



## WHITCHURCH TOWN COUNCIL

### Discretionary Policies under the Local Government Pension Scheme Regulations and other related Regulations

November 2020

#### Summary

1. This Policy makes recommendations for Whitchurch Town Council policies on discretions to be exercised:
  - i) under the LGPS Regulations 2013 from 1 April 2014 in respect of members of the Career Average Revalued Earnings (CARE) scheme,
  - ii) under earlier LGPS Regulations in respect of former employees who were members of the LGPS and who left prior to 1 April 2014,

#### Background

2. The provisions of the CARE scheme, together with the protections for members' accrued pre 1 April 2014 final salary pension rights, are contained in the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014.
3. As a result of the changes, Whitchurch Town Council is legally required to formulate, publish and send to the LGPS pension fund administering authority a written Statement of Policy on certain discretions under the LGPS which Whitchurch Town Council has the power to exercise on and from 1 April 2014 in relation to members of the CARE scheme.
4. Whitchurch Town Council is also legally required to (or where there is no requirement, is recommended to) formulate, publish and keep under review a Statement of Policy on certain other discretions it may exercise:
  - i) under earlier LGPS Regulations in respect of former employees who were members of the LGPS and who left prior to 1 April 2014, and
5. Any amended policy must be published and sent to the LGPS pension fund administering authority within one month of the date the revisions to the policy were made.
6. Overall, Whitchurch Town Council is:
  - i) required to formulate, publish and keep under review a written Statement of Policy on certain discretions in accordance with:
    - regulation 60 of the Local Government Pension Scheme Regulations 2013,
    - paragraph 2(2) of Schedule 2 to the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014,
    - regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008 (in respect of former employees who were members of the LGPS and who left between 1 April 2008 and 31 March 2014),
7. In formulating and reviewing its policies under the LGPS Regulations Whitchurch Town Council is required to have regard to the extent to which the exercise of its discretionary powers might lead to a serious loss of confidence in the public service.

**Effective date of policies**

8. The policies on discretions to be exercised under the LGPS Regulations 2013 take immediate effect from the date Whitchurch Town Council agrees the policies. Any change to the policies on existing discretions to be exercised under the LGPS Regulations in respect of former employees who were members of the scheme and who left pre 1 April 2014 (and in respect of local authority councillor members) take immediate effect from the date Whitchurch Town Council agrees the policies.

**Non-fettering of discretions**

9. It should be noted that:
- the policies will confer no contractual rights
  - Whitchurch Town Council will retain the right to change the policies at any time without prior notice or consultation
  - only the policy which is current at the time a relevant event occurs to an employee / scheme member will be the one applied to that employee / member.

<b>Date of policy:</b>	12 <sup>th</sup> November 2020
<b>Approving committee:</b>	Personnel Committee
<b>Date for next review:</b>	As required by Shropshire Pension Fund

## Annex 1

Table A: Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations 2013 in relation to active scheme members and members who cease active membership after 31 March 2014	Whitchurch Town Council Discretionary Policies
<p><b>Granting Annual Extra Pension</b> Whitchurch Town Council will <b>not</b> make use of the discretion to grant extra annual pension of up to £6,822 (figure at 1 April 2018) to an active scheme member or, within 6 months of leaving, to a member who is dismissed by reason of redundancy or business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency.</p>	
<p><b>Shared Cost Additional Pension Contribution (SCAPC)</b> Whitchurch Town Council will only voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC) where:</p> <ol style="list-style-type: none"><li>1. an active scheme member returns from a period of authorised leave of absence, and<ul style="list-style-type: none"><li>• the member does not, within 30 days of returning from the leave of absence, make an election to buy-back the amount of pension 'lost' during that period of leave of absence, and</li><li>• the member subsequently makes an election to do so whilst an active member and it can be demonstrated that the reason for the member missing the original 30 day deadline was because the member had not been made aware of that deadline, and</li><li>• the election is made no more than 3 months after the member returns from the period of leave of absence or such longer period as Whitchurch Town Council may deem reasonable in any individual case.</li></ul></li><li>2. A decision on whether the member meets the above criteria (and on whether the 3 month period referred to should be extended in any individual case) will be taken by the Personnel Committee and, where it is agreed that the conditions are met, Whitchurch Town Council will be required to contribute 2/3rds of the cost of buying back the 'lost' pension via a SCAPC. Where a member has a string of odd days of authorised unpaid leave of absence throughout the Scheme year ( 1 April to 31 March). In such a case Whitchurch Town Council will, instead of requiring elections to buy-back the amount of pension 'lost' during the periods of leave of absence to be made within 30 days of returning from each day of absence, allow the members (whilst and active member) to make a single election during the Scheme year to cover each one of the absences that occur during the Scheme year.</li><li>3. In exceptional circumstances where Whitchurch Town Council considers it is in its financial or operational interest to do so.</li></ol> <p>Each case to contribute to a SCAPC (and a decision on the amount to be contributed) will be considered on the merits of the financial and / or operational business case put forward.</p>	

