

Pensions Discretion Policy

1. INTRODUCTION

- 1.1 Crowborough Town Council as an employer participating in the Local Government Pension Scheme (LGPS) in England and Wales has a legal duty to formulate, publish and keep under review a statement of policy on certain discretionary powers (which they have the power to exercise in relation to members of the CARE Scheme) under the Regulations plus a number of non-mandatory employer discretions.
- 1.2 The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014 so that benefits accruing for service after 31 March 2014 will accrue on a Career Average Re-valued Earnings (CARE) basis, rather than on the previous final salary basis. The provisions of the CARE scheme, together with the protections for members' accrued pre 1 April 2014 final salary rights, are contained in the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014.
- 1.3 Discretions are powers that enable employers to choose how to apply the scheme in respect of certain provisions. Discretions only apply at the time of application and are subject to change.

2. OBJECTIVES

- 2.1 When the Council sets and reviews these employer discretions, consideration is given to:
- Cost – discretionary powers come with a cost attached - policies mustn't lead to a loss of confidence in public services, therefore have to be affordable
 - Basis on which decisions are made – policies should not be so rigid or restrictive as to prevent flexibility where a possibly unanticipated situation requires it
 - Equality – criteria that do not discriminate and where decisions are objectively justified
- 2.2 The Council has limited resources and needs to maintain a balanced budget. Any exercise of discretion and must be contained within existing service budgets, therefore discretions are only exercised in exceptional circumstances.

3. DISCRETIONS

Discretions under the Local Government Pension Scheme 2014

These discretions are Employer discretions under The Local Government Pension Scheme Regulations 2013 (prefix **R**) and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (prefix **TP**) on which Employers are required to formulate and publish a policy on.

Regulation	Discretion	Employer's Policy on the exercise of this discretion
The Local Government Pension Scheme Regulations 2013		
R16(2)(e)	Where Additional Pension Contributions are to be paid by regular contributions in order to purchase additional pension, whether to fund in whole or in part a member's additional pension contribution. The maximum additional pension which can be purchased is £7,026 with effect from 1 April 2019.	Crowborough Town Council does not intend to exercise this discretion.
R16(4)(d)	Where an Additional Pension Contribution is to be paid by a lump sum contribution in order to purchase additional pension, whether to fund in whole or in part a member's additional pension contribution. The maximum additional pension which can be purchased is £7,026 with effect from 1 April 2019	Crowborough Town Council does not intend to exercise this discretion.
R30(6) & TP11(2)	Whether to allow an active member who has attained the age of 55 or over, reduces their working hours or grade to receive immediate payment of all or part of their retirement pension to which the member is entitled in respect of that employment subject to an actuarial reduction.	Crowborough Town Council does not intend to exercise this discretion.
R30(8)	<p>Whether to waive in whole or in part any reduction in a member's pension benefits as a result of a member who has not attained normal pension age but who has attained the age of 55 or over and has elected, under R30(5), to receive immediate payment of a retirement pension.</p> <p>Whether to waive in whole or in part any reduction in a member's pension benefits where a member flexibly retires under R30(6).</p>	Crowborough Town Council does not intend to exercise this discretion.
R31	Whether to award additional pension up to the maximum (£7,026 with effect from 1 April 2019) to an active member or a member who was an active member who was dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency within 6 months of the date the member's employment ended.	Crowborough Town Council does not intend to exercise this discretion.

The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014		
TP Schedule 2, para 1(1)(c) and 1(3)	Whether to “switch on” the 85 Year Rule for a member voluntarily drawing benefits on or after age 55 and before age 60.	The council would not normally consider this but, in exceptional cases may consider based on its circumstances and merits and subject to Council approval.
TP3(1), TP Schedule 2, para 2(1), R30(8).	Whether to waive upon the voluntary early payment of benefits, any actuarial reduction on compassionate grounds or, for periods of service to which the compassionate service discretion does not apply, to waive any actuarial reduction on any grounds.	The council would not normally consider this but, in exceptional cases may consider based on its circumstances and merits and subject to Council approval.

Regulation	Discretion	Employer’s Policy on the exercise of this discretion
R17 & TP15(2A)	Whether, how much, and in what circumstances to contribute to a Shared Cost Additional Voluntary Contribution (SCAVC) arrangement	Crowborough Town Council does not intend to exercise this discretion.
R16(16)	Whether to extend the 30 day deadline for member to elect for a Shared Cost Additional Pension Contribution (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)	Crowborough Town Council does not intend to exercise this discretion.
R100(6)	Whether, with the agreement of the Pension Fund administering authority , to permit a member to elect to transfer pension rights from another registered pension scheme into the LGPS, if they had not made such an election to do so within 12 months of first joining the LGPS in that employment	Crowborough Town Council does not intend to exercise this discretion.
R22(7) and (8)	Whether to extend the 12 month time limit within which a member who has a deferred LGPS benefit in England or Wales following the cessation of employment (or cessation of a concurrent employment) after 31 March 2014 may elect not to have their 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 that new	Crowborough Town Council does not intend to exercise this discretion.

