



PENSIONS DISCRETION

Policy 14

Adoption Date: 16.08.2016
Review Date: As Required

Issue Number	Date Agreed	Details of amendments
1	16/08/16	Adopted
2	08/06/21	Checked for Accessibility Issues Reformatted styles where applicable No changes to the wording of this document have been made

1.0 Background

- 1.1 The Local Government Pension Scheme (LGPS) in England and Wales was amended from the 1st April 2014 so that benefits accruing for service after 31st March 2014 accrue on a Career Average Revalued Earnings (CARE) basis, rather than on a final salary basis.
- 1.2 The provisions of the CARE scheme together with the protections for members' accrued pre-1st April 2014 final salary pension are contained in the Local Government Pensions Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014. The rules as set out in these Regulations can only be changed with new or amending Regulations, however, there are some provisions within the LGPS which are discretionary.
- 1.3 As a result of the changes, employers participating in the LGPS in England and Wales are required to formulate, publish and keep under review a Statement of Policy on certain discretions which they have the power to exercise in relation to their members.

2.0 Discretionary Provisions

- 2.1 The full list of discretions is set out below with references to supporting documents where applicable. (R – LGPS Regulations 2013/ TP –Transitional Provisions 2014/ A – Administration Regulations 2007 / B – Benefit Regulations 2007 / T – Transitional Regulations 2008/ L – LGPS Regulations 1997/ -LGPS Regulations 1995.) However, not all the discretions will apply to Cuckfield Parish Council but are included for completeness.
- 2.2 All pension discretions will be reviewed at least on a 4 yearly basis, or as and when circumstances change.

Regulation No - Description of discretion	Cuckfield Parish Council Policy/Discretion
R5(5) and Schedule 2 Part 3, para 1 Whether to agree to an admission agreement with a body applying to be an admission body	Not applicable
R Schedule 2, Part 3, paragraph 12(a) Define what is meant by “employed in connection with”	<i>The Fund defines ‘Employed in connection with’ as meaning “employed solely or mainly (i.e. more than 50% of their time) in the management or delivery of such services as are set out in the contract of employment.</i>
R4(2)(b) Whether to agree to an admission agreement with a Care Trust or NHS Scheme employing Authority	Not applicable
R Schedule 2, Part 3 para 9(d) Whether to terminate an admission agreement in the event of: <ul style="list-style-type: none"> • insolvency, winding up or liquidation of the body • breach by that body of its obligations under the admission agreement • failure by that body to pay over sums due to the Fund within a reasonable period of being requested to do so 	<i>The Fund reserves the right to terminate any admission agreement (Community or Transferee) if the Admissions Body is in breach of its obligations. This includes insolvency and failure to pay contributions.</i> <i>This right is explicitly included in all admission agreements.</i>
R54(1) Whether to set up a separate admission agreement fund.	Not applicable
R64(4) Whether to obtain a revision of an employer’s contribution rate if there are circumstances which make it likely a Scheme Employer will become an existing employer.	<i>The Fund requires that a revised rates and adjustment certificate is obtained in anticipation of the termination of an admission agreement (Community or Transferee) or where a scheduled body is likely to cease.</i>
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<p>R65 Decide whether to obtain a new rates and adjustment certificate if the Secretary of State amends the Benefits Regulations as part of the 'cost sharing' under R63</p>	<p><i>The Fund may require that a reassessment is carried out when a change to the underlying benefits occurs in the inter-valuation period. The Fund reserves the right to obtain a new rates and adjustment certificate subject to discussion with officers and the Fund actuary.</i></p>
<p>R68(2) Whether to require any strain on Fund costs to be paid "up front" by employing authority following payment of benefits under R30(6) (flexible retirement). R30(7) (redundancy/business efficiency), or the waiver (in whole or in part) under R30(8) of any actuarial reduction that would otherwise have been applied to benefits which a member voluntarily draws before normal pension age or to benefits drawn on flexible retirement.</p> <p>TP Schedule 2, para 2(3) Whether to require any strain on Fund costs to be paid 'up front' by employing authority following flexible retirement under R30(6) or waiver of actuarial reduction under TP schedule 2, para 2(1) or release of benefits before age 60 under B30 of B30A</p> <p>R80(5) Whether to require any strain on Fund costs to be paid 'up front' by employing authority following early voluntary retirement of a Councillor, or early payment of a deferred benefit on health grounds or from age 50 with employer consent (pre 1.4.08 leavers)</p>	<p>Cuckfield Parish Council will not generally require any strain on Fund costs to be paid "up front" or consider a waiver either in whole or in part but may do so where exceptional circumstances occur.</p> <p>Cuckfield Parish Council will not generally require any strain on Fund costs to be paid "up front" following flexible retirement or release of benefits before age 60 but may do so where exceptional circumstances occur.</p> <p>Not applicable</p>

