

Fidelis Contract Services Ltd discretionary policies under the Local Government Pension Scheme Regulations and other related Regulations

Summary

1. This report confirms **Fidelis Contract Services Ltd** policies on discretions to be exercised under the LGPS Regulations 2013 from 1 April 2014 in respect of members of the Career Average Revalued Earnings (CARE) scheme,

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, **Fidelis Contract Services Ltd** 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 **Fidelis Contract Services Ltd** has the power to exercise on and from 1 April 2014 in relation to members of the CARE scheme.
6. Any amended policy under the conditions 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.
7. Overall, **Fidelis Contract Services Ltd** 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,
8. In formulating and reviewing its policies under the LGPS Regulations referred to in paragraphs 14(i) above **Fidelis Contract Services Ltd** 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 made

9. This document confirms the decision

- 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

Effective date of policies

11. The policies on discretions to be exercised under the LGPS Regulations 2013 take immediate effect from the date **Fidelis Contract Services Ltd** 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

Non-fettering of discretions

12. The recommendations contained within this report form **Fidelis Contract Services Ltd** policies on pension and compensation discretions. It should be noted that:
 - the policies will confer no contractual rights
 - subject to the restrictions set out within this document, **Fidelis Contract Services Ltd** 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: Jon Shaw
E-mail: jon@fidelisgroup.co.uk

Date: 31.03.20

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 (other than local authority councillor members) and members who cease active membership after 31 March 2014 (other than local authority councillor members).	Fidelis Contract Services Ltd policy
<p>1. Whether, at full cost to [Fidelis Contract Services Ltd], to grant</p> <p>extra annual pension of up to £7,026 (figure at 1 April 2019¹) 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>Fidelis Contract Services Ltd will not make use of the discretion to grant extra annual pension 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 Fidelis Contract Services Ltd 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>2. Whether, where an active scheme member wishes to purchase extra annual pension of up to £7,026 (figure at 1 April 2019²) by making Additional Pension Contributions (APCs), Fidelis Contract Services Ltd will voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC).</p>	<p>Fidelis Contract Services Ltd will not make use of the discretion to voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC), other than in exceptional circumstances where Fidelis Contract Services Ltd 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>

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).

² 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).

<p>3. Whether to permit flexible retirement for staff aged 55³ or over who, with the agreement of Fidelis Contract Services Ltd, 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)⁴. 	<p><u>Flexible retirement</u> Fidelis Contract Services Ltd will not agree to requests for flexible retirement, other than in exceptional circumstances where Fidelis Contract Services Ltd 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</p> <hr/> <p><u>Waiver of any actuarial reduction on</u> 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. Fidelis Contract Services Ltd will only waive any such reduction, in whole or in part, where it considers it is in its financial or operational</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</p>	<p>interests to do so. Fidelis Contract Services Ltd 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</p>

except in

³ Age 50 for those LGPS members transferred from the Learning and Skills Council to whom regulation 16A of the LGPS (Benefits, Membership and Contributions) Regulations 2007 applies. Such members only need the employer’s permission to reduce their working hours or grade but, if that permission is given, do not require their employer’s permission to draw their benefits (as such members have the automatic right to take the benefits by virtue of regulation 18A of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and regulation 24 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014).

⁴ NPA means the employee’s individual State Pension Age at the time the employment is terminated, but with a minimum of age 65 (although, the NPA for membership accrued prior to 1 April 2014 is still linked to age 65, apart from those LGPS members transferred from the Learning and Skills Council to whom regulation 16A of the LGPS (Benefits, Membership and Contributions) Regulations 2007 applies for whom the NPA for membership accrued prior to 1 April 2014 is, by virtue of that regulation and regulation 24 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, still linked to age 60, and those LGPS members who are employees of the Meat Hygiene Service in the London Pension Fund Authority fund who are covered by regulation 144B of the LGPS Regulations 1997 for whom the NPA for membership accrued prior to 1 April 2014 is, by virtue of that regulation and regulation 24 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, still linked to age 60). State Pension Age is currently age 65 for men. State Pension Age for women is currently being increased to be equalised with that for men and will reach 65 by November 2018. The State Pension Age will then increase to 66 for both men and women from December 2018 to October 2020. Under current legislation the State Pension Age is due to rise to 67 between 2026 and 2028 and to 68 between 2044 and 2046. However, the government has announced plans to link rises in the State Pension Age above age 67 to increases in life expectancy.

