



## **Market Drayton Town Council**

### **Market Drayton Town Council discretionary policies under the Local Government Pension Scheme Regulations and other related Regulations**

#### **Summary**

1. This report makes recommendations for Market Drayton Town Council 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,

#### **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, Market Drayton Town Council 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 Market Drayton Town Council has the power to exercise on and from 1 April 2014 in relation to members of the CARE scheme.

6. Market Drayton Town Council 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, and
7. Any amended policy 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, Market Drayton Town Council 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),
    - regulation 106 of the Local Government Pension Scheme Regulations 1997 (in respect of former employees who were members of the LGPS and who left between 1 April 1998 and 31 March 2008), and
9. In formulating and reviewing its policies under the LGPS Regulations Market Drayton Town Council 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. Finance and General Purposes 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, and

- 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, and

## **Consultation**

Market Drayton Town Council is not required to consult with UNISON or any other recognised unions when Market Drayton Town Council intends to adopt new, or change existing, discretionary policies. However, it was considered appropriate to give advance notification to UNISON or any other recognised unions that this report would be considered by the Finance and General Purposes Committee.

## **Effective date of policies**

12. The policies on discretions to be exercised under the LGPS Regulations 2013 take immediate effect from the date Market Drayton Town Council 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 (and in respect of local authority councillor members) take immediate effect from the date Market Drayton Town Council agrees the policies.

## **Non-fettering of discretions**

- 13 The recommendations contained within this report, if approved, will form Market Drayton Town Council's policies on pension and compensation discretions. It should be noted that:

- the policies will confer no contractual rights
- Market Drayton Town Council will retain the right to change the policies at any time without prior notice or consultation 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.

**Contact Officer:** Name: Julie Jones – Town Clerk

Tel: 01630 653364

E-mail: [townclerk@marketdrayton.gov.uk](mailto:townclerk@marketdrayton.gov.uk)

**Date:** **F&GP meeting held on Thursday 25 February 2021**

## Annex 1

<b>Table A: 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.</b>	Market Drayton Town Council policy F&GP meeting 25 February 2021
<p>1. Whether, at full cost to Market Drayton Town Council to grant extra annual pension of up to £7,194 (figure at 1 April 2020<sup>1</sup>) 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.</p>	<p>Market Drayton Town Council will not make use of the discretion to grant extra annual pension of up to £7,194 (figure at 1 April 2020) 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 Market Drayton Town Council 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.</p>
<p>2. Whether, where an active scheme member wishes to purchase extra annual pension of up to £7,194 figure at 1 April 2020) by making Additional Pension Contributions (APCs), Market Drayton Town Council will voluntarily contribute towards the cost of</p>	<p>Market Drayton Town Council will only voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC) in two situations. Firstly, where:</p>

<sup>1</sup> The figure of £7,194 that applied at April 2020 is increased each April (starting April 2015) under the Pension (Increase) Act 1971 (as if it were a pension with a PI date of 1 April 2013).

<p>purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC).</p>	<ul style="list-style-type: none"> <li>- an active scheme member returns from a period of authorised leave of absence, and</li> <li>- 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</li> <li>- 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</li> <li>- 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 Market Drayton Town Council may deem reasonable in any individual case.</li> </ul> <p>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 Finance and General Purposes Committee and, where it is agreed that the conditions are met, Market Drayton Town Council will be required to contribute 2/3rds of the cost of buying back the 'lost' pension via a SCAPC.</p> <p>Secondly, in exceptional circumstances where Market</p>
---	--

