

# Public Document Pack



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18 September 2014

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **GENERAL PURPOSES COMMITTEE** on Monday 22 September 2014 at 6.00 pm, the following reports that were unavailable when the agenda was printed.

5 **LOCAL GOVERNMENT PENSION SCHEME 2014** (Pages 2 - 8)

To consider the report (to follow) of the Director of Governance.

Yours sincerely

A handwritten signature in black ink, appearing to be "Nicky", written over a white, wave-like shape that matches the Dover District Council logo.

Chief Executive

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<b>Subject:</b>	<b>LOCAL GOVERNMENT PENSION SCHEME 2014</b>
<b>Meeting and Date:</b>	<b>General Purposes Committee – 22 September 2014</b>
<b>Report of:</b>	<b>David Randall, Director of Governance</b>
<b>Classification:</b>	<b>Unrestricted</b>

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**Purpose of the report:** This report seeks approval of the Pensions Discretion Policy Statement which is required under the Local Government Pension Scheme Regulations 2013

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**Recommendation:** That General Purposes Committee:

1. Approve the Pension Discretion Policy Statement attached at Appendix 1;
2. Appoint the Chief Executive as the adjudicator for the purposes of Regulation 74 of the Local Government Pension Scheme Regulations 2013;
3. Authorise the Director of Governance to make any necessary minor changes to the Pensions Discretion Policy Statement.

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## 1. Summary

The new Local Government Pension Scheme 2014 (LGPS) was introduced on 1 April 2014. This requires that all scheme employers review their existing pension policy statements and publish new policy statements in line with the Local Government Pension Scheme Regulations 2014. Members are now asked to approve the revised statement and to appoint an adjudicator in line with these regulations.

## 2. Introduction and Background

2.1 The Local Government Pension Scheme Regulations 2014 (the Regulations), reg.60, requires all scheme employers to publish and keep under review a written policy statement on how they will apply their discretionary powers in relation to certain provisions of the scheme. The new LGPS came into effect on 1 April 2014.

2.2 By virtue of reg. 60 of the Regulations, the Council was required to publish and send a copy of its revised statement to the relevant administering authority (Kent County Council in this case) by 1 July 2014. Unfortunately there has been a slight delay in the preparation of this statement but a draft holding statement of policy was sent to KCC by East Kent Human Resources on 30 June 2014. It has now fallen to each Authority to prepare their own statement of policy and Members should be aware that the statement of policy at Appendix 1 relates only to Dover District Council.

2.3 Following the Government's fundamental review of public sector pension provision, the following changes were identified as being required to these schemes:

- All public section pension schemes should change from final salary pension schemes to career average re-valued earnings schemes
- Scheme retirement ages should be the same as state retirement pension ages

- Scheme members and employers should share the increasing costs of providing public section pension schemes
  - Existing rights of current scheme members should be protected
- 2.4 The new LGPS accommodates all of these requirements. Benefits accrued by members prior to 1 April 2014 are largely unaffected by the new scheme and those benefits will continue to be assessed on a final salary basis rather than a career averaged scheme.
- 2.5 Accordingly, the Dover District Council Early Retirement Policy (Pensions, Redundancy and Efficiency) document now requires review. This document will continue to exist as any members with deferred benefits under the LGPS 2008 will fall to be considered in line with this policy document. Members will see a copy of the new revised policy at Appendix 1.
- 2.6 The Regulations require that in preparing or making revisions to its statement of policy, a scheme employer must have regard to the extent to which the exercise of any of the functions within its policy could lead to a serious loss of confidence in the public service.

### 3. **Identification of Options**

- 3.1 The options for General Purposes Committee are:
- (a) To approve the revised statement of policy and appoint the Chief Executive as the adjudicator for the purposes of reg. 74.
  - (b) To reject the recommendation
- 3.2 The preferred option is option (a).

### 4. **Evaluation of Options**

- 4.1 The changes to the statement of policy are as a direct result of the requirements of the Regulations, which have brought the LGPS 2014 into operation. The statement of policy will ensure compliance with the requirement to prepare and publish a statement of policy in reg. 60 of the Regulations.
- 4.2 To reject the recommendation is not advised as the Council will be in breach of the requirement to prepare and publish a statement of discretions under the Regulations.