	employment (or within 12 months of ceasing the concurrent membership)	
TP10(6)	Whether to extend the 12 month time limit within which a member (who has not elected to be treated as a member who, in the same employment, was contributing to the Scheme on both 31 March 2014 and 1 April 2014) who has a deferred LGPS benefit in England or Wales following the cessation of employment before 1 April 2014, to elect to aggregate their deferred benefits with their new LGPS employment that commenced on or after 14 May 2018	Crowborough Town Council does not intend to exercise this discretion.
R9&R10	How the pension contribution band to which an employee is to be allocated on joining the Scheme, and at each subsequent April, will be determined and the circumstances in which the Scheme employer will, in addition to the review each April, review the pension contribution band to which an employee has been allocated following a material change which affects the member's pensionable pay in the course of a Scheme year (1 April to 31 March)	Crowborough Town Council will assess pay bands each April, in line with annual pay awards or increments or when there are significant material changes such as promotions or pay awards.
R21(4)(a)(iv), R21(4)(b)(iv) and R21(5)	<p>Whether, when calculating assumed pensionable pay when a member is:</p> <ul style="list-style-type: none"> – on reduced contractual pay or no pay on due to sickness or injury, or – absent during ordinary maternity, paternity or adoption leave, or paid shared parental leave, or during paid additional maternity or adoption leave, or – absent on reserve forces service leave, or – retires with a Tier 1 or Tier 2 ill health pension, or – dies in service <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. A 'regular lump sum payment' is a payment for which the member's Scheme employer determines there is a reasonable expectation that such a payment would be paid on a regular basis</p>	Crowborough Town Council does not intend to exercise this discretion.
R21(5A) and R21(5B)	<p>When a member is:</p> <ul style="list-style-type: none"> – on reduced contractual pay or no pay due to sickness or injury, or 	Crowborough Town Council does not intend to exercise this discretion.

	<ul style="list-style-type: none"> – absent during ordinary maternity, paternity or adoption leave, or paid shared parental leave, or during paid additional maternity or adoption leave, or – absent on reserve forces service leave, or – retires with a Tier 1 or Tier 2 ill health pension, or – dies in service <p>if, in the Scheme employer’s opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments) in the 3 months (or 12 weeks if not paid monthly) preceding the commencement of Assumed Pensionable Pay (APP), is materially lower than the level of pensionable pay the member would have normally received, decide whether to substitute a higher level of pensionable pay when calculating APP, having had regard to the level of pensionable pay received by the member in the previous 12 months</p>	
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Discretions under the Local Government Pension Scheme 2008

Applicable to members who ceased active membership between 1 April 2008 and 31 March 2014

These discretions are Employer discretions under The Local Government Pension Scheme (Administration) Regulations 2008 (prefix **A**), LGPS (Benefits, Membership and Contributions) Regulations 2007 (prefix **B**), and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (prefix **TP**) on which Employers are **required** to formulate and publish a policy.

Regulation	Discretion	Employer’s Policy on the exercise of this discretion
TP1(1)(c) & TP1(2) of Schedule 2	Whether, as the 85 year rule does not automatically fully apply to members who would otherwise be subject to it and who choose to voluntarily draw their deferred benefits (on or after 14 May 2018) on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members	The council would not normally consider this but, in exceptional cases may consider on a case by case basis, taken on its circumstances and merits and subject to Council approval.
TP1(1)(c) & TP1(2) of Schedule 2	Whether, as the 85 year rule does not automatically fully apply to members who would otherwise be subject to it and who 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, to switch the 85 year rule back on in full for such members	The council would not normally consider this but, in exceptional cases may consider on a case by case basis, taken on its circumstances and merits and subject to Council approval.

B30(5) and TP2(1) of Schedule 2	Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.	The council would not normally consider this but, in exceptional cases may consider on a case by case basis, taken on its circumstances and merits and subject to Council approval.
B30A(5) & T2(1) of Schedule 2	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	The council would not normally consider this but, in exceptional cases may consider on a case by case basis, taken on its circumstances and merits and subject to Council approval.

Discretions under the Local Government Pension Scheme 1998

Applicable to members who ceased active membership between 1 April 1998 and 31 March 2008

These discretions are Employer discretions under The Local Government Pension Scheme 1997 Regulations (prefix L) and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (prefix TP) on which Employers are required to formulate and publish a policy.

Regulation	Discretion	Employer's Policy on the exercise of this discretion
TP1(1)(f) & TP1(2) of Schedule 2	Whether, as the 85 year rule does not automatically fully apply to members who would otherwise be subject to it and who choose to voluntarily draw their deferred benefits (on or after 14 May 2018) on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members	The council would not normally consider this but, in exceptional cases may consider on a case by case basis, taken on its circumstances and merits and subject to Council approval.
L31(2)	Whether to grant applications for the early payment of pension benefits on or after age 50 and before age 55 ¹	The council would not normally consider this but, in exceptional cases may consider on a case by case basis, taken on its circumstances and merits and subject to Council approval.
L31(5) & TP 2(1) of Schedule 2	Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to benefits which are paid before age 65	The council would not normally consider this but, in exceptional cases may consider on a case by case basis, taken on its

¹ It should be noted that 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.

		circumstances and merits and subject to Council approval.
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Discretions under the Local Government Pension Scheme 1995

Applicable to members who ceased active membership before 1 April 1995

These discretions are Employer discretions under The Local Government Pension Scheme 1995 on which Employers are **required** to formulate and publish a policy.

Regulation	Discretion	Employer's Policy on the exercise of this discretion
D11(2)(C)	Whether to grant applications for the early payment of deferred pension benefits on or after age 50 and before NRD on compassionate grounds ² .	The council would not normally consider this but, in exceptional cases may consider on a case by case basis, taken on its circumstances and merits and subject to Council approval.

4. REVIEW

4.1 This policy will be reviewed by Full Council on a bi-annual basis. Any variation to the policy will be submitted to Full Council for approval.

² It should be noted that 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, but there would be no Scheme sanction charge.