

# PENSIONS POLICY STATEMENT

## 2017



DECEMBER 2016

## 1. Introduction

1.1. The Council's pension policy complies with the regulations relating to the Local Government Pension Scheme 2014. It defines the employer discretions in the regulations and clarifies the councils approach to the different retirement options.

## 2. Scope

2.1. The policy applies to all members of staff who are eligible to be members of the local government pension scheme, as defined in the regulations.

2.2. Currently they are employees with a contract of employment of over 3 month's duration and who are under 75 years of age.

## 3. Objectives

3.1. This policy clarifies the Council's position on the discretions it can exercise in accordance with the Local Government Pension Scheme 2014 regulations and guidance how they apply to different retirement options.

3.2. It also provides clear guiding principles to assist decision making given that the consideration of an employee's retirement, in a range of circumstances, will be considered on its own merits on a case by case basis, and taking account of business needs.

## 4. Principles

4.1. The Council will treat each individual retirement case and decision on its merits.

4.2. Decisions relating to retirement will be made taking into account the business case and business implications, the financial implications, employment law considerations, the regulations and the legality of each case. It may also take into account long term savings, affordability, skills, skills retention and impact on service delivery.

4.3. The definition of business efficiency shall include, but not be limited to financial savings and / or quality improvements judged on a case by case basis. As a general principle the Council requires a reduction in working hours or a significant reduction in grade for an efficiency to be considered material in flexible retirement requests.

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4.4. Each decision will be made free from discrimination on the grounds of any protected characteristic - age, disability, gender reassignment, marriage or civil partnership, pregnancy & maternity, race, religion and belief, sex, sexual orientation or any other personal criteria.

4.5. The Council's decisions relating to retirement and the release of a pension will be in line with the current pension regulations. These regulations may be updated from time to time and the Council's policy is to default to the regulations if the policy is not explicit on any current or future regulation.

4.6. Decisions relating to retirement for any current employee will be based on the regulations in place at the time of the decision and will incorporate any relevant transitional arrangements that are put in place in relation to the pre 2008 scheme and the new look 2008 – 2013 scheme.

4.7. Decisions relating to the release of deferred benefits to former employees will refer to the relevant pension policies applicable to their pre 2014 service. In all such cases, the decision as to the release of deferred benefits will be on a case by case basis and will take into account the criteria detailed in the principles, particularly principle 2. Guidance may be sought from the pension administrators as required.

4.8. The Council will apply the nationally determined employee contribution rates and bands. These are subject to an annual review and may be varied.

4.9. Employees who are members of the pension scheme are only entitled to receive pension benefits if they have 2 years or more service. If an employee leaves within 2 years of the start of their employment, they will get their contributions refunded if they are not moving onto another local government post.

4.10. Compassionate grounds are defined as: situations of severe personal distress resulting from non financial circumstances affecting the individual or close family member (e.g. partner/spouse/child/parent) leading to unavoidable financial hardship.

4.11. The Council will pay the rate of contributions determined in the regulations for employees whose pay is reduced through ill health or during authorised unpaid leave, including child related leave.



4.13. The Council will apply the relevant transitional arrangements for the LGPS 2014 and for pre 2014 service, the relevant rule of 85 protections in line with the regulations and discretion 5.15.

## Pension Arrangements

The Council, as the scheme employer will exercise its discretions under the regulations as detailed in Appendix 1.

The council recognises that there are a number of retirement options and its approach is detailed in Appendix 2.

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## 5. Discretions

Within the regulations there are a number of discretionary statements that require the Council to explicitly state their position. The discretions detailed below relate to the current LGPS 2014 regulations and guidance. They also reflect discretions approved by the Council for the previous pension scheme policies. These should be read alongside the principles in section 4 and the pensions options in Appendix 2.

### 5.1 Regulation 9. Contributions.

5.1.1. The Council will use the contribution rate defined in the regulations and apply it to staff who are members of the pension scheme in accordance with their pensionable pay.

