

<b>Title of Report:</b>	<b>LGPS 2014 Policy Statement</b>
<b>Report to be considered by:</b>	Personnel
<b>Date of Meeting:</b>	28 May 2014
<b>Forward Plan Ref:</b>	PC2826

**Purpose of Report:**

To propose the Council's policy with regard to:

The Local Government Pension Scheme Regulations 2013:  
 16(2)(e) and 16(4)(d) (funding of additional pension);  
 30(6) (flexible retirement);  
 30(8) (waiving of actuarial reduction);  
 31 (award of additional pension); and  
 9(1) and (3) (contribution bandings)  
 17(1) (additional voluntary contributions)  
 22 (merging of deferred member pension accounts)  
 100(6) (inward transfers of pension rights)  
 21(5) (assumed pensionable pay)  
 74 (adjudication and internal disputes)

and

Paragraphs 2(2) of Schedule 2 to the Local Government Pension Scheme (Transitional Provisions, Savings & Amendment) Regulations 2014 - whether to 'switch on' the 85 year rule for a member who voluntarily retires (leaves employment) and elects to draw their benefits on or after the age of 55 and before the age of 60.

**Recommended Action:**

To approve the Policy Statements

**Reason for decision to be taken:**

To meet the requirements of Regulation 60 of the LGPS Regs 2013 and the LGPS 2014 Transitional Provisions.

**Other options considered:**

n/a

**Key background documentation:**

Appendix B Berkshire Pension Fund Guide to Employers

The proposals contained in this report will help to achieve the above Council Strategy priorities and principles by:  
 The proposals do not relate to the Council Strategy

**Portfolio Member Details**

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<b>Date Portfolio Member agreed report:</b>	28 <sup>th</sup> April 2014
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<b>Contact Officer Details</b>	
<b>Name:</b>	Sean Anderson
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### Implications

**Policy:** These Policies are required under the requirements of the LGPS Regs 2013 and the LGPS 2014 Transitional Provisions. The proposed policy allows cases to be decided on an individual basis which will enable individual cases to be managed to meet operational requirements of the Council.

**Financial:** The Policies in some instances allow a degree of discretion which if applied could have an impact on the Council's Finances . As each case will be determined on its own merits it is not possible to quantify within this report what that might be. The policy proposes that the authority for determining decisions on costs is the same as for Discretionary Compensation payments to employees (i.e. all costs for an individual over £10,000 to be approved by Executive).

**Personnel:**

**Legal/Procurement:** These Policies are required under the requirements of the LGPS Regs 2013 and the LGPS 2014 Transitional Provisions.

**Property:** N/A

**Risk Management:** N/A

<b>Is this item relevant to equality?</b>	Please tick relevant boxes	
	<b>Yes</b>	<b>No</b>
Does the policy affect service users, employees or the wider community and:		
• Is it likely to affect people with particular protected characteristics differently?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Is it a major policy, significantly affecting how functions are delivered?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Will the policy have a significant impact on how other organisations operate in terms of equality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to an area with known inequalities?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Outcome</b> (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)		
Relevant to equality - Complete an EIA available at <a href="http://www.westberks.gov.uk/eia">www.westberks.gov.uk/eia</a>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Not relevant to equality	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<b>Is this item subject to call-in?</b>	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
<p>If not subject to call-in please put a cross in the appropriate box:</p> <p>The item is due to be referred to Council for final approval <input type="checkbox"/></p> <p>Delays in implementation could have serious financial implications for the Council <input checked="" type="checkbox"/></p> <p>Delays in implementation could compromise the Council's position <input type="checkbox"/></p> <p>Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months <input type="checkbox"/></p> <p>Item is Urgent Key Decision <input type="checkbox"/></p> <p>Report is to note only <input type="checkbox"/></p>		

