

LGPS Discretionary Policy

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PURPOSE	Policy detailing the discretionary policies under the Local Government Pension Scheme Regulations that BES have chosen to operate.
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The Bridgnorth Endowed School (BES) discretionary policies under the Local Government Pension Scheme Regulations and other related Regulations

Summary

1. This report makes recommendations for **BES** 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,
 - iii) under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 and earlier compensation regulations,
 - iv) under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011.

Background

2. In March 2011, the Independent Public Service Pensions Commission, chaired by Lord Hutton, published its final report of the review of public service pensions. The report made clear that change was needed to “make public service pension schemes simpler and more transparent, [and] fairer to those on low and moderate earnings”.
3. As a result, it was decided that the Local Government Pension Scheme (LGPS) should be reformed so that, from 1 April 2014, benefits accrue on a Career Average Revalued Earnings (CARE) basis rather than on a final salary basis.
4. 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.
5. As a result of the changes, **Bridgnorth Endowed School** 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 **Bridgnorth Endowed School** has the power to exercise on and from 1 April 2014 in relation to members of the CARE scheme.
6. **Bridgnorth Endowed School** 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.

7. Any amended policy under paragraph 10 above 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.
8. Overall, **Bridgnorth Endowed School** 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,
9. In formulating and reviewing its policies under the LGPS Regulations referred to in paragraph 12(i) above **Bridgnorth Endowed School** 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.

Decisions required

10. **The Personnel Committee** is asked:
 - i) to approve the policies on the discretions to be exercised under the LGPS Regulations in respect of those employees who are active scheme members after 31 March 2014 and members and who cease active membership after 31 March 2014, as set out in the table at Annex 1.
 - ii) To approve the policies on the discretions to be exercised under the LGPS Regulations in respect of former employees who were scheme members and who left prior to 1 April 2014, as set out in the table at Annex 2.

Consultation

15 **Bridgnorth Endowed School** is not required to consult with **the NUT, NASUWT, ASCL, NAHT and Unison** when **Bridgnorth Endowed School** intends to adopt new, or change existing, discretionary policies. However, it was considered appropriate to give advance notification to the NUT, NASUWT, ASCL, NAHT and Unison that this report would be considered by the Personnel Committee.

Effective date of policies

16. The policies on discretions to be exercised under the LGPS Regulations 2013 take immediate effect from the date **Bridgnorth Endowed School** 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 take immediate effect from the date **Bridgnorth Endowed School** agrees the policies.

Non-fettering of discretions

17 The recommendations contained within this report, if approved, will form **Bridgnorth Endowed School** policies on pension and compensation discretions. It should be noted that:

- the policies will confer no contractual rights
- subject to paragraphs 16, **Bridgnorth Endowed School** will retain the right to change the policies at any time without prior notice or consultation, **but** Bridgnorth Endowed School **will endeavour to discuss changes with the NUT, NASUWT, NAHT, ASCL and Unison**, and
- 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.

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Annex 1

Bridgnorth Endowed School policy

Bridgnorth Endowed School will not make use of the discretion to grant extra annual pension of up to £6,675 (figure at 1 April 2015) 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 except in exceptional circumstances where **Bridgnorth Endowed School** 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.

Bridgnorth Endowed School will only voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC) in two situations. Firstly, where:

- an active scheme member returns from a period of authorised leave of absence, and
- 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
- 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
- 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 **Bridgnorth Endowed School** may deem reasonable in any individual case.

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 and, where it is agreed that the conditions are met, **Bridgnorth Endowed School** will be required to contribute 2/3rds of the cost of buying back the 'lost' pension via a SCAPC.

Secondly, in exceptional circumstances where **Bridgnorth Endowed School** considers it is in its financial or operational interests to do so. 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.

Flexible retirement

Bridgnorth Endowed School will not agree to flexible retirement except in circumstances where **Bridgnorth Endowed School** 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,
- where flexible retirement is being considered, there must be a reduction of at least one grade, or, in the case of a flexible retirement due to a reduction of working hours, be a minimum reduction in hours agreed by Bridgnorth Endowed School.

- 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 **The 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. **Bridgnorth Endowed School** 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 waived in part, approval for the amount of reduction to be waived.