5.1.2. Where an employee has variable pensionable pay throughout the year, the Council will determine the contribution rate based on the total pensionable pay of the previous year and guidance from the relevant line manager and will regularly review the contribution rate to ensure the correct rate is being applied.

5.1.3. Where an employee changes their employment within the Council and there is a material change to their pensionable pay during a year (working hours and / or grade), the Council will change the employee's contribution rate when the material change takes effect.

### 5.2 Regulation 16 Shared cost Additional Pension Contributions (APC's) (2) (e), (4) (d)

5.2.1 The Council does not consider contribution towards additional pension contributions to be an essential part of its employment strategy. However, the Council will consider applications made under these specific provisions having regard to the Council's general policy from time to time, on the pay policy statement and the particular circumstances surrounding each case.

It is likely that decisions will be made on the merits of each case having particular regard to factors such as:

- the Council's ability to meet the cost of granting such a request
- the operating requirements of the organisation existing, and reasonably foreseeable at the time of the request and/or
- the member's personal circumstances.

## **5.3 Regulation 17 Shared Cost Additional Voluntary Contributions (AVC's)**

5.3.1. The Council will not adopt the discretion to contribute to shared cost AVC's.

## **5.4 Regulation 19 Death in Service Payment of Contributions**

5.4.1. The Council may, under regulation 19 (2) direct the payment of the whole or part of the late employees contributions to the pension scheme to them (their estate), their spouse, civil partner, cohabiting partner or any of their dependents.

## **5.5. Regulation 22 Aggregation of benefits**

5.5.1. The Council will adopt the 12 month deadline in line with regulation 22 (7) (b) and 22 (8) (b) on the cessation of a concurrent employment and when a deferred member of the pension scheme becomes an active member of the pension scheme and wishes to aggregate their benefits.

## **5.6 Regulation 30 (6) & 32 (4) Flexible retirement**

5.6.1. The Council will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the Council's ability to meet the cost of granting such a request
- the potential for financial savings to be delivered over time
- the operating requirements of the organisation existing, and reasonably foreseeable at the time of the request
- the need to retain key skills/expertise
- the potential impact on the delivery of key projects or initiatives
- the member's personal circumstances.

5.6.2. The payment of flexible retirement pension scheme benefits will become payable on the date of the reduction in hours &/or grade in line with Regulation 32 (4).

## **5.7 Regulation 30 (8) Actuarial Reductions.**

5.7.1. The Council will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the Council's ability to meet the cost of granting such a request
- the potential for financial savings to be delivered over time
- the potential impact on the delivery of key projects or initiatives
- the member's personal circumstances.

5.7.2 Applications for the payment of unreduced benefits for service before 1 April 2014 on the grounds of compassion will be granted if:

- in the Council's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and
- the Council can meet the cost of granting such a request.

## 5.8 Regulation 31 Award of Additional Pension

5.8.1. The Council will consider applications made under this *Regulation* having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to the following:

- the member's personal circumstances
- the interests of the Council
- the additional contributions due to the Fund by the Council in respect of the exercise of this discretion
- any potential benefits or savings to the Council arising from the exercise of this discretion
- other options that are, from time to time, available under the Council's severance arrangements
- the funding position of the Council within the Fund
- the ability of the Council to meet the cost of granting such an award.

## 5.9 Regulation 36 (1) Ill health retirement benefits

5.9.1. The Council will reach a decision regarding the early payment of pension benefits and the tier payable after it has received the certificate and information provided by the Independent Registered Medical Practitioner.

## 5.10 Regulation 37 Arrangements regarding Tier 3 ill health benefits

5.10.1 When an employee has received tier 3 ill health benefits and is able to resume employment, it is for the Council to decide whether that employment is "gainful employment" and is likely to continue for at least 12 months. If so, the Council must authorise the cessation of tier 3 ill health benefit payments in line with regulation 37 (3) and 37 (4). It will consider each case on a case by case basis taking into account the regulations, guidance, the principles and the known facts.

