



Stirchley and Brookside Parish Council discretionary policies under the Local Government Pension Scheme Regulations and other related Regulations

Summary

1. This report makes recommendations for Stirchley and Brookside Parish Councils 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. On 3rd June 2014 the Personnel Sub Committee agreed the discretionary policies Stirchley and Brookside Parish Council would operate in relation to the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007.
3. The policies were updated on 11th June 2019

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, Stirchley and Brookside Parish 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 Stirchley and Brookside Parish Council has the power to exercise on and from 1 April 2014 in relation to members of the CARE scheme.
5. Stirchley and Brookside Parish 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:

under earlier LGPS Regulations in respect of former employees who were members of the LGPS and who left prior to 1 April 2014

6. 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.

7. Overall, Stirchley and Brookside Parish 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),
8. In formulating and reviewing its policies under the LGPS Regulations Stirchley and Brookside Parish 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

9. Stirchley and Brookside Parish Council 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

Effective date of policies

10. The policies on discretions to be exercised under the LGPS Regulations 2013 take immediate effect from the date Stirchley and Brookside Parish 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 take immediate effect from the date Stirchley and Brookside Parish Council agrees the policies.

Non-fettering of discretions.

11. The recommendations contained within this report, if approved, will form Stirchley and Brookside Parish Council policies on pension discretions. It should be noted that:

- the policies will confer no contractual rights
- Stirchley and Brookside Parish Council will retain the right to change the policies at any time without prior notice or consultation
- 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

| 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 | Stirchley and Brookside Parish Council policy |
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| <p>1. Whether, at full cost to Stirchley and Brookside Parish Council, to grant extra annual pension of up to £6,822 (figure at 1 April 2018¹) 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>Stirchley and Brookside Parish Council will not make use of the discretion to grant extra annual pension of up to £6,822 (figure at 1 April 2018) 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 Stirchley and Brookside Parish 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 £6,822 (figure at 1 April 2018) by making Additional Pension Contributions (APCs), Stirchley and Brookside Parish Council will voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC).</p> | <p>Stirchley and Brookside Parish Council will only voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC) in three situations.</p> <p>Firstly, where:</p> <ul style="list-style-type: none"> - 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 Stirchley and Brookside Parish Council may deem reasonable in any individual case. <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 the Personnel Sub</p> |

¹ The figure of £6,500 that applied at April 2014 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).

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| | <p>Committee and, where it is agreed that the conditions are met, Stirchley and Brookside Parish Council will be required to contribute 2/3rds of the cost of buying back the 'lost' pension via a SCAPC.</p> <p>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 Stirchley and Brookside Parish Council 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.</p> <p>Thirdly, in exceptional circumstances where Stirchley and Brookside Parish 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 Stirchley and Brookside Parish Council, reduce their working hours or grade and, if so, as part of the agreement:</p> <ul style="list-style-type: none"> - 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"> • all, part or none of the pension benefits they accrued after 31 March 2008 and before 1 April 2014, and / or • all, part or none of the pension benefits they accrued after 31 March 2014, and - 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)². | <p><u>Flexible retirement</u></p> <p>Stirchley and Brookside Parish Council will not agree to flexible retirement except in circumstances where Stirchley and Brookside Parish Council considers it is in its financial or operational interests to do so. Each case</p> <ul style="list-style-type: none"> - 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 <ul style="list-style-type: none"> 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 Sub Committee <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</p> |

² NPA means the employee's individual State Pension Age at the time the employment is terminated, but with a minimum of age 65,

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| | <p>Scheme Regulations and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014. Stirchley and Brookside Parish 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 to the Personnel Sub Committee who will make a recommendation for approval at a Full Council meeting of Stirchley and Brookside Parish Council; 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>Stirchley and Brookside Parish 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 Stirchley and Brookside Parish Council considers it is in its financial or operational interests to do so. Each case</p> <ul style="list-style-type: none"> - will be considered on the merits of the financial and / or operational business case put forward, and - will be considered by the Personnel Sub Committee who will make a recommendation for approval at a Full Council meeting of Stirchley and Brookside Parish Council |
| <p>5. For:</p> <ul style="list-style-type: none"> 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 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 grounds) on or after age 55 and before Normal Pension Age <p>who:</p> <ul style="list-style-type: none"> - were <u>not</u> members of the LGPS before 1 October 2006 [Group 4 members], whether to: o waive on compassionate grounds, any actuarial reduction that would otherwise | <p>Where members choose to voluntarily draw their benefits on or after age 55 and before Normal Pension Age Stirchley and Brookside Parish 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 Stirchley and Brookside Parish Council considers it is in its financial or operational interests to do so or there are compelling compassionate³ reasons for doing so.</p> <p>Each case</p> <ul style="list-style-type: none"> - 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 |

³ 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.

