



THE REHABILITATION FOR ADDICTED PRISONERS TRUST

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## Discretionary Policy

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## 1 Introduction

This document presents RAPt discretionary policies under the Local Government Pension Scheme Regulations and other related Regulations:

- 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.

## 2 Background

1. 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”.
2. 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.
3. 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.
4. As a result of the changes RAPt 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 in relation to member of CARE scheme.
5. Any amended policy under paragraph 5 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.
6. Overall, RAPt 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,
    - regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008 (in respect of former employees who were members of the LGPS and who left between 1 April 2008 and 31 March 2014),
7. In formulating and reviewing its policies under the LGPS Regulations referred to in paragraphs 6(i) above RAPt 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.

### Effective date of policies

8. The policies on discretions to be exercised under the LGPS Regulations 2013 take immediate effect from the date RAPt 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 RAPt agrees the policies.

### Non-fettering of discretions

9. It should be noted that:

- the policies will confer no contractual rights,
- subject to paragraph 9, RAPt will retain the right to change the policies at any time without prior notice or consultation. RAPt will endeavour to discuss changes with the Staff Representative Group,
- 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.

### 3 Annex 1

Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations 2013 in relation to active scheme members and members who cease active membership after 31 March 2014.

1. RAPt 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 RAPt 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 Director of Finance & Operations and Director of Human Resources.
2. RAPt will only voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC) in three 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 RAPt 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 Director of Finance & Operations and Director of Human Resources, where it is agreed that the conditions are met, RAPt will be required to contribute 2/3rds of the cost of buying back the 'lost' pension via a SCAPC.

Secondly, where a member has a string of odd days of authorised unpaid leave of absence throughout the Scheme year (1 April to 31 March). In such a case RAPt will, instead of requiring elections to buy-back the amount of pension 'lost' during the periods of leave of absence to be made within 30 days of returning from each day of absence, allow the member (whilst an active member) to make a single election during the Scheme year to cover each one of the absences that occur during the Scheme year.

Thirdly, in exceptional circumstances RAPt 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.

In all cases, approval will be required by the Director of Finance & Operations and Director of Human Resources.

3. RAPt will not agree to flexible retirement except in circumstances where RAPt 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,
- 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 Director of Finance & Operations and Director of Human Resources.

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. RAPt 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 Director of Finance & Operations and Director of Human Resources including, where the reduction is only to be waived in part, approval for the amount of reduction to be waived.

4. RAPt 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 RAPt 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 Director of Finance & Operations and Director of Human Resources.
5. Where members choose to voluntarily draw their benefits on or after age 55 and before Normal Pension Age RAPt 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 RAPt considers it is in its financial or operational interests to do so or there are compelling compassionate<sup>1</sup> 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 Director of Finance & Operations and Director of Human Resources including, where the reduction is only to be waived in part, approval for the amount of reduction to be waived
6. RAPt will not enter into a shared cost AVC arrangement other than:
    - in exceptional circumstances in which case the decision to contribute, and the amount of the contribution, will be subject to the approval of the Director of Finance & Operations and Director of Human Resources.

7. RAPt 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 RAPt agrees that the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration;
  - b) where RAPt 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 RAPt 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 Harper Adams University is, in real terms after allowing for inflation, significantly less than the whole-time equivalent pensionable pay upon which the deferred benefits were calculated).
8. RAPt 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.
9. The determination of the LGPS pension contribution rate at RAPt is undertaken as follows:
  - a) allocating a member to a contribution rate as at 1 April 2014: an employee's total salary i.e. basic pay + overtime + any other adhoc payments, is totalled for the tax year 2013/2014. The contribution rate is then applied in accordance with LGPS bandings table as per scheme regulations.
  - b) allocating a new member to a contribution rate on joining the Scheme (after 1 April 2014): in accordance with LGPS regulations a new member is joined in the scheme at the contribution rate determined by their total salary. The appropriate contributions are applied in accordance with the LGPS bandings table as per scheme regulations.



- 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: pay is reviewed half yearly to include all pay items i.e. basic pay + OT + any other adhoc payments. Where pay has increased or decreased, the banding is reviewed.

If there is a difference in the band  $\pm 0.5\%$ , the revised contribution rate will be applied.

10. In assessing Assumed Pensionable Pay (APP) RAPt 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 Director of Finance & Operations and Director of Human Resources.

#### 4 Annex 2

Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations in relation to scheme members who ceased active membership between 1 April 2008 and 31 March 2014.

1. 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 Director of Finance & Operations and Director of Human Resources. 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. RAPt 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 Director of Finance & Operations and Director of Human Resources.
3. 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 Director of Finance & Operations and Director of Human Resources. Subject to entry 4 below, the benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations.
4. RAPt 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 Director of Finance & Operations and Director of Human Resources.

Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations in relation to scheme members who ceased active membership between 1 April 1998 and 31 March 2008.

1. 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 Director of Finance & Operations and Director of Human Resources. 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. RAPt 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 Director of Finance & Operations and Director of Human Resources

Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations in relation to scheme members who ceased active membership before 1 April 1998.

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, approval will not be given.