<p>and before age 60, to apply the 85 year rule⁵ to such voluntary retirements.</p>	<p>circumstances where Fidelis Contract Services Ltd 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>5. For:</p> <ul style="list-style-type: none"> i) active members voluntarily retiring on or after age 55⁶ 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 55⁷ 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: <ul style="list-style-type: none"> 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 o waive, in whole or in part (on any grounds), any actuarial reduction that 	<p>Where members choose to voluntarily draw their benefits on or after age 55 and before Normal Pension Age Fidelis Contract Services Ltd 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 Fidelis Contract Services Ltd considers it is in its financial or operational interests to do so or there are compelling compassionate⁸ reasons for doing so.</p>

⁵ The 85 year rule does not apply to former members of the Metropolitan Civil Staffs Superannuation Scheme, or Meat Hygiene Service members, or civil servants transferred to the Environment Agency who by virtue of regulation 24 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 are subject to, respectively, regulation 144A of, and Schedule 7 to, the LGPS Regulations 1997, regulation 144B of the LGPS Regulations 1997 and regulation 15 of the LGPS (Transitional Provisions) Regulations 2008.

⁶ Age 50, by virtue of regulation 24 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, for those LGPS members transferred from the Learning and Skills Council to whom regulation 16A of the LGPS (Benefits, Membership and Contributions) Regulations 2007 applies and those civil servants transferred to the Environment Agency to whom regulation 15 of the LGPS (Transitional Provisions) Regulations 2008 applies.

⁷ Age 50, by virtue of regulation 24 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, for those LGPS members transferred from the Learning and Skills Council to whom regulation 16A of the LGPS (Benefits, Membership and Contributions) Regulations 2007 applies and who are electing for early payment of a deferred benefit (but not if they are electing for early payment of a suspended Tier 3 ill health pension) and those civil servants transferred to the Environment Agency to whom regulation 15 of the LGPS (Transitional Provisions) Regulations 2008 applies and who are electing for early payment of a deferred benefit or early payment of a suspended Tier 3 ill health pension.

⁸ 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.

<p>would otherwise be applied to benefits accrued after 31 March <u>2014</u></p> <ul style="list-style-type: none"> - <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"> o waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2016</u>, and / or 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> - <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"> o waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2014</u>, and / or 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> - <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"> o waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2020</u>, and / or 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> 	
<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</p>	<p>Fidelis Contract Services Ltd will not enter into a shared cost AVC arrangement, other than in exceptional circumstances where Fidelis Contract Services Ltd considers it is in its financial or operational</p>

<p>to continue to contribute to any shared cost Additional Voluntary Contribution (SCAVC) arrangement entered into before 1 April 2014.</p> <p>Note:</p> <ul style="list-style-type: none"> - Scheme employers should, prior to 1 April 2014, already have prepared and published a policy on SCAVCs under the 2008 Scheme (in accordance with the LGPS (Administration) Regulations 2008). Employers may, therefore, wish to simply carry forward their existing policy (assuming they have one), but suitably amended to reflect both of the elements referred to above. 	<p>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>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>Fidelis Contract Services Ltd will not 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), other than in exceptional circumstances where Fidelis Contract Services Ltd 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>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>Fidelis Contract Services Ltd will not 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, other than in exceptional circumstances where Fidelis Contract Services Ltd 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</p>

	the merits of the financial and / or operational business case put forward.
--	---

Policy confirmed 31.03.20

Jon Shaw
Finance Director
**Fidelis Contract Services
Ltd**