5.10.2. Where an employee has been in receipt of tier 3 benefits the Council will ask for a review by an independent registered medical practitioner and may, based on the certification and information provided, decide to continue the tier 3 benefits up to the maximum of 3 years payable, award a tier 2 ill health pension release or cease the payment of benefits.

5.10.3. In the event that a tier 3 pension is in payment to a former employee or within 3 years of the cessation of such payments, the former employee can request a review of their ill health retirement benefits and the council may decide to award a release of pension benefits at tier 2 following review by an independent registered medical practitioner. The council's decision will be based on the certification and information provided in line with regulation 37 (10), the principles and known facts.

## **5.11. Regulation 38 Ill health retirement – deferred members and deferred pensioner members**

5.11.1. Written requests for early release of pension benefits from deferred pension scheme members or deferred pensioner members may be considered by the Council in line with regulation 38.

5.11.2. These requests will be subject to referral to an Independent registered medical practitioner and the Council will reach a decision based on their certification, the information provided and the principles.

## **5.12 Regulation 74 (1) Appointment of Adjudicator**

5.12.1. The Council will designate its Strategic Director – Environment & Property, currently Tracey Blackwell, as its adjudicator for appeals against retirement decisions. The Council reserves the right to nominate another Director or senior manager to act as adjudicator to cover for absence and to ensure fair consideration of any appeal.

## **5.13. Regulation 85 Deduction and recovery of member contributions**

5.13.1 The Council will adopt the discretion to deduct and recover from an employee's pay any contributions payable by the pension scheme member under the regulations.

## **5.14 Regulation 91(1) Forfeiture of pension rights after conviction for employment related offences**

5.14.1 The Council will adopt the discretion to apply to the Secretary of State for a forfeiture certificate if an employee who is a member of the pension scheme is convicted of a relevant offence committed during their employment and for which they left their employment.

5.14.2. This discretion will be exercised in line with the regulations. In such circumstances the Council will adopt those discretions detailed in regulation 91 (7), 93(1), 93(2) to mitigate any loss subject to the protection of guaranteed minimum pension rights detailed on regulation 95.

## **5.15 LGPS (Transitional Provisions, Savings and Amendment) Regulations 2013 85 year rule benefits and voluntary retirements between the ages of 55 and 60**

5.15.1 The Council will not adopt the discretion to apply the 85 year rule to the pre 1<sup>st</sup>. April 2014 benefits of a scheme member wishing to voluntarily draw benefits on or after age 55 – and before the age of 60.

5.15.2 The Council may adopt the discretion to apply the 85 year rule to the pre 1<sup>st</sup>. April 2014 benefits of a scheme member wishing to retire on compassionate grounds. Consideration of such cases will be on a case by case basis taking into account the principles detailed in section 4 of the policy.

## **5.16 Switching on the 85 rule – Regulation 1(1)(c) of the LGPS Transitional Regulations 2014**

5.16.1 The Council will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the Council's ability to meet the cost of granting such a request
- the potential for financial savings to be delivered over time
- the potential impact on the delivery of key projects or initiatives
- the member's personal circumstances.

## **5.17 Early Payment of Deferred Pensions for members who left before 1<sup>st</sup> April 2014 - Regulation 30(2) and 30(5) of the LGPS Benefits Regulations 2007 & Regulation 31(2) and Regulation 31(5) of the LGPS Regulations 1997**

5.17.1 The Council will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the Council's ability to meet the cost of granting such a request
- the member's personal circumstances.

Applications for the payment of unreduced benefits on the grounds of compassion will be granted if:

- in the Council's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and
- the Council can meet the cost of granting such a request.

## **5.18 Early Payment of Deferred Pensions for members who left before 1<sup>st</sup> April 2014 and have ceased to be entitled to a tier 3 ill health benefit - Regulation 30A(3) and 30A(5) of the LGPS Benefits Regulations 2007.**

5.18.1 The Council will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to:

- the Council's ability to meet the cost of granting such a request
- the member's personal circumstances.