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<p>R69(1) Decide frequency of payments to be made over to Fund by employers and whether to make an administration charge.</p>	<p><i>Employer contribution rates include an element to cover administration expenses. This is referred to in the Fund's Actuarial Valuation report.</i></p>
<p>R69(4) Decide the form and frequency of information to accompany payments to the Fund.</p>	<p>Cuckfield Parish Council through their payroll provider will provide monthly remittances to Financial Services along with their payment and complete a quarterly confirmation.</p>
<p>R70 and TP22(2) Whether to issue employers with a notice to recover additional costs incurred as a result of the employer's level of performance.</p>	<p><i>The Administering Authority does not currently issue employers with a notice to recover additional costs incurred as a result of an employer's level of performance but reserves the right to raise a charge as agreed by the Chief Finance Officer on a case by case basis.</i></p>
<p>R71(1) Whether to charge interest on payments by employers overdue by more than 1 month.</p>	<p><i>The Administering Authority will charge interest as defined in regulation 71 on late payments, except in exceptional circumstances.</i></p>
<p>R36(3) Approve medical advisors used by employers (for ill health benefits).</p> <p>A56(2) Approve medical advisors used by employers (for early payment, on grounds of ill health, of a deferred benefit or suspended Tier 3 ill health pension).</p>	<p>Cuckfield Parish Council will appoint its own medical advisor based on required qualifications and will ensure that the certificate wording confirms the doctor has the required qualifications.</p> <p>Cuckfield Parish Council will appoint its own medical advisor based on required qualifications and will ensure that the certificate wording confirms the doctor has the required qualifications.</p>

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<p>L97(10) Approve medical advisors used by employers (re: ill health benefits for Councillors and pre 1.4.08 preserved benefits payable on health grounds).</p>	<p>Not applicable.</p>
<p>R79(2) and A63(2) and L105(1) Whether the administering authority should appeal against employer decision (or lack of a decision).</p>	<p><i>This is considered on a case by case basis.</i></p>
<p>R58 Decide on Funding Strategy for inclusion in Funding Strategy statement.</p>	<p>The Funding Strategy is prepared, maintained and published in accordance with the Regulations.</p> <p>The Funding Strategy is consulted on by employers and approved by the Fund's Pensions Panel</p> <p>The Funding Strategy Statement is published on the Funds web pages.</p>
<p>R61 Communication policy must set out the policy on provision of information and publicity to, and communicating with, members, representatives of members, prospective member and Scheme employers; the format, frequency and method of communications; and the promotion of the Scheme to prospective members and their employers.</p>	<p>Cuckfield Parish Council through their payroll provider will provide the necessary communications to prospective scheme members.</p>
<p>R59(1) and (2) Whether to have a written pensions administration strategy and, if so, the matters it should include.</p>	<p>Capita on behalf of the Administering Authority has produced and will maintain a Pensions Administration Strategy.</p>

Regulation No - Description of discretion	Cuckfield Parish Council Policy/Discretion
<p>R76(4) and A60(8) and L99 Decide procedure to be followed by Administering Authority when exercising its stage two Internal Dispute Resolution Procedure (IDRP) functions and decide the manner in which those functions are to be exercised.</p>	<p>Cuckfield Parish Council will take appropriate advice in the first instance and will consider each dispute on a case by case basis.</p>
<p>TP3(13), A70(1), A71(4)(c) and T12 and L109, L110(4)(b) Decide policy on abatement of pensions following re-employment.</p>	<p>The Administering Authority abates pensions on re-employment with the Parish Council or any other local authorities. A copy of the abatement policy is published on the Fund's website.</p>
<p>R80(1)(b) and TP 22(1) and A64(1)(b) Specify information to be supplied by employers to enable the Administering Authority to discharge its functions.</p>	<p>The Administering Authority will specify the standard information and actions required by the Parish Council including their format, frequency and level of accuracy.</p>
<p>R89(5) and 106A(5) Date to which benefits shown on annual benefit statement are calculated.</p>	<p>Benefits in the Annual Benefit Statement will be as at 31st March each year.</p>
<p>R98(1)(b) Agreement to bulk transfer payments.</p>	<p>Bulk transfer terms will be negotiated and agreed on a case by case basis in consultation with the Fund Actuary and the Parish Council.</p>

