

## Pension Discretions

# LGPS Career Average Revalued Earnings (CARE) Scheme Policy Statement

This Policy/Procedure has been agreed by the following professional associations and Trade Unions representing Teachers, Headteachers and Support Staff:

- Association of School and College Leaders
- Unison
- GMB

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<b>Adopted by the Board of Empower Trust</b>	

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## **Pension Discretions - LGPS Career Average Revalued Earnings (CARE) Scheme - Policy Statement**

### **1. Introduction**

By virtue of regulation 60 of the LGPS Regulations 2013 and paragraph 2(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 Scheme employers are required to formulate, publish and keep under review a Statement of Policy in relation to five statutory discretions they may exercise in relation to members of the LGPS Career Average Revalued Earnings (CARE) Scheme. This policy also contains five recommended discretions.

Any amendments to this policy must be published and sent to the LGPS pension fund within one month of the date of the revisions to the policy were made.

This policy applies to all employees of the Trust with the exception, in relation to some of the discretions, to LGPS members transferred from the Learning and Skills Council to whom regulation 16A of the LGPS (Benefits, Membership and Contributions) Regulations 2007 applies and to former NHS Scheme members who are covered by regulation 23 of the LGPS (Transitional Provisions) Regulations 1997 who are advised to contact Shropshire County Pension Fund.

### **2. Statutory Discretions**

#### **2.1 Granting Annual Extra Pension**

2.1.1 Whether, at full cost to the Trust, to grant extra annual pension of up to £8,344 per annum (figure at 1 April 2024) 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.

2.1.2 The Trust will not make use of the discretion to grant extra annual pension of up to £8,344 per annum (figure at 1 April 2024) 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 the Trust considers it is in its financial or operational interests to do so.

Each case will be considered on its merits of the financial and/or operational business case put forward and will be subject to the approval of the Board of Trustees, in consultation with the CEO.

## **2.2 Shared Cost Additional Pension Contribution (SCAPC)**

2.2.1 Whether, where an active scheme member wishes to purchase extra annual pension of up to £8,344 per annum (figure at 1 April 2024) by making Additional Pension Contributions (APCs), the Trust will voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC).

2.2.2 The Trust will only voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC) in two situations, where;

- A member has a period of authorised unpaid leave of absence and elects, within 30 days of return to work to pay a SCAPC to cover the amount of pension 'lost' during that period of absence. The Trust will contribute 2/3rds of this cost to a SCAPC.

A decision on whether to extend the 30-day deadline will only be made in cases where the member can demonstrate that they 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 the Trust may deem reasonable in any individual case. A decision on whether a member meets the above criteria will be taken by the CEO, in consultation with the Chair of the Finance/Audit Committee, or equivalent.

- Secondly, in exceptional circumstances where the Trust 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.

## **2.3 Flexible Retirement**

2.3.1 Whether to permit flexible retirement for staff aged 55 or over who, with the agreement of the Trust, reduce their working hours or grade and, if so, as part of the agreement:

- 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
  - 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).

2.3.2 The Trust will not agree to flexible retirement except in circumstances where the Trust 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 Board of Trustees, in consultation with the CEO.

2.3.3 The Trust when making the decision to permit Flexible Retirement, have to allow benefits pre 1<sup>st</sup> April 2008 to be released. A cost analysis of benefits accrued between the 1<sup>st</sup> April 2008 and 31<sup>st</sup> March 2014, and 1st April 2014 onwards will determine whether all, part or none of the benefits are released and whether an actuarial reduction, in whole or in part, will be waived to benefits taken before Normal Pension Age (NPA).

The decision to permit an employee to receive immediate payment of their pension under flexible retirement will be authorised by the CEO and the Board of Trustees.

## **2.4 Switching on the 85 Year Rule**

2.4.1 Whether, as the 85 year rule does not (other than on flexible retirement) automatically 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.

2.4.2 The Trust 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 the Trust considers it is in its financial or operational interests to do so.

Each case will be considered on its merits of the financial and/or operational business case put forward and will be subject to the approval of the Board of Trustees, in consultation with the CEO.

## **2.5 Early Retirement and Actuarial Reduction**

#### 2.5.1 Whether to waive any actuarial reduction for;

- 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
- 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 (NPA).