# Executive Summary

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## 1. Introduction

- 1.1 With effect from 1 April 2014 the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 came into force. These changes originated in a review of the affordability and sustainability of the LGPS
- 1.2 Under these Regulations, as with previous Regulations, Scheme employers are required to prepare, maintain and keep under review a statement of policy concerning a number of discretions made available to them throughout the Regulations. This report has been prepared in order to satisfy those requirements.
- 1.3 Accordingly and as required by Regulation 60 of the Local Government Pension Scheme Regulations 2013 (Statements of policy about exercise of discretionary functions) a Scheme employer (West Berkshire Council) must prepare a written statement of its policy in relation to the exercise of its functions under regulations:
  - (1) 16(2) (e) and 16(4) (d) (funding of additional pension);
  - (2) 30(6) (flexible retirement);
  - (3) 30(8) (waiving of actuarial reduction); and
  - (4) 31 (award of additional pension).
- 1.4 In addition and in accordance with Paragraphs 2(2) of Schedule 2 to the Local Government Pension Scheme (Transitional Provisions, Savings & Amendment) Regulations 2014 a Scheme employer must also prepare a written statement on whether, in respect of benefits relating to pre 1st April 2014 membership, to 'switch on' the 85 year rule for a member who voluntarily retires (leaves employment) and elects to draw their benefits on or after the age of 55 and before the age of 60 thereby agreeing to waive in full or part any actuarial reduction applied to the member's benefits.
- 1.5 In addition, the Berkshire Pension Fund recommends that the Employer formulates policy with respect to several other Regulations. These are included in the report.

## 2. Recommended Action

- 2.1 To approve the LGPS Policy Statements and provide the same to the Berkshire Pension Fund.

## 3. Equalities Impact Assessment Outcomes

- 3.1 This item is not relevant to equality.

## 4. Conclusion

- 4.1 This report completes our requirements as required by the Local Government Pension Scheme 2013 Regulations.

# Executive Report

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## 1. Introduction

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- 1.2 Under these Regulations, as with previous Regulations, Scheme employers are required to prepare, maintain and keep under review a statement of policy concerning a number of discretions made available to them throughout the Regulations. This report has been prepared in order to satisfy those requirements.
- 1.3 There are 10 policies requiring consideration and approval. The Policies are provided in full in Appendix A with further guidance from the Berkshire Pension Fund within Appendix B. The Policies, options and recommendations are as follows.

## 2. LGPS 2013 Regulation 16 – Additional Pension Contributions

- 2.1 The Scheme employer may resolve to fund in whole or in part any arrangement entered into by an active scheme member to pay additional pension contributions by way of regular contributions in accordance with Regulation 16(2) (e), or by way of a lump sum in accordance with Regulation 16(4) (d).
- 2.2 The Scheme employer may enter into an APC contract with a Scheme member who is contributing to the MAIN section of the Scheme in order to purchase additional pension of not more than the additional pension limit (£6,500 from 1st April 2014 subject to annual increase in line with the Pensions (Increase) Act 1971).
- 2.3 The amount of additional contribution to be paid is determined by reference to actuarial guidance issued by the Secretary of State.
- 2.4 Consideration needs to be given to the circumstances under which the Scheme employer may wish to use their discretion to fund in whole or in part an employee's Additional Pension Contributions.
- 2.5 Options suggested by the Pension Fund are:
  - (a) Not to fund an employee's APCs
  - (b) To consider funding an employee's APCs in exceptional circumstances and subject to the employee's difficult domestic circumstances
  - (c) To consider funding an employee's APCs in circumstances where there is a financial or practical reason for doing so.
- 2.6 The recommendation in respect of Additional Pension Contributions (Regulation 16) is Option (a); **not to fund an employee's APCs.**
- 2.7 This is in line with current policy under the 'old' LGPS Regulations.