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<p>R22(3)(c) Pension account may be kept in such form as is considered appropriate.</p>	<p><i>Capita, on behalf of the Administering Authority maintain pension accounts on their 'Hartlink' administration system.</i></p>
<p>31(2) Agree to pay annual compensation on behalf of employer and recharge payments to employer.</p>	<p>Capita will pay annual compensation and recharge the payments to the Parish council on a monthly basis.</p>
<p>R100(7) Allow the transfer of pension rights into the Fund.</p> <p>R100(68) Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS</p>	<p>The Parish Council will usually allow transfers from other schemes provided that the application is made within 12 months of joining the Scheme.</p> <p>The Parish Council may extend the 12 months' time limit if it is clear that a prospective Fund member is unable to meet the normal time period due to circumstances beyond their control.</p>
<p>TP10(9) Decide, in the absence of an election from the member within 12 months of ceasing a concurrent employment, which ongoing employment benefits from the concurrent employment which has ceased should be aggregated (where there is more than one ongoing employment).</p>	<p>The Parish Council will require prospective Fund members to take their own advice as to which benefits should be aggregated.</p>

Regulation No - Description of discretion	Cuckfield Parish Council Policy/Discretion
<p>R16(10) Whether to require a satisfactory medical before agreeing to an application to pay an Additional Pension Contribution (APC) or Share Cost Additional Pension Contribution (SCAPC). Whether to turn down an application to pay an APC/SCAPC if not satisfied that the member is in reasonably good health.</p>	<p>The Parish Council may require a satisfactory medical report by a registered medical practitioner to be obtained but this will be considered on a case by case basis. Any such report obtained will detail whether in the practitioner's opinion the member is in reasonably good health to undertake APC/SCAPC's. If this is not satisfied, then the application to pay an APC/SCAPC will be turned down. All costs incurred to establish that a member is in reasonably good health to undertake APC/SCAPC's are at the member's expense.</p> <p>Members are advised of this requirement on the Fund's website.</p>
<p>R16(1) Whether to turn down a request to pay an APC/SCAPC over a period of time where it would be impractical to allow such a request (e.g. where the sum being paid is very small and could be paid as a single payment)</p>	<p>The Parish Council will take advice as necessary but notes that the Fund requires that any payments proposed that are less than £10 per month, would require agreement from the HR Consultant (Pensions).</p>
<p>TP15(1)(d) and A25(3) Whether to charge member for the provision of an estimate of additional pension that would be provided by the Scheme in return for the transfer of in house Additional Voluntary Contribution / Shared Cost Additional Voluntary Contribution (AVC/SCAVC) funds (where AVC/SCAVC arrangement was entered into before 1/4/14)</p>	<p>The Parish Council currently will not charge. However, the Parish Council reserves the right to introduce a charge in the future.</p> <p>Members are advised of this on the Fund's website.</p>

Regulation No - Description of discretion	Cuckfield Parish Council Policy/Discretion
<p>TP15(1)(c) and T schedule 1 and L83(5) Extend time period for capitalisation of added years' contract</p>	<p>A member may make an election to make a lump sum payment, if they stop paying added years' contributions before their Normal Retirement Date on leaving their employment by reason of redundancy, at least 12 months after electing to pay them.</p> <p>An election must be made within 3 months of them leaving and will only be extended in exceptional circumstances.</p>
<p>A45(3) and L89(3) Outstanding employee contributions can be recovered as a simple debt or by deduction from benefits</p>	<p>Outstanding employee contributions will be recovered by deduction from benefits.</p>
<p>R32(7) Whether to extend the time limits within which a member must give notice of the wish to draw benefits before normal pension age or upon flexible retirement.</p>	<p>The Parish Council will consider each application on a case by case basis.</p>
<p>R49(1)(c) and B42(1)(c) Decide, in the absence of an election from the member, which benefit is to be paid where the member would be entitled to a benefit under 2 or more regulations in respect of the same period of Scheme membership</p>	<p>The Parish Council will consider each application on a case by case basis.</p>
<p>R34(1) and B39 and T14(3) and L49 and L156 Decide whether to commute small pension.</p>	<p>The Parish Council will consider each application on a case by case basis.</p>