### 5. **Resource Implications**

- 5.1 Although there are no direct resource implications in relation to the review of the policy, it is possible that the Council may incur costs that are outside of the original budget when exercising a discretion within the policy. Each decision will be made by the relevant director together with the Director of Finance, Housing & Community. A decision which relates to the exercise of a discretion in respect of a Chief Officer will be referred to this Committee for a decision.

### 6. **Corporate Implications**

- 6.1 Comment from the Section 151 Officer:

6.2 Comment from the Solicitor to the Council: The Senior Solicitor has been involved in the preparation of this report and has not further comments to make.

6.3 Comment from the Equalities Officer: This report does not specifically highlight any equalities implications however, in discharging their responsibilities members are required to comply with the public sector equality duty as set out in section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15>.

7. **Appendices**

Appendix 1 – Draft Pension Discretions Policy Statement

8. **Background Papers**

Dover District Council Early Retirement Policy (Pensions, Redundancy and Efficiency)

Contact Officer: Louise May, Senior Solicitor

# Pension Discretions Policy Statement

## The Local Government Pension Scheme Regulations 2013

## The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014

1. This policy statement is made in accordance with Paragraph 60 of the Local Government Pension Scheme Regulations 2013 ('the 2013 Regulations') and Paragraph 2(2) of Schedule 2 of The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 ("the 2014 Regulations"). It sets out how the Council will apply the discretionary provisions available within those Regulations. The policy is applicable to employees, not to Councillors. This policy will be reviewed annually. If the Council decides to change its policy, it will publish a statement of the amended policy within one month of the date of its decision.
2. The Council has separate Policy statements for exercising discretions pursuant to:
  - 2.1 regulation 66 of the Local Government Pension Scheme 2008 which is applicable to leavers between 1 April 2008 and 31 March 2014;
  - 2.2 regulation 106 of the Local Government Pension Scheme Regulations 1997 which is applicable to leavers between 1 April 1998 and 31 March 2008;
  - 2.3 regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006;
3. In formulating and reviewing its policy, the Council:
  - 3.1 has regard to the extent to which the exercise of their discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service; and
  - 3.2 is satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

### Purpose of Policy

4. This policy aims to provide fairness and consistency in situations where the Council is considering cases of flexible retirement and increasing pension benefits.
5. **Flexible retirement – Regulation 30(6) of 2013 Regulations**
  - 5.1 The LGPS allows flexible retirement from age 55 with the payment of all or part of accrued pension benefits in situations where the employer agrees to the hours of work or the level of responsibility being reduced and to the release of pension benefits. In most cases pension benefits will be reduced if taken before normal retirement age.
  - 5.2 Flexible retirement can benefit both the employee through enabling a gradual adjustment to retirement and the Council through the ability to retain valuable experience and knowledge and increase the opportunity for succession planning.
  - 5.3 The Council will consider all requests for flexible retirement in response to written requests from eligible employees.
  - 5.4 The Council will approve requests only where it is in their interest to do so, where there will be no detrimental effect on the service and where the costs

are affordable or where there are likely to be costs savings achieved as a result of the proposal:

- A request should typically involve a substantial reduction (at least 40% to 50%) in salary either through reduced hours or level of responsibility.
- The employee's contract of employment will be amended by mutual agreement to reflect the new hours or grade, as agreed, and continuity of service will be preserved.
- Employees may draw their accrued pension benefits, subject to any actuarial reduction, and continue to pay into the Pension Scheme with a new fund until the age of 75.
- Employees can choose to draw all of their pension benefits or defer payment of all or part of the part of their fund which has accrued since 1 April 2008.
- Any request for flexible retirement will be considered by the Director of Governance together with the Director of Finance, Housing and Community, in consultation with the Head of EK Human Resources.

#### **6. Early payment of pension – Regulation 30(5) of the 2013 Regulations**

6.1 For the avoidance of doubt, in accordance with regulation 30(5) of the 2013 Regulations, employees can retire from age 55 without employer consent and receive immediate payment of their pension benefits. However the pension benefits payable will be subject to an actuarial reduction to allow for early payment unless Regulation 30(7) is applicable (redundancy or business efficiency termination of employment) or a waiver has been agreed in accordance with Regulation 30(8).