### **Flexible Retirement**

Whitchurch Town Council will **not** agree to flexible retirement except in circumstances where Whitchurch Town Council considers it is in its financial or operational interests to do so. Each case:

- will be considered on the merits of the financial and / or operational business case put forward,
- will set out whether, in addition to any pre 1 April 2008 benefits, the member will be permitted, as part of the flexible retirement agreement, to take
  - a) all, some or none of their 1 April 2008 to 31 March 2014 benefits, and /or
  - b) all, some or none of their post 31 March 2014 benefits, and
- will require the approval of Personnel Committee.

### Waiver of any actuarial reduction on flexible retirement

Where flexible retirement is agreed, the benefits payable will be subject to any actuarial reduction applicable under the Local Government Pension Scheme Regulations and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014. Whitchurch Town Council will only waive any such reduction, in whole or in part, where it considers it is in its financial or operational interests to do so.

Each case will be considered on the merits of the financial and / or operational business case put forward and will require the approval of the Personnel Committee including, where the reduction is only to be waved in part, approval for the amount of reduction to be waived.

### **Discretionary Policy – Early Retirement & Actuarial Reduction**

Where members choose to voluntarily draw their benefits on or after age 55 and before Normal Pension Age Whitchurch Town Council will **not** agree to waive in whole or in part any actuarial reduction that would otherwise be applied to their benefits except in circumstances where Whitchurch Town Council considers it is in its financial or operational interests to do so or there are compelling compassionate<sup>1</sup> reasons for doing so.

Each case

- will be considered on the merits of the financial and / or operational business case put forward, or
- will be considered on the merits of the compassionate case put forward, and
- will require the approval of Personnel Committee including, where the reduction is only to be waved in part, approval for the amount of reduction to be waived.

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<sup>1</sup> There is no definition in the Regulations of “compassionate grounds”. However, one could take the view that, for example, releasing benefits because the member is short of funds / out of work would not be appropriate (as the pension scheme is not a social security scheme); whereas, for example, releasing benefits because the member has had to give up work to look after orphaned grandchildren would clearly be a case where an employer might wish to exercise compassion.

### Discretionary Policy – Switching on the 85 Year Rule

Whitchurch Town Council will **not** agree to apply the 85 year rule where members choose to voluntarily draw their benefits on or after age 55 and before age 60 except in circumstances where Whitchurch Town Council considers it is in its financial or operational interests to do so. Each case

- will be considered on the merits of the financial and / or operational business case put forward, and
- will require the approval of the Personnel Committee.

#### 1. For:

- i) active members voluntarily retiring on or after age 55 and before Normal Pension Age who elect under regulation 30(5) of the LGPS Regulations 2013 to immediately draw benefits, and
- ii) deferred members and suspended Tier 3 ill health pensioners who elect under regulation 30(5) of the LGPS Regulations 2013 to draw benefits (other than on ill health grounds) on or after age 55 and before Normal Pension Age

#### who:

- were not members of the LGPS before 1 October 2006 [Group 4 members], whether to:
  - waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits, if any, accrued before 1 April 2014, and / or
  - waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2014
- were members of the LGPS before 1 October 2006 and will be 60 or more on 31 March 2016 [Group 1 members], whether to:
  - waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April 2016, and / or
  - waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2016
- were members of the LGPS before 1 October 2006 and will not be 60 or more on 31 March 2016 and will not attain age 60 between 1 April 2016 and 31 March 2020 [Group 3 members], whether to:
  - waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April 2014, and / or
  - waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2014
- were members of the LGPS before 1 October 2006 and will not be 60 or more on 31 March 2016 but will attain age 60 between 1 April 2016 and 31 March 2020 [Group 2 members], whether to:
  - waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April 2020, and / or
  - waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2020.

2. Whether, how much, and in what circumstances to contribute to a shared-cost Additional Voluntary Contribution (SCAVC) arrangement entered into on or after 1 April 2014 and whether, how much, and in what circumstances to continue to contribute to any shared cost Additional Voluntary Contribution (SCAVC) arrangement entered into before 1 April 2014.