	<p>Drayton Town Council 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.</p>
<p>3. Whether to permit flexible retirement for staff aged 55 or over who, with the agreement of Market Drayton Town Council reduce their working hours or grade and, if so, as part of the agreement:</p> <ul style="list-style-type: none"> <li>- whether, in addition to the benefits the member has accrued prior to 1 April 2008 (which the member must draw if flexible retirement is agreed), to permit the member to choose to draw <ul style="list-style-type: none"> <li>• all, part or none of the pension benefits they accrued after 31 March 2008 and before 1 April 2014, and / or</li> <li>• all, part or none of the pension benefits they accrued after 31 March 2014, and</li> </ul> </li> <li>- whether to waive, in whole or in part , any actuarial reduction which would otherwise be applied to the benefits taken on flexible retirement before Normal Pension Age (NPA)</li> </ul>	<p><u>Flexible retirement</u> Market Drayton Town Council will not agree to flexible retirement except in circumstances where Market Drayton Town Council considers it is in its financial or operational interests to do so. Each case</p> <ul style="list-style-type: none"> <li>- will be considered on the merits of the financial and / or operational business case put forward,</li> <li>- 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 <ul style="list-style-type: none"> <li>a) all, some or none of their 1 April 2008 to 31 March 2014 benefits, and /or</li> <li>b) all, some or none of their post 31 March 2014 benefits, and</li> </ul> </li> <li>- will require the approval of Finance and General Purposes Committee</li> </ul> <p><u>Waiver of any actuarial reduction on flexible retirement</u></p> <p>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</p>

	<p>and Amendment) Regulations 2014. Market Drayton Town Council 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 Finance and General Purposes Committee including, where the reduction is only to be waved in part, approval for the amount of reduction to be waived.</p>
<p>4. Whether, as the 85 year rule does not (other than on flexible retirement – see 3 above) <u>automatically</u> apply to members who would otherwise be subject to it and who choose to voluntarily draw their benefits on or after age 55 and before age 60, to apply the 85 year rule to such voluntary retirements.</p>	<p>Market Drayton Town Council 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 Market Drayton Town Council considers it is in its financial or operational interests to do so. Each case</p> <ul style="list-style-type: none"> <li>- will be considered on the merits of the financial and / or operational business case put forward, and</li> <li>- will require the approval of Finance and General Purposes Committee</li> </ul>
<p>5. For:</p> <ul style="list-style-type: none"> <li>i) active members voluntarily retiring on or after age 55 and before Normal Pension Age who elect under regulation 30(5) of the LGPS Regulations 2013 to immediately draw benefits, and</li> <li>ii) deferred members and suspended Tier 3 ill health pensioners who elect under regulation 30(5) of the LGPS Regulations 2013 to draw benefits (other than on ill health</li> </ul>	<p>Where members choose to voluntarily draw their benefits on or after age 55 and before Normal Pension Age Market Drayton Town Council 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 Market Drayton Town Council considers it is in its financial or operational interests to do so or there are</p>

<p>grounds) on or after age 55 and before Normal Pension Age</p> <p>who:</p> <ul style="list-style-type: none"> <li>- were <u>not</u> members of the LGPS before 1 October 2006 [Group 4 members], whether to: <ul style="list-style-type: none"> <li>o waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits, if any, accrued before 1 April <u>2014</u>, and / or</li> <li>o waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March <u>2014</u></li> </ul> </li> <li>- <u>were</u> members of the LGPS before 1 October 2006 and <u>will</u> be 60 or more on 31 March 2016 [Group 1 members], whether to: <ul style="list-style-type: none"> <li>o waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2016</u>, and / or</li> <li>o waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March <u>2016</u></li> </ul> </li> </ul>	<p>compelling compassionate<sup>2</sup> reasons for doing so.</p> <p>Each case</p> <ul style="list-style-type: none"> <li>- will be considered on the merits of the financial and / or operational business case put forward, or</li> <li>- will be considered on the merits of the compassionate case put forward, and</li> <li>- will require the approval of Finance and General Purposes Committee including, where the reduction is only to be waved in part, approval for the amount of reduction to be waived</li> </ul>
---	---

<sup>2</sup> 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.



<ul style="list-style-type: none"> <li>- <u>were</u> members of the LGPS before 1 October 2006 and will <u>not</u> be 60 or more on 31 March 2016 and will <u>not</u> attain age 60 between 1 April 2016 and 31 March 2020 [Group 3 members], whether to: <ul style="list-style-type: none"> <li>o waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2014</u>, and / or</li> <li>o waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March <u>2014</u></li> </ul> </li>   <li>- <u>were</u> members of the LGPS before 1 October 2006 and will <u>not</u> be 60 or more on 31 March 2016 but <u>will</u> attain age 60 between 1 April 2016 and 31 March 2020 [Group 2 members], whether to: <ul style="list-style-type: none"> <li>o waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2020</u>, and / or</li> <li>o waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March <u>2020</u></li> </ul> </li> </ul>	
<p>6. Whether, how much, and in what circumstances to contribute to a shared-cost Additional Voluntary Contribution (SCAVC) arrangement entered into on or after 1 April 2014 and whether, how much, and in what circumstances to continue to</p>	<p>Market Drayton Town Council will not enter into a shared cost AVC arrangement other than:</p> <ul style="list-style-type: none"> <li>a) in exceptional circumstances in which case the decision to contribute, and the amount</li> </ul>