#### 2.5.2 Where members choose to voluntarily draw their benefits on or after age 55 and before Normal Pension Age the Trust 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 the Trust considers it is in its financial or operational interests to do so or there are compelling compassionate reasons for doing so.

Each case will be considered on its merits of the financial and/or operational business case or will be considered on the merits of the compassionate case put forward and will be subject to the approval of the Board of Trustees, in consultation with the CEO.

### **3. Recommend Discretions**

#### **3.1 Shared Cost Additional Voluntary Contribution**

3.1.1 Whether, how much, and in what circumstances to contribute to a Shared-Cost Additional Voluntary Contribution (SCAVC) arrangement entered on or after 1 April 2014 and whether, how much, and in what circumstances to continue to contribute to any SCAVC arrangement entered into before 1 April 2014.

3.1.1 The Trust will not enter into a SCAVC 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 CEO, in consultation with the Chair of the Finance/Audit Committee, or equivalent.

#### **3.2 Transfer of Deferred LGPS Benefit**

3.2.1 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).

3.2.2 The Trust will only extend the 12-month time limit where;

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

### **3.3 Transfer of Other Pension Rights**

3.3.1 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.

3.3.2 The Trust will only extend the 12-month time limit 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;
- 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
- the available evidence indicates the member had not been informed of the 12-month time limit due to maladministration.

### **3.4 Review of Pension Contribution Rate**

3.4.1 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).

3.4.2 The Trust employees' pension contribution rate will be based on their actual pensionable pay as stated in Shropshire Council's Pension and Retirement Policy (section 4.2.2).

For those employees who elect to pay reduced contributions, (the 50:50 option), contribution rates will be half of the amount.

The contribution band will be assessed using the actual pensionable salary plus any pensionable extra payments.

For term time staff, the actual pensionable salary will be based on the actual pensionable salary across the term time week's only, plus any pensionable extras.

Any fee earning staff will be assessed on the previous year's earnings to 31st March or part year if the individual is not employed for the whole year.

3.4.3 The Trust will re-assess bandings for all employees every April, with the exception of the following:

- Promotion or permanent/long term honoraria payments
- Down-grading or demotion
- A re-grading exercise

All of the above will prompt an immediate reassessment.

The Trust will not re-assess pension contribution bandings after a back dated pay award.

### **3.5 Calculating Assumed Pensionable Pay**

3.5.1 Whether or not, when calculating Assumed Pensionable Pay (APP) when a member (other than a returning officer) is:



- 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

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.

3.5.2 In assessing Assumed Pensionable Pay (APP) Shropshire 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 the CEO, in consultation with the Chair of the Finance/Audit Committee, or equivalent.

#### **4. Request to Apply Discretions**

4.1 Requests to apply any of the statutory and recommended pension discretions will be considered only in exceptional circumstances and will not be an automatic entitlement. An employee who wishes to request a statutory and recommended pension discretion must complete a Pension Discretions Employee Request Form (Appendix 1) and provide a copy to their Headteacher.

4.2 The Headteacher will refer the request to the CEO where a meeting will be arranged with the employee to discuss the request, taking account of any pension strain to the Trust. If the CEO approves, they will create a report to the Board of Trustees detailing their approval, effective date and the implications operationally and financially upon the Trust(see Appendix 2 Statutory Pension Discretions CEO Report).

4.3 Each case will be considered on the merits of the financial and / or operational business case, or will be considered on the merits of the compassionate case put forward, and will require the approval of the Board of Trustees, in consultation with the CEO.

#### **5. Pension Appeals**

- 5.1 In accordance with Regulation 73 of the Local Government Pension Scheme (Administration) Regulations 2013, the Trust is required to draw all employees' attention to the fact that, if they are dissatisfied with any decision in relation to their rights or liabilities under the Scheme, they may make an application to the Board of Trustees appointed Appeals Committee or equivalent, as the committee appointed for resolving first stage disputes. An appeal must be made within six months of the event. Standard forms and guidelines are available from the Pension Team for this purpose.
- 5.2 If employees remain dissatisfied, they may apply for a reconsideration of the decision to