Whitchurch Town Council will not enter into a shared cost AVC arrangement other than:

- a) in exceptional circumstances in which case the decision to contribute, and the amount of the contribution, will be subject to the approval of Whitchurch Town Council

<p>3. Whether to extend the 12 month time limit within which a scheme member who has a deferred LGPS benefit in England or Wales following the cessation of an employment (or cessation of a concurrent employment) after 31 March 2014 may elect not to have the deferred benefits aggregated with their new LGPS employment (or ongoing concurrent LGPS employment) if the member has not made an election to retain separate benefits within 12 months of commencing membership of the LGPS in the new employment (or within 12 months of ceasing the concurrent membership).</p>	<p>Whitchurch Town Council will only extend the 12 month time limit within which a scheme member who has a deferred LGPS benefit in England or Wales following the cessation of an employment (or cessation of a concurrent employment) after 31 March 2014 may elect not to have the deferred benefits aggregated with their new LGPS employment (or ongoing concurrent LGPS employment):</p> <ul style="list-style-type: none"> <li>a) where Whitchurch Town Council agrees that the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration;</li> <li>b) where Whitchurch Town Council agrees that the available evidence indicates the member had made an election within 12 months of joining the LGPS but the election was not received by the Pension Fund administering authority (e.g. the election form was lost in the post); or</li> <li>c) where the member has pre 1 April 2014 membership and Whitchurch Town Council agrees the available evidence indicates that, due to maladministration, the member had not been informed of the implications of having benefits aggregated and would, in consequence, suffer a detriment to their pension benefits (for example, where member's whole-time equivalent pensionable pay on commencing with Whitchurch Town Council is, in real terms after allowing for inflation, significantly less than the whole-time equivalent pensionable pay upon which the deferred benefits were calculated).</li> </ul>
<p>4. Whether, with the agreement of the Pension Fund administering authority, to permit a Scheme member to elect to transfer other pension rights into the LGPS if he / she has not made such an election within 12 months of joining the LGPS.</p>	<p>Whitchurch Town Council will only extend the 12 month time limit within which a scheme member must make an election to transfer other pension rights into the LGPS after joining the LGPS:</p> <ul style="list-style-type: none"> <li>- where the member asked for transfer investigations to be commenced within 12 months of joining the LGPS but a quotation of what the transfer value will purchase in the LGPS has not been provided to the member within 11 months of joining the LGPS. The time limit for such a member to make a formal election to transfer pension rights into the LGPS will be extended to one month beyond the date of the letter issued by the Pension Fund administering authority notifying the Scheme member of the benefits the transfer will buy in the LGPS;</li> <li>- where the available evidence indicates the member made an election within 12 months of joining the LGPS, but the election was not received by the Pension Fund administering authority (e.g. the election form was lost in the post);</li> </ul>

	<p>- where the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration.</p>
<p>5. How the pension contribution band/rate to which an employee is to be allocated will be determined on joining the Scheme and at each subsequent April, and the circumstances in which the employer will, in addition to the review each April, review the pension contribution band/rate to which an employee has been allocated consequent upon a material change which affects the member's pensionable pay in the course of a Scheme year (1 April to 31 March).</p>	<p>See Policy on Pension Re-Banding</p>
<p>6. Whether or not, when calculating assumed pensionable pay when a member (other than a returning officer) is:</p> <ul style="list-style-type: none"> <li>• on reduced contractual pay or no pay on due to sickness or injury, or</li> <li>• absent during ordinary maternity, paternity or adoption leave or paid shared parental leave, or during paid additional maternity or adoption leave (other than any part of that leave where the pensionable pay received is greater than the assumed pensionable pay for that part of the leave period), or</li> <li>• absent on reserve forces service leave, or</li> <li>• retires with a Tier 1 or Tier 2 ill health pension, or dies in service</li> </ul> <p>to include in the calculation 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.</p>	<p>In assessing Assumed Pensionable Pay (APP) Whitchurch Town Council will not, other than in exceptional circumstances, include in the calculation any 'regular lump sum payments' in which case the decision to include the 'regular lump sum payment'. Each case will be considered on its merits by the Personnel Committee.</p>

**Annex 2**

<b>Table B: Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations in relation to scheme members who ceased active membership between 1 April 2008 and 31 March 2014 (other than local authority councillor members)</b>	<b>Whitchurch Town Council policy</b>
1. Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65  -	<b>Whitchurch Town Council</b> will consider an application to waive, on compassionate grounds, any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65. Each case will be considered on its merits and will be subject to the approval of Personnel Committee.
Where a former scheme member who left the scheme between 1 April 2008 and 31 March 2014 requests early release of deferred benefits on or after age 55 and before age 60 (on grounds other than permanent ill health), approval will only be given on compassionate grounds <sup>2</sup> . Each case will be considered on its merits and will be subject to the approval of Personnel Committee. Subject to entry 4 below, the benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations.	

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<sup>2</sup> There is no definition in the Regulations of “compassionate grounds”. However, one could take the view that, for example, releasing benefits because the member is short of funds / out of work would not be appropriate (as the pension scheme is not a social security scheme); whereas, for example, releasing benefits because the member has had to give up work to look after orphaned grandchildren would clearly be a case where an employer might wish to exercise compassion.