<p>contribute to any shared cost Additional Voluntary Contribution (SCAVC) arrangement entered into before 1 April 2014.</p> <p>-</p>	<p>of the contribution, will be subject to the approval of Finance and General Purposes Committee</p>
<p>7. Whether to 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) if the member has not made an election to retain separate benefits within 12 months of commencing membership of the LGPS in the new employment (or within 12 months of ceasing the concurrent membership).</p>	<p>Market Drayton Town Council 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):</p> <ul style="list-style-type: none"> <li>a) where Market Drayton Town Council agrees that the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration;</li> <li>b) where Market Drayton Town Council 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</li> <li>c) where the member has pre 1 April 2014 membership and Market Drayton Town Council agrees the available evidence indicates that, due to maladministration, the member had not been informed of the implications</li> </ul>

	<p>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 Market Drayton Town Council is, in real terms after allowing for inflation, significantly less than the whole-time equivalent pensionable pay upon which the deferred benefits were calculated).</p>
<p>8. Whether, with the agreement of the Pension Fund administering authority, to permit a Scheme member to elect to transfer other pension rights into the LGPS if he / she has not made such an election within 12 months of joining the LGPS.</p>	<p>Market Drayton Town Council 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:</p> <ul style="list-style-type: none"> <li>- 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;</li> <li>- where the available evidence indicates the member made an election</li> </ul>

	<p>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);</p> <ul style="list-style-type: none"> <li>- where the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration.</li> </ul>
<p>9. How the pension contribution band/rate to which an employee is to be allocated will be determined on joining the Scheme and at each subsequent April, and the circumstances in which the employer will, in addition to the review each April, review the pension contribution band/rate to which an employee has been allocated consequent upon a material change which affects the member's pensionable pay in the course of a Scheme year (1 April to 31 March).</p>	<ul style="list-style-type: none"> <li>a) 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</li> <li>b) reallocating a member to a new contribution rate each 1 April</li> </ul>
<p>10. Whether or not, when calculating assumed pensionable pay when a member is:</p> <ul style="list-style-type: none"> <li>- on reduced contractual pay or no pay on due to sickness or injury, or</li> <li>- absent during ordinary maternity, paternity or adoption leave or paid shared parental leave, or during paid additional maternity or adoption leave (other than any part of that leave where the pensionable pay received is greater than the assumed</li> </ul>	<p>In assessing Assumed Pensionable Pay (APP) Market Drayton Town Council 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 Finance and General Purposes Committee.</p>

<p>pensionable pay for that part of the leave period), or</p> <ul style="list-style-type: none"> <li>- absent on reserve forces service leave, or</li> <li>- retires with a Tier 1 or Tier 2 ill health pension, or</li> <li>- dies in service</li> </ul> <p>to include in the calculation the amount of any 'regular lump sum payment' received by the member in the 12 months preceding the date the absence began or the ill health retirement or death occurred.</p> <p style="text-align: center;">-</p>	
---	--

## Annex 2

<b>Table B: 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</b>	Market Drayton Town Council F&GP 25 February 2021
1. Whether, on compassionate grounds <sup>3</sup> , to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65	Market Drayton Town Council 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 Finance and General Purposes Committee.
2. Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to any suspended Tier 3 ill health pension	Market Drayton Town Council will consider an application to waive, on compassionate grounds, any actuarial reduction that would normally be applied to a suspended

<sup>3</sup> There is no definition in the Regulations of "compassionate grounds". However, one could take the view that, for example, waiving a reduction 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.

benefits which are brought back into payment before age 65	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 Finance and General Purposes Committee
--	--

<b>Table C: 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</b>	Market Drayton Town Council
1. Whether, on compassionate grounds to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65	Market Drayton Town Council 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 Finance and General Purposes Committee.