### **3. LGPS 2013 Regulation 30(6) – Flexible Retirement (see guidance note 2 in employer’s guide)**

- 3.1 An active member who has attained the age of 55 or over and who with the agreement of their employer reduces their working hours or grade of employment may, with the further consent of their employer, elect to receive immediate payment of all or part of the retirement pension to which they would be entitled in respect of that employment as if that member were no longer an employee in local government service on the date of the reduction in hours or grade (adjusted by the amount shown as appropriate in actuarial guidance issued by the Secretary of State – see separate policy under Regulation 30(8)).
- 3.2 As part of the policy making decision the Scheme employer must consider whether, in addition to the benefits the member may have accrued prior to 1 April 2008 (which the member must draw), to permit the member to choose to draw all, part or none of the pension benefits they built up after 31 March 2008 and before 1 April 2014 and all, part of none of the pension benefits they built up after 1 April 2014.
- 3.3 Due consideration must be given to the financial implications of allowing an employee to draw all or part of their pension benefits earlier than their normal retirement age.
- 3.4 Options suggested by the Pension Fund are;
- (a) to consider each application on its merits subject to the financial implications for the employer
  - (b) to accept any applications where there is no cost to the employer subject to there being no detrimental impact on the service
  - (c) applications will be considered with the decision being delegated to the appropriate officer
  - (d) to only allow for the release of pension benefits built up before 1 April 2008
  - (e) to allow for all pension benefits to be released regardless of the dates of Scheme membership.

**The recommendation in respect of Flexible Retirement (Regulation 30(6)) is Option (b); that to accept any applications where there is no cost to the employer subject to there being no detrimental impact on the service.**

### **4. LGPS 2013 Regulation 30 (8) – Waiving of Actuarial Reduction**

- 4.1 Where a Scheme employer’s policy under regulation 30(6) (flexible retirement) is to consent to the immediate release of benefits in respect of an active member who is aged 55 or over, those benefits must be adjusted by an amount shown as appropriate in actuarial guidance issued by the Secretary of State (commonly referred to as actuarial reduction or early payment reduction).
- 4.2 A Scheme employer (or former employer as the case may be) may agree to waive in whole or in part and at their own cost, any actuarial reduction that may be required by the Scheme Regulations.

- 4.3 Due consideration must be given to the financial implications of agreeing to waive in whole or in part any actuarial reduction
- 4.4 Options suggested by the Pension Fund are;
- (a) to consider each application on its merits subject to the financial implications for the scheme employer
  - (b) a decision to waive any actuarial reduction will be considered in exceptional circumstances subject to the employee's exceptionally difficult personal and domestic circumstances
  - (c) an actuarial reduction will always be applied where relevant and a decision to waive such a reduction will not be considered.

**The recommendation in respect of Waiving of Actuarial Reduction (Regulation 30 (8)) is Option (b) that a decision to waive any actuarial reduction will only be considered where there will be a financial or other benefit to the employer.**

## **5. LGPS 2013 Regulation 31 – Award of Additional Pension**

5.1 A Scheme employer may resolve to award

- (a) an active member, or
- (b) a member who was an active member but dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency,

additional annual pension of, in total (including any additional pension purchased by the Scheme employer under Regulation 16), not more than the additional pension limit (£6,500 from 1st April 2014 subject to annual increase in line with the Pensions (Increase) Act 1971).

- 5.2 Any additional pension awarded is payable from the same date as any pension payable under other provisions of the Scheme Regulations from the account to which the additional pension is attached.
- 5.3 In the case of a member falling within sub-paragraph (b) above, the resolution to award additional pension must be made within 6 months of the date that the member's employment ended.
- 5.4 Options are;
- (a) to consider using this discretion in cases of redundancy and business efficiency subject to the financial implications for the employer
  - (b) to consider using this discretion on compassionate grounds due to the member's exceptionally difficult personal or domestic circumstances
  - (c) to consider using this discretion where a sufficient benefit to the employer can be justified

- (d) not to apply this discretion

**The recommendation in respect of Additional Pension Reg 31 is Option (d); not to award additional pension except in the following circumstances;**

5.5 Additional pension under regulation 31 may be awarded to an employee who would otherwise be eligible for a lump sum compensation payment under the WBC Discretionary Compensation policy. Where the employee agrees to forgo the lump sum payment (in excess of any statutory redundancy compensation) that would otherwise have been paid, the Council will award additional pension actuarially equivalent in value to the lump sum compensation payment, provided that the additional annual pension would not exceed the statutory limits.