Applications for the payment of unreduced benefits on the grounds of compassion will be granted if:

- in the Council's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and
- the Council can meet the cost of granting such a request.

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## Appendix 2

# 6 PENSION OPTIONS

### 6.1. Retirement at Normal Pension Age

6.1.1. The LGPS 2014 defines the normal pension age for each member as equal to their state pension age, subject to a minimum age of 65. At the employees normal pension age their pension benefits are paid unreduced and will be based on their Career Average Re-valued contributions in their pension account for service after 01.04.2014.

6.1.2. The accrual rate for contributions after this date is currently 1/49<sup>th</sup>. of pensionable pay and the Council will pay employee contributions and employer contributions to the pension scheme administrators in line with the regulations and the triennial reviews.

6.1.3. All pension contributions paid into the local government pension scheme before 01.04.2014 are fully protected in line with the transitional arrangements.

### 6.2 Late Retirement

6.2.1. Employees who are members of the pension scheme who work beyond their normal pension age will receive enhanced benefits in line with the Government Actuaries Department guidance and the regulations.

### 6.3 Retirement below normal pension age

6.3.1. The LGPS 2014 regulation 30 (5) permits current employees to choose to take their retirement pensions from age 55. This election is **without** employer consent and is subject to an actuarial reduction.

6.3.2. The actuarial reduction will be in line with the Government Actuaries Department guidance. In such cases of voluntary retirement between the ages of 55 – 60, the Rule of 85 protections does not apply in line with the discretion 5.15.

6.3.3. This option is available to current employees who are suffering from ill health and who do not qualify for medical certification (incapacity).

## **6.4. Retirement on the grounds of redundancy.**

6.4.1. Where an employee aged 55 or over is dismissed or their employment terminated by mutual consent on the grounds of redundancy, they are entitled to receive immediate payment of their pension and it is not subject to an actuarial adjustment. The actuarial strain continues to be taken by the Council as the employer.

6.4.2. If the employee has been paying additional pension contributions, those additional pension contributions are subject to actuarial reductions in line with the regulation 30 (7) and any further guidance.

## **6.5. Retirement on the grounds of business efficiency – employer consent**

6.5.1. Where an employee aged 55 or over is dismissed or their employment terminated by mutual consent on the grounds of business efficiency, (employer consent retirement) they may be entitled to receive immediate payment of their pension and it is not subject to an actuarial adjustment. The actuarial strain continues to be taken by the Council as the employer in line with regulation 30 (7) (b).

6.5.2. If the employee has been paying additional pension contributions, those additional pension contributions are subject to actuarial reductions in line with the regulation 30 (7) (a) and any further guidance.

6.5.3. The Council has defined business efficiency in its principles (4.2 and 4.3) and will consider each case on a case by case basis in line with the principles.

## **6.6 Flexible retirement**

6.6.1. The Council has adopted the discretion to allow flexible retirements and will consider requests from employees on a case by case basis, taking account of business needs, in line with the principles. Requests for flexible retirement must result in a material efficiency, which is defined in principle 4. 2, namely:

The definition of efficiency shall include, but not be limited to financial savings and / or quality improvements judged on a case by case basis. As a general principle the Council requires a reduction in working hours or a significant reduction in grade for an efficiency to be considered material in flexible retirement requests.

## 6.7 Ill health retirement

6.7.1. The Council will approve the release of pension benefits on the termination of employment when an employee has meets the following 2 conditions:

1. That the member is, as a result of ill health or infirmity of mind or body, **permanently incapable** of discharging efficiently the duties of the employment the member was engaged in and
2. The member, as a result of ill health or infirmity of mind and body is **not immediately capable** of undertaking gainful employment.