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| <p>be applied to benefits, if any, accrued before 1 April <u>2014</u>, and / or</p> <ul style="list-style-type: none"> ○ 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> <p>- <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:</p> <ul style="list-style-type: none"> ○ waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2016</u>, and / or ○ 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> <p>- <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:</p> <ul style="list-style-type: none"> ○ waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2014</u>, and / or ○ 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> <p>- <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:</p> <p>waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2020</u>, and / or</p> <ul style="list-style-type: none"> ○ 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> | <ul style="list-style-type: none"> - will be considered on its merits by the Personnel Sub Committee who will make a recommendation for approval at a Full Council meeting of Stirchley and Brookside Parish Council. Including, where the reduction is only to be waved in part, approval for the amount of reduction to be waived |
| <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 contribute to</p> | <p>Stirchley and Brookside Parish Council will not enter into a shared cost AVC arrangement other than:</p> <ul style="list-style-type: none"> a) in exceptional circumstances in which case the decision to contribute, and the amount of the contribution, will be subject to the |

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| <p>any shared cost Additional Voluntary Contribution (SCAVC) arrangement entered into before 1 April 2014.</p> | <p>approval of Stirchley and Brookside Parish Council</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>Stirchley and Brookside Parish 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"> a) where Stirchley and Brookside Parish Council agrees that the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration; b) where Stirchley and Brookside Parish 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 c) where the member has pre 1 April 2014 membership and Stirchley and Brookside Parish Council 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 Stirchley and Brookside Parish 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>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>Stirchley and Brookside Parish 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"> - 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 |

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| | <p>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;</p> <ul style="list-style-type: none"> - 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. |
| <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> | <p>a) See Policy on Pension Re-Banding</p> |
| <p>10. Whether or not, when calculating assumed pensionable pay when a member (other than a returning officer) is:</p> <ul style="list-style-type: none"> - on reduced contractual pay or no pay on due to sickness or injury, or - 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 pensionable pay for that part of the leave period), or - absent on reserve forces service leave, or - retires with a Tier 1 or Tier 2 ill health pension, or - dies in service <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>In assessing Assumed Pensionable Pay (APP) Stirchley and Brookside Parish 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'. Each case will be considered on its merits by the Personnel Sub Committee who will make a recommendation for approval at a Full Council meeting of Stirchley and Brookside Parish Council.</p> |

Annex 2

| 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 (other than local authority councillor members) | Stirchley and Brookside Parish Council policy |
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| 1. Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65. | Stirchley and Brookside Parish 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 by the Personnel Sub Committee who will make a recommendation for approval at a Full Council meeting of Stirchley and Brookside Parish Council. |
| 2. Whether to grant applications for the early payment of a suspended Tier 3 ill health pension on or after age 55 and before age 60 (on grounds other than permanent ill health). | 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 by the Personnel Sub Committee who will make a recommendation for approval at a Full Council meeting of Stirchley and Brookside Parish Council. Subject to entry 4 below, the benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations. |

| 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 (and in relation to local authority councillor members who ceased or will cease active membership on or after 1 April 1998) | Stirchley and Brookside Parish Council policy |
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| 1. Whether to grant applications for the early payment of pension benefits on or after age 50 and before age 60 (on grounds other than permanent ill health). | 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 by the Personnel Sub Committee who will make a recommendation for approval at a Full Council meeting of Stirchley and Brookside Parish Council. Subject to entry |

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| | <p>2 below, the benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations.</p> |
| <p>2. Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.</p> | <p>Stirchley and Brookside Parish 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 by the Personnel Sub Committee who will make a recommendation for approval at a Full Council meeting of Stirchley and Brookside Parish Council.</p> <p>Each case will be considered on its merits by the Personnel Sub Committee who will make a recommendation for approval at a Full Council meeting of Stirchley and Brookside Parish Council.</p> |

June 2019