5.6 This is in line with current policy under the 'old' LGPS Regulations.

**6. LGPS (Transitional Provisions and Savings) 2014 Schedule 2; (2) and (3) – Switching on the 85-year Rule**

6.1 Where a scheme member retires or leaves employment and elects to draw their benefits at or after the age of 55 and before the age of 60 those benefits will be actuarially reduced unless their Scheme employer agrees to meet the full or part cost of those reductions as a result of the member otherwise being protected under the 85 year rule as set out in previous Regulations.

6.2 So as to avoid the member suffering the full reduction to their benefits the Scheme employer can 'switch on' the 85 year rule protections thereby allowing the member to receive fully or partly unreduced benefits but subject to the Scheme employer paying a strain (capital) cost to the Pension Fund

6.3 Options suggested by the Pension Fund are;

- (a) to consider each occurrence as it arises subject to the financial implications for the employer
- (b) any decision to 'switch on' the 85 year rules will only be considered where there will be a financial or other benefit to the employer
- (c) any decision to 'switch on' the 85 year rule will be considered on compassionate grounds in exceptional circumstances subject to the employee's exceptionally difficult and personal and domestic circumstances
- (d) under no circumstances will the Scheme employer agree to 'switch on' the 85 year rule

**The recommendation in respect of 'Switching on the 85 year Rule' is Option (b); to any decision to 'switch on' the 85 year rules will only be considered where there will be financial or other benefit to the employer each occurrence as it arises subject to the financial implications.**

6.4 The decision-making process will be as set out in the Employer Statement; Local Government Pension Scheme Discretions Policy referred to in para 3.6 above



## **7. LGPS 2013 Regulation 9(1) (3) – Contributions**

- 7.1 Where an active member changes employment or there is a material change which affects the member's pensionable pay during the course of a financial year, the Scheme employer may determine that a contribution rate from a different band (as set out in Regulation 9(2)) should be applied.
- 7.2 Where the Scheme employer makes such a determination it shall inform the member of the revised contribution rate and the date from which it is to be applied.
- 7.3 Options suggested by the Pension Fund are;
- (a) to set employee contribution rates at 1st April each year and make no changes throughout the year
  - (b) to make changes to employee contribution rates throughout the year from the effective date of any change in employment or material change to the rate of pensionable pay received.
  - (c) To consider a change to an employee's rate of pay where the employee requests a review as a result of a change in employment or material change in pensionable pay

**The recommendation in respect of Contributions Regulation 9(1) (3) is Option (a); to set employee contribution rates at 1st April each year and make no changes throughout the year.**

- 7.4 This is recommended for administrative convenience.

## **8. LGPS 2013 Regulation 17(1) – Shared Cost Additional Voluntary Contributions**

- 8.1 An active member may enter into arrangements to pay additional voluntary contributions (AVCs) or to contribute to a shared cost additional voluntary contribution arrangement (SCAVCs) in respect of an employment. The arrangement must be a scheme established between the appropriate administering authority and a body approved for the purposes of the Finance Act 2004, registered in accordance with that Act and administered in accordance with the Pensions Act 2004.
- 8.2 The Scheme employer needs to determine whether or not it will make contributions to such an arrangement on behalf of its active members.
- 8.3 Options suggested by the Pension Fund are;
- (a) to consider using this discretion where a sufficient benefit to the employer can be justified
  - (b) not to apply this discretion

**The recommendation in respect of Shared Cost Additional Voluntary Contributions Reg 17(1) is Option (b); not to apply this discretion.**

- 8.4 This is in line with current policy under the 'old' LGPS Regulations.

**9. LGPS 2013 Regulation 22 (7) 22 (8) – Merging of Deferred Member Pension Accounts with Active Member Pension Account**

9.1 A deferred member's pension account is automatically aggregated with their active member's pension account unless the member elects within the first 12 months of the new active member's pension account being opened to retain their deferred member's pension account.