Regulation No - Description of discretion	Cuckfield Parish Council Policy/Discretion
<p>L50 and L157 Commute benefits due to exceptional ill-health (Councillor members, pre 1.4.08 leavers and 1.4.08 Pension Credit members).</p>	<p>Not applicable.</p>
<p>TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) and B10(2) and E8 Where members to whom B10 applies (use of average of 3 years pay for final pay purposes) dies before making an election, whether to make that election on behalf of the deceased member.</p>	<p>The Parish Council will apply the most advantageous figure as this would be chosen by the deceased member.</p>
<p>L22(7) Select appropriate final pay period for deceased non-councillor member (leavers post 31.3.98/pre 1.4.08)</p>	<p>The Parish Council will apply the most advantageous figure as this would be chosen by the deceased member.</p>
<p>TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) and T Schedule 1 and L23(9) Make an election on behalf of a deceased member with a certificate of protection of pension benefits (i.e. determine the best pay figure to use in the benefit calculations (pay cuts/restrictions occurring pre 1 April 2008))</p>	<p>The Parish Council will consider each application on a case by case basis, with generally the most advantageous option taken as this would be chosen by the member.</p>
<p>TP17(5) to (8), R40(2), R43(2), R46(2) and B23(2), B32(2), B35(2) and T Schedule 1 and L155(4) Decide to whom a death grant is paid</p>	<p>Where it is clear, having taken account of all the circumstances, the Parish Council will make payment in accordance with the member's expression of wish. If no wish has been made, then payment will be made to the legal spouse, cohabiting partner or civil partner following receipt of Grant of Probate or Form of Indemnity.</p>

Regulation No - Description of discretion	Cuckfield Parish Council Policy/Discretion
<p>R82(2) and A52(2) and L95 Whether to pay death grant due to personal representatives or anyone appearing to be beneficially entitled to the estate without need for grant of probate / letters of administration where payment is less than amount specified in S6 of the Administration of Estates (Small Payments) Act 1965.</p>	<p>Where it is clear, having taken account of all the circumstances, the Parish Council will make payment in accordance with the member's expression of wish. If no wish has been made, then payment will be made to the legal spouse, cohabiting partner or civil partner following receipt of Grant of Probate or Form of Indemnity.</p>
<p>R17(12) Decide to whom any AVC/SCAVC monies (including life assurance monies) are to be paid on death of the member.</p>	<p>Where it is clear, having taken account of all the circumstances, the Parish Council will make payment in accordance with the member's expression of wish. If no wish has been made, then payment will be made to the legal spouse, cohabiting partner or civil partner following receipt of Grant of Probate or Form of Indemnity.</p>
<p>R83 and A52A Whether, where a person (other than an eligible child) is incapable of managing their affairs, to pay the whole or part of that person's pension benefits to another person for their benefit.</p>	<p>The Parish Council will pay benefits to the person having care of the pensioner, or such other person as it may determine where the pensioner is incapable of managing his or her affairs.</p>
<p>B27(5) and L47(2) and G11(2) Whether to pay the whole or part of a child's pension to another person for the benefit of that child</p>	<p>The Parish Council will pay benefits to the child's legal guardian or such other person as it may determine where the child is under the age of 18 or where it can clearly be identified that it would be in the child's best interests when they are over the age of 18.</p>

Regulation No - Description of discretion	Cuckfield Parish Council Policy/Discretion
<p>L47(1) and G11(1) Apportionment of children's pension amongst eligible children (children of pre 1.4.98 retirees/pre 1.4.98 deferreds)</p>	<p>The Parish Council will ensure eligible children's pensions will be paid on an equal share basis.</p>
<p>R Schedule 1 and TP17(9) Decide to treat child as being in continuous education or vocational training despite a break.</p>	<p>The Parish Council will treat the child being in continuous education or training despite a break.</p>
<p>R Schedule 1 and TP17(9)(b) and B25 Decide evidence required to determine the financial dependence of a cohabiting partner on scheme member or financial interdependence of a cohabiting partner and scheme member.</p>	<p>The Parish Council will consider each instance on a case by case basis, taking consideration of LGPS Regulation requirements and any legal advice which may require to be taken.</p>
<p>F7(1) Suspension of spouses' pensions during re-marriage or cohabitation.</p>	<p>Spouse's pensions are not ceased on re-marriage or cohabitation but are payable for life. This was introduced to equalise benefits for those members leaving active service after 31st March 1998.</p>
<p>L147 How to discharge Pension Credit liability</p>	<p>The Parish Council will consider each instance on a case by case basis.</p>