6.7.2 There are currently 3 tiers of ill health retirement benefits that depend on the prognosis for future employment.

- The entitlement to **Tier 1** benefits occur when the employee is unlikely to be capable of undertaking gainful employment before normal pension age. Assumed pensionable pay up to normal pension age for that individual would be applied to their pension account so that the employee's benefits are what they would have got had they continued at work until their normal pension age.
- The entitlement to **Tier 2** benefits occur when the employee is unlikely to be able to undertake any gainful employment within 3 years of leaving their employment but is likely to be able to undertake gainful employment before reaching normal pension age. A 25% enhancement to their pension would be applied as per the regulations.
- The entitlement to **Tier 3** benefits occurs when the employee is likely to be capable of undertaking gainful employment within 3 years of leaving the Council. Tier 3 benefits are payable for a maximum of 3 years based on actual contributions to the end of the individuals employment with the Council. Tier 3 pensions are not enhanced. The Council will arrange a review of a tier 3 ill health retirement after 18 months and as required on a case by case basis.

6.7.3. The Council will determine the tier of ill health pension release based on the certification of a suitably qualified independent registered medical practitioner (IRMP) in line with the regulations and guidance and the principles.

6.7.4 Former employees who are deferred members of the pension scheme may request a release of their pension on ill health grounds at any age and the Council will reach a decision based on the certification of a suitably qualified Independent registered medical practitioner (IRMP) in line with the regulations and guidance and the principles in the same way as it does for current employees.

## 6.8 Retirement on Compassionate Grounds

6.8.1 The council will consider retirements on compassionate grounds as an employer consent decision on a case by case basis, taking account of business needs in line with the principles, especially 4.11.

6.8.2. The decision as to whether to waive any actuarial reductions or rule of 85 protections is a discretion of the council and will be considered on a case by case basis in line with the principles.

6.8.3. The council may require reports from a suitably qualified independent registered medical practitioner (IRMP) or other professional to inform their decision.

## 6.9 Temporary Reduction in contributions – the 50/50 option

6.9.1. The 50/50 option is designed to be a short term temporary arrangement during times of hardship, and allows employees to give written notice to pay half the contributions and accrue pension benefits at half the normal rate.

6.9.2. The Council will provide information to an employee in such circumstances so that they understand the impact on their benefits.

6.9.3. The council will pay contributions at the 100% rate in line with the regulations.

## 6.10 Deferred Members.

6.10.1. Former employees may request the early release of their pension benefits from age 55.

6.10.2 If their employment ceased after 1<sup>st</sup> April 2014, when the Local Government Pension Scheme 2014 was in place, this may be considered in line with Regulation 30(5). Such requests do not need the consent of the employer as in such cases the benefits are subject to an actuarial reduction in line with the government actuaries' department guidelines.

6.10.3. If their employment ceased before the Local Government Pension scheme 2014 was introduced, they will have their requests considered under the policies and regulations in place when their employment with South Kesteven District Council ceased.

6.10.14. These arrangements may be subject to changes in the transitional arrangements and the Council will default to the transitional arrangements in place at the time any decisions have to be made.

## Links to other policies & guidance

The Councils Pension policy 2007

<http://moderngovsvr/mgConvert2PDF.aspx?ID=4522>

The Councils new look pension scheme approved by Council 3<sup>rd</sup> March 2008

<http://moderngovsvr/mgConvert2PDF.aspx?ID=5171>

Additional Pension Policy Statements Officer decision 17<sup>th</sup> September 2013

<..\Pension Administrators templates Aug 2013\SKDC Pension additional statements signed October 2013.pdf>

Statutory Instrument 2013 No. 2356 dated 19<sup>th</sup> September 2013

<http://www.lgpsregs.org/images/SI/2014regsSept2013>

<http://www.lgpsregs.org/index.php/the-regulations/timeline-regulations-2014>

Information about the new local government pension scheme 2014

[www.LGPS2014.org](http://www.LGPS2014.org)

HR guidance updated 13<sup>th</sup> December 2013

<http://www.lgpsregs.org/images/Versions/HRv2.0>