Table C: Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations in relation to scheme members who ceased active membership between 1 April 1998 and 31 March 2008 (and in relation to local authority councillor members who ceased or will cease active membership on or after 1 April 1998)	Whitchurch Town Council policy
<p>1. Whether<sup>3</sup> to grant applications for the early payment of pension benefits on or after age 50<sup>4</sup> and before age 60 (on grounds other than permanent ill health).</p> <p>-</p>	<p>Where a former scheme member who left the scheme between 1 April 1998 and 31 March 2008 requests early release of deferred benefits on or after age 50 and before age 60 (on grounds other than permanent ill health), approval will only be given on compassionate grounds<sup>5</sup>. Each case will be considered on its merits and will be subject to the approval of Personnel Committee. Subject to entry 2 below, the benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations.</p>
<p>2. 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>-</p>	<p>Whitchurch Town Council will consider an application to waive, on compassionate grounds, any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65. Each case will be considered on its merits and will be subject to the approval of Personnel Committee.</p>

## Appendix 1

### Key differences between the 2008 and 2014 Local Government Pension Schemes

<sup>3</sup> This discretion does not apply to those LGPS members who are former members of the Metropolitan Civil Staffs Superannuation Scheme and who are covered by regulation 144A of, and Schedule 7 to, the LGPS Regulations 1997 or to former NHS Scheme members who are covered by regulation 23 of the LGPS (Transitional Provisions) Regulations 1997 (as such members have the automatic right to take benefits on or after age 50 and before age 60).

<sup>4</sup> It should be noted that, except in the case of LGPS members who are former members of the Metropolitan Civil Staffs Superannuation Scheme and who are covered by regulation 144A of, and Schedule 7 to, the LGPS Regulations 1997, or former NHS Scheme members who are covered by regulation 23 of the LGPS (Transitional Provisions) Regulations 1997, benefits paid on or after age 50 and before age 55 will be subject to an unauthorised payments charge under the Finance Act 2004 and, where applicable, an unauthorised payments surcharge under that Act, and a Scheme sanction charge on any benefits built up after 5 April 2006.

<sup>5</sup> There is no definition in the Regulations of “compassionate grounds”. However, one could take the view that, for example, waiving a reduction because the member is short of funds / out of work would not be appropriate (as the pension scheme is not a social security scheme); whereas, for example, releasing benefits because the member has had to give up work to look after orphaned grandchildren would clearly be a case where an employer might wish to exercise compassion.

	<b>New LGPS 2014</b>	<b>LGPS 2008</b>
Scheme Basis	Career Average Revalued Earnings	Final Salary
Proportion of pay each year which counts towards pension	1/49 <sup>th</sup>	1/60 <sup>th</sup>
Pay which counts towards pensions	Actual pay including non-contractual overtime and additional hours	Full-time equivalent pay for part-time staff and excludes non-contractual overtime and non-pensionable additional hours
Contribution flexibility	Can pay 50% contributions for 50% of pension benefit	Only topping up benefits available
Normal Pension Age (age benefits can be paid unreduced)	Equal to the individual members' State Pension Age (minimum age 65)	65
Qualifying period for entitlement to benefits	2 years	3 months
Earliest Retirement Age (the earliest age benefits can be paid without employer consent but with a reduction applied)	55	60

**Appendix 2**

**Statutory Pension Discretions – Employee Request Form**

Before completing this form, please ensure that you have read the Pension Discretions Policy in conjunction with the Pension and Retirement Policy.

Employee’s name .....

Employee Number.....

Name of Manager .....

Directorate .....

Please indicate pension discretion request:

Granting Annual Extra Pension	
Shared Cost Additional Pension Contribution	
85 Year Rule	
Actuarial Reduction (Early Retirement)	
Flexible Retirement – benefits and/or actuarial reduction	

Please provide details of your request and when you wish this request to be effective from:

Name (signature) ..... Date .....

**Appendix 3**

**Statutory Pension Discretions - Manager Report**

Employee Name:

Employee number:

Please indicate employee's request:

Granting Annual Extra Pension	
Shared Cost Additional Pension Contribution	
85 Year Rule	
Actuarial Reduction (Early Retirement)	
Flexible Retirement – benefits and/or actuarial reduction	

**Background**

Include the following in your business case:

- Current employment details – include current post, hours worked and current SCP details
- Provide details of the exceptional circumstances where Shropshire Council considers it is in its financial or operational interests to permit this discretion
- Details regarding the strain (if any) on the pension fund, and the cost implications in relation to the team budget (if any)

I agree to this request for [INPUT REQUEST] and that pension payments commence with effect from [DATE].

**Direct Line Manager**

.....Date..... (Name and sign)

**Post:** .....

**Next Level of Line Management**

.....Date..... (Name and sign)

**Post:** .....

**Chair of Personnel Committee**

.....Date..... (Name and sign)