which would normally be applied to the benefits for Flexible retirement taken before normal retirement age.

### Please state your decision below:

1. A minimum 20% reduction in hours or 1 grade below existing and reduction of hours equivalent to 20%
2. New arrangements must be permanent
3. A minimum of 1 year

In exceptional cases, where there are compassionate grounds or a clear business case the minimums may be less.

The Council will apply this discretion only in exceptional circumstances where there are compassionate grounds or a clear business case. In most instances employees will be required to draw **All** accrued benefits.

The Council will apply this discretion only in exceptional circumstances.  
The Council will apply this discretion in accordance with the Council's Flexible Retirement Policy on the following grounds:

- Compassionate reasons
- Member has protected rights
- The Council is satisfied there is a clear business case.