#### **7. Discretion to 'switch on' of 85 Year Rule for 55 – 60 year olds – Paragraph 1(1)(c) Schedule 2 of 2014 Regulations**

7.1 It is not the general policy of Dover District Council to 'switch on' the 85 year rule under this regulation. However, consideration may be given in the following circumstances:

- Where there is a demonstrable benefit to the authority;
- Where the employee requests a waiver on compassionate grounds. To be considered under compassionate grounds, the circumstances must be exceptional and not reasonably expected to prevail

7.2 Any request under this regulation will be considered by the Director of Governance together with the Director of Finance, Housing and Community, in consultation with the Head of EK Human Resources.

#### **8. Waiver of Actuarial Reduction – Regulation 30(8) of 2013 Regulations**

8.1 It is not the general policy of Dover District Council to waive any actuarial reductions required by regulations 30(5) or 30 (6) (early payment of benefits or flexible retirement). However, consideration may be given in the following circumstances:

- Where there is a demonstrable benefit to the authority;
- Where the employee requests a waiver on compassionate grounds. To be considered under compassionate grounds, the circumstances must be exceptional and not reasonably expected to prevail

- Any request under this regulation will be considered by the Director of Governance together with the Director of Finance, Housing and Community, in consultation with the Head of EK Human Resources.

9. **Awarding additional Pension – Regulation 31 of 2013 Regulations**

- 9.1 It is not Dover District Council's policy to make use of the provision to award additional pension under this regulation. However, there may be exceptional circumstances where there is a demonstrable benefit to the authority. The maximum figure as at 1 April 2014 is £6,500 and increases annually in accordance with the regulations.
- 9.2 Any consideration of such an award will be made by the Director of Governance and the Director of Finance, Housing and Community, in consultation with the Head of EK Human Resources.

10. **Awarding additional pension contributions – Regulations 16(2)(e) and 16(4)(d) of 2013 Regulations**

- 10.1 It is not Dover District Council's policy to fund additional pension contributions, except in circumstances where they are required to do so by Regulations.

11. **Contributions – Regulations 9(1) & (3) of 2013 Regulations**

- 11.1 Dover District Council will 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.

12. **Shared Cost AVCs – Regulation 17(1) of 2013 Regulations**

- 12.1 It is not the policy of Dover District Council to operate a shared cost AVC scheme for employees.

13. **Merging of Deferred Member Pension Accounts with Active Member Pension Account Regulation 22(7) and 22(8) of 2013 Regulations**

- 13.1 If a scheme member wishes to aggregate the most recent of their periods of previous scheme membership with their current membership, it is the policy of Dover District Council that the election must be made within 12 months of the Pension Section being notified that the employee has again become an active member.

14. **Applications for Adjudication of Disagreements – Regulation 74 of 2013 Regulations**

- 14.1 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:
- (a) a decision under regulation 72 (first instance decisions); or
  - (b) any other act or omission by a Scheme employer or administering authority,
- and to make a decision on such applications.

14.2 Responsibility for determinations under this first stage of the Internal Disputes Resolution Procedure (IDRP) rests with “the adjudicator” as named at 14.3 below by the Scheme employer

14.3 For Dover District Council, the appointed adjudicator is:

Name	Mr Nadeem Aziz
Job Title	Chief Executive
Full Address	Dover District Council White Cliffs Business Park Dover Kent CT16 3PJ
Telephone	01304 872400
Email	nadeem.aziz@dover.gov.uk

15. **Inward Transfers of Pension Rights – Regulation 100(6) of 2013 Regulations**

15.1 If a scheme member wishes to transfer any pension benefits they have built up in other schemes to the Local Government Pension Scheme, it is Dover District Council's policy that this election must be made within 12 months of the Pension Section being notified that the employee has become an active member of the Kent Scheme.

16. **Chief Officers**

16.1 Any application by a Chief Officer of the Council for the exercise of a discretion under this policy will be referred to General Purposes Committee for a decision.

17. **Review of Policy**

17.1 This Policy will be reviewed annually by the Director of Governance in consultation with Head of EK Human Resources.

17.2 Minor amendments to this policy, for example to reflect changes to legal requirements, may be made by the Director of Governance. Substantial changes will be referred to General Purposes Committee for approval.