Somerset Council Pensions Discretions Policy

The LGPS Regulations 2013

and

The LGPS Regulations 2014

(Transitional Provisions and

Savings) **and**

The LGPS Regulations 2008

(Benefits, Membership and

Contributions) **(as at 14th May**

2018)

Employer name: **Somerset Council**

Policy effective from:

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:

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Job title:

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Date:

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Signature of authorised officer:

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Mandatory LGPS 2013 & 2014 discretions

Discretionary policies from 1 April 2014 in relation to post 31 March 2014 active members and post 31 March 2014 leavers (excluding councillor members).

Somerset Council

Power of employing authority to grant additional pension (Regulation R31)	**Policy Decision:**
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. **(Please see Peninsula Pensions website for the maximum additional pension purchase limit for the current year)*	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)**	**Policy Decision:**
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). **(Please see Peninsula Pensions website for the maximum additional pension purchase limit for the current year)* **Please 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, an employer <u>must</u> contribute 2/3rds of the cost to a SCAPC; there is no discretion [regulation 15(5) of the LGPS Regulations 2013].	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 1st 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.
'Switch on' the 85-year rule TPSch 2, para 1(2) & 1(1)(c)	**Policy decision**

The 85-year rule does not automatically fully apply to members who would have had the protection under old regulations, and who choose to voluntarily draw their benefits on or after age 55 and before age 60. An employer can decide to switch the 85-year rule back on in full for such members. Where the Scheme employer does not switch back on the 85-year rule, the member's benefits will be actuarily reduced. However, the Scheme employer can exercise a discretion to waive any actuarial reductions (at cost to the Scheme employer).	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, see below for further details.
Flexible Retirement **Regulation R30 (6) and TP11(2)**	**Policy Decision:**
An employer can decide whether to permit flexible retirement for staff aged 55 or over who reduce their working hours and/or grade and wish to access their pension benefits. In such cases, pension benefits may be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds. The employee must reduce either their hours, and/or their grade and the employer must agree to the release of the pension. You will need to consider: 1. *The minimum reduction in hours or grade required.* (The specific reduction required is not set out in the regulations, but instead must be determined by the employer and specified in this flexible retirement policy). 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.	The Council will apply this discretion but only in accordance with its Flexible Retirement Policy. The Council will apply this discretion only in exceptional circumstances where there are compassionate grounds. 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.

You must also state whether, in addition to the benefits the member has accrued prior to 1st April 2008 (which the member must draw), you permit the member to choose to draw: • All, part, or none of the benefits they accrued after 31st March 2008 and before 1st April 2014 and/or, • All, part, or none of the benefits accrued after 31st March 2014, and, • Whether to waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to members' benefits paid on the grounds of flexible retirement before normal retirement age (R30(8)). Note: If flexible retirement is agreed for a member aged between 55 and 60, there could be a Strain cost to be paid to the Pension Fund by the employer in respect of the pension benefits paid. There would also be a Strain cost payable by the employer where you have waived any actuarial reduction, in whole or in part. **Please note:** If flexible retirement is permitted, you will need to publish a Flexible Retirement Policy and send us a copy or you can include in this policy – see final section of this template.	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.
Waiving of actuarial reduction **Regulation R30(8),TP3(1), TPSch2, Para 2(1), B30 (5) and B30 (A) (5)**	**Policy Decision:**
An employer can decide whether to waive in whole or in part any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement.	The Council will apply this discretion only in exceptional circumstances. Where pension benefits are reduced in accordance with actuarial tables the

This applies to: • active members voluntarily retiring on or after age 55 and before Normal Pension Age, who elect to immediately draw benefits, and • deferred members and suspended tier 3 ill health pensioners who elect to draw benefits (other than on ill health grounds) on or after age 55 and before Normal Pension Age.	Council will use its discretion to waive the actuarial reduction on the following grounds only: • Compassionate reasons • Member has protected rights • Exceptional cases where the Council is satisfied there is a clear business case. Deferred/Suspended Tier 3 – The Council will apply this discretion only in exceptional cases in accordance with the Council's Pension Policy i.e. in the interests of efficiency in the service or on compassionate grounds.

Recommended LGPS 2013 & 2014 discretions (non-mandatory)

Shared Cost Additional Voluntary Contribution Arrangement (SCAVC) R17 (1) and TP15(1)(d) and A25(3) and definition of SCAVC in RSch 1	**Policy decision**
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 decide how much, and in what circumstances to contribute to a SCAVC arrangement.	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.
Extend the time limit for member to elect for a Shared Cost Additional Pension Contribution (R16(16))	**Policy decision**
An employer can decide to extend the 30 day deadline for a member to elect to purchase additional pension by way of a Shared Cost Additional Pension Contribution (SCAPC) upon return from a period of unpaid absence (other than because of illness or injury, relevant child-related leave or reserve forces service leave).	The Council will apply this discretion only in certain circumstances. 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.