Bridgnorth Endowed School 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 **Bridgnorth Endowed School** 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**

Where members choose to voluntarily draw their benefits on or after age 55 and before Normal Pension Age **Bridgnorth Endowed School** 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 **Bridgnorth Endowed School** considers it is in its financial or operational interests to do so or there are compelling compassionate¹ 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 **The Personnel Committee**
- including, where the reduction is only to be waived in part, approval for the amount of reduction to be waived

Bridgnorth Endowed School will not enter into a shared cost AVC arrangement other than in exceptional circumstances in which case the decision to contribute,

¹ 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.

and the amount of the contribution, will be subject to the approval of **The Personnel Committee**

Bridgnorth Endowed School 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):

- a) where **Bridgnorth Endowed School** agrees that the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration;
- b) where **Bridgnorth Endowed School** 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
- c) where the member has pre 1 April 2014 membership and **Bridgnorth Endowed School** 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 **Bridgnorth Endowed School** is, in real terms after allowing for inflation, significantly less than the whole-time equivalent pensionable pay upon which the deferred benefits were calculated).

Bridgnorth Endowed School 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:

- 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;
 - 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);
 - where the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration.
- a) **allocating a member to a contribution rate on 1 April 2014**
 - b) **allocating a member to a contribution rate on joining the Scheme (after 1 April 2014)**
 - c) **reallocating a member to a new contribution rate during a Scheme year (1 April to 31 March) following a material change which affects the member's pensionable pay**

d) reallocating a member to a new contribution rate each 1 April]

In assessing Assumed Pensionable Pay (APP) **Bridgnorth Endowed School** 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' will be subject to the approval of **The Personnel Committee**.

Annex 2

Bridgnorth Endowed School policy

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 grounds². Each case will be considered on its merits and will be subject to the approval of Subject to entry 2 below, the benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations.

Bridgnorth Endowed School 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 **The 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. Each case will be considered on its merits and will be subject to the approval of The Remuneration 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.

Bridgnorth Endowed School will consider an application to waive, on compassionate grounds, any actuarial reduction that would normally be applied to a suspended Tier 3 ill health pension which is brought back into payment before age 65. Each case will be considered on its merits and will be subject to the approval of **The Personnel Committee**.

Bridgnorth Endowed School policy

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. Each case will be considered on its merits and will be subject to the approval of The Audit and Finance 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.

² 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.

Bridgnorth Endowed School 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 **The Personnel Committee**.

Bridgnorth Endowed School policy

Where a former scheme member who left the scheme before 1 April 1998 requests early release of deferred benefits on or after age 50 and before age 65 on compassionate grounds, the case will be considered on its merits and will be subject to the approval of **The Personnel Committee**

Annex 3

The Bridgnorth Endowed School policy

Any redundancy payment will normally be calculated on an employee's actual week's pay but may, in exceptional circumstances, be limited to the statutory weeks' pay limit where pay exceeds that limit.

Continuous local government service, as defined under the Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999, will be taken into account in the calculation of redundancy payments.

A termination payment will not automatically be paid to employees whose employment is terminated on the grounds of efficiency of the service. Instead, **Bridgnorth Endowed School** will determine each case on its merits, taking into account business and operational factors (with the maximum severance payment being no greater than would have applied under the redundancy severance policy).

Bridgnorth Endowed School policy

Bridgnorth Endowed School will apportion any surviving spouse's or civil partner's annual compensatory added years pension where the deceased person is survived by more than one spouse or civil partner in such proportions as, at its sole discretion, it sees fit (based on the merits of the individual cases).

If the spouse or civil partner of a person who ceased employment before 1 April 1998 remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal annual compensation suspension rules will be disapplied i.e. the spouse's or civil partner's annual compensatory added years pension will continue to be paid.

If the spouse or civil partner of a person who ceased employment before 1 April 1998 with an award of compensatory added years remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partner's compensatory added years pension, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or co-habitation lasts, will continue to be applied i.e. the spouses' or civil partners' compensatory added years pension will only be payable to one of them (being whichever one they choose).

If compensatory added years were awarded to an employee who was not in the LGPS (because the employee had not joined or had opted out of the LGPS) **Bridgnorth Endowed School** will decide to whom and in what proportions any children's annual compensatory added years payments are to be paid as **Bridgnorth Endowed School**, at its sole discretion, sees fit (based on the merits of the individual cases).

Where compensatory added years were awarded before 21 June 2000, Bridgnorth Endowed School will reduce a person's annual compensatory added years' payment following the cessation of a period of re-employment in local government (see note below) in accordance with the Local Government (Discretionary Payments) Regulations 1996.

Note: *'local government' means employment with an employer who offers membership of the LGPS to its employees, regardless of whether or not the employee chooses to join the LGPS (except where the employer is an Admitted Body). Technically, an employee of an Admitted Body (i.e. a body that has applied to the administering authority to allow its employees to join the LGPS and has entered into a formal admission agreement) is only employed in 'local government' if he / she is a member of the LGPS.*