9.2 A Scheme employer can, at their discretion, extend the 12 month election period.

9.3 Options suggested by the Pension Fund are;

- (a) each case will be examined at the appropriate time
- (b) to extend the 12 month deadline to 18 months
- (c) to allow an active member to elect not to aggregate a deferred member's pension account with an active member's pension account beyond the 12 month deadline only
- (d) to allow an active member to elect not to aggregate a deferred member's pension account to an active member's pension account beyond the 12 deadline only where there is no financial risk to the employer and it is of benefit to the member

**The recommendation in respect of Deferred Pensions Regulation 22 (7) 22 (8) is option (d); to allow an active member to elect not to aggregate a deferred member's pension account to an active member's pension account beyond the 12 month deadline only where there is no financial risk to the employer and it is of benefit to the member.**

9.4 This is in line with current policy under the 'old' LGPS Regulations.

**10. LGPS 2013 Regulation 100(6) – Inward Transfers of Pension Rights**

10.1 A request from an active member to transfer former pension rights from a previous arrangement into the Local Government Pension Scheme as a result of their employment with a Scheme employer must be made in writing to the administering authority and the Scheme employer before the expiry of the period of 12 months beginning with the date on which the employee first became an active member in an employment (or such longer period as the Scheme employer and administering authority may allow).

10.2 Options suggested by the Pension Fund are;

- (a) each case will be examined at the appropriate time
- (b) to extend the 12 month deadline to 18 months subject to the administering authority's agreement
- (c) to accept transfers in beyond the 12 month deadline where there is no financial risk to the employer subject to the authority's agreement

- (d) not to extend the 12 month deadline

**The recommendation in respect of Inward Transfers of Pensions Rights Reg 100(6) is Option (d); to not to extend the 12 month deadline.**

## **11. LGPS 2013 Regulation 21(5) – Assumed Pensionable Pay**

11.1 A Scheme employer needs to determine whether or not to include in the calculation of assumed pensionable pay, any 'regular lump sum payment' received by a Scheme member in the 12 months preceding the date that gave rise to the need for an assumed pensionable pay figure to be calculated.

11.2 Options suggested by the Pension Fund are;

- (a) each case will be examined at the appropriate time
- (b) no regular lump sum payments will ever be included in the calculation of assumed pensionable pay
- (c) regular lump sum payments will always be included in the calculation of assumed pensionable pay

**The recommendation in respect of Assumed Pensionable Pay Reg 21(5) is Option (a); each case will be examined at the appropriate time.**

11.3 There are likely to be few cases relevant to this regulation. Option (a) allows full consideration of the circumstances of each case as it arises.

## **12. LGPS 2013 Regulation 74 – Applications for Adjudication of Disagreements**

12.1 Each Scheme employer must appoint a person ("the adjudicator") to consider applications from any person whose rights or liabilities under the Scheme are affected by:

- (1) a decision under regulation 72 (first instance decisions); or
- (2) any other act or omission by a Scheme employer or administering authority,
- (3) and to make a decision on such applications.

12.2 Responsibility for determinations under this first stage of the Internal Disputes Resolution Procedure (IDRP) rests with "the adjudicator".

12.3 **It is recommended that the Council appoint Andy Walker (Head of Finance) as the Adjudicator** for this purpose.

12.4 This is in line with current policy.

## **13. Recommended Action**

13.1 To approve the LGPS Employer Policy Statements (as attached).

## **Appendices**

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Appendix A – West Berkshire LGPS 2013 Policies in respect of;

- (a) Regulation 16. Additional Pension Contributions
- (b) Regulation 30(6) Flexible Retirement
- (c) Regulation 30 (8) Waiving of Actuarial Reduction
- (d) Regulation 31 Award of Additional Pension
- (e) Schedule 2 Switching on of the 85 year rule
- (f) Regulation 9 (1) & (3) Re -determination of active member contributions
- (g) Regulation 17(1) Additional Voluntary Contributions
- (h) Regulation 22 Merging of Deferred Pension Accounts
- (j) Regulation 100(6) Inward Transfer of Pension Rights
- (k) Regulation 21(5) Assumed Pensionable pay
- (l) Regulation 74 Application for Adjudication

Appendix B – Berkshire Pension Fund Guide to Employers

Appendix C – Employer Statement; Local Government Pension Scheme Discretions Policy

## **Consultees**

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### **Local Stakeholders:**

**Officers Consulted:** Robert O'Reilly  
Jane Milone  
Gemma McNamara  
Steve Duffin

**Trade Union:** Unison, GMB