Extend the 12-month time limit for transfer of pension rights (R100(6))	**Policy decision**
An employer can decide to extend the 12-month time limit for a member to elect to transfer pension rights from another registered pension scheme into the LPGS, if an election has not been made within 12 months of joining the LGPS in that employment.	The Council will apply this discretion only in exceptional circumstances where there is evidence of maladministration or evidence of a life changing event.
Extend the 12-month time limit for a member to elect not to aggregate Post 31 March 2014 deferred benefits Reg 22(7) and (8)	**Policy decision**
An employer can extend the 12 month time limit for a member to elect **not** to aggregate their Post 31 March 2014 (or combinations of Pre & Post 2014) deferred benefits with their new LGPS employment (or ongoing concurrent LGPS employment), if an election has not been made within 12 months of joining the LGPS in that employment (or within 12 months of ceasing the concurrent membership).	The Council will apply this discretion only in exceptional circumstances where there is evidence of maladministration or evidence of a life changing event.
Extend the 12-month time limit for a member to elect to aggregate Pre 1 April 2014 deferred benefits (TP 10(6) as amended by A27 (2018)	**Policy decision**
Employers can decide whether to extend the 12-month time limit for a member to elect to aggregate their Pre 1 April 2014 deferred benefits with their new LGPS employment that commenced on or after 14 May 2018 in order to purchase earned pension.	The Council will apply this discretion only in exceptional circumstances where there is evidence of maladministration or evidence of a life changing event.
How an employee's contribution band will be initially determined and thereafter reviewed (R9 and R10)	**Policy decision**
Employers must decide how the pension contribution band to which an employee is to be allocated on joining the Scheme will be determined and reviewed at each subsequent April. Circumstances in which the employer will review the pension contribution band will also need to be	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

determined. For example, following a material change which affects the member's pensionable pay during the Scheme year (1 April to 31 March).	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.
Whether to include a regular lump sum payment when calculating assumed pensionable pay (APP) (Reg 21(4)(a)(iv), 21(4)(b)(iv) and 21(5))	**Policy decision**
When calculating assumed pensionable pay, employers can decide to include the amount of any 'regular lump sum payment' received by the member in the 12 months preceding the date the absence began or the ill health retirement or death occurred. A 'regular lump sum payment' is a payment for which the employer determines there is a reasonable expectation that such a payment would be paid on a regular basis.	
Whether to substitute a higher level of pensionable pay when calculating assumed pensionable pay (R21(5A) and 21(5B) backdated to 1 April 2014 by A7 2018)	**Policy decision**
When calculating assumed pensionable pay (APP), an employer can decide to substitute a higher level of pensionable pay if, in their opinion, the pensionable pay received in the 3 months/12 weeks before the commencement of APP, is materially lower than the level of pensionable pay the member would have normally received.	

Pre LGPS 2014 discretions

Discretions to be exercised on and after 1 April 2014 in relation to scheme members who ceased active membership between 1 April 2008 and 31 March 2014.

'Switch on' the 85-year rule TPSch 2, para 1(1)(c) & 1(2)	**Policy decision**

The 85-year rule does not automatically fully apply to members who would have had the protection under old regulations, and who choose to voluntarily draw their benefits on or after age 55 and before age 60. An employer can decide to switch the 85-year rule back on in full for such members. This also applies to members with deferred benefits or a suspended tier 3 ill health pension who choose to voluntarily draw their deferred benefits (on or after 14 May 2018) on or after age 55 and before age 60.	The Council will not apply this discretion. The Council will not apply this discretion.
Waive actuarial reductions to members benefits B30(5), TPSch 2, para 2(1) B30A(5)	**Policy decision**
An employer can decide whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65. This also applies to members with deferred benefits or a suspended tier 3 ill health pension who choose to voluntarily draw their deferred benefits (on or after 14 May 2018) on or after age 55 and before age 60.	The Council will apply this discretion only in exceptional circumstances. The Council will apply this discretion only where there are compassionate grounds.

Discretions to be exercised on and after 1 April 2014 in relation to scheme members who ceased active membership between 1 April 1998 and 31 March 2008.

Grant application for early payment of deferred benefits R31(2) LGPS Regulations 1997	**Policy decision**
Employers can decide whether to grant applications for the early payment of pension benefits on or after age 50 and before age 55.	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.

‘Switch on’ the 85-year rule upon the voluntary early payment of deferred benefits TPSch 2, para 1(2) & 1(1)(f) & R60	
The 85-year rule does not automatically fully apply to members who would have had the protection under old regulations. An employer can decide to “switch on” the 85-year rule in full for a member with deferred benefits voluntarily drawing benefits (on or after 14 May 2018) on or after age 55 and before age 60.	The Council will not apply this discretion.

Discretions to be exercised on and after 1 April 2014 in relation to members who ceased active membership before 1 April 1998.

Grant application for early payment of deferred benefits (TP3(5A)(vi), TL4, L106(1) 1997 Transitional & D11(2)(c) 1995 Regs)	**Policy decision**
Employers can decide whether to grant applications early payment of deferred pension benefits on or after age 50 and before normal retirement age on compassionate grounds.	The Council will apply this discretion only in exceptional circumstances and only where there are compassionate grounds.

Somerset Council Premature Retirement Under the 85 year rule.

The 85 year rule does not apply to employees joining the scheme after 30th September 2006. Employees are able to apply for early retirement between age 55 and under 60 but with reduced pension benefits.

For all existing members who were in the scheme on the 30th September 2006, there is protection of benefits built up in the scheme up to 31st March 2008.

Full protection of benefits has been granted to existing scheme members at 30th September 2006 who were 60 or over on 31st March 2016.

There are transitional protection arrangements for existing scheme members at 30th September 2006 who were 60 or over and meet the 85 year rule between 1st April 2016 and 31 March 2020, using tapering reduction factors i.e. full protection for service up to 31st March 2008 but tapered protection to 2020.

The 85 Year rule allows employees who are members of the Local Government Pension Scheme aged between 55 and under 60 and whose age and length of scheme membership add up to at least 85 years (for example, a member has 30 years of service and is age 55) to apply for early retirement without reduction of pension benefits.

Authorisation of such requests is at the 'discretion' of the Council and a full consideration of the operational and financial viability is required. The Chief Executive or Corporate Director, as appropriate, and the Director of HR & OD must approve Premature Retirement under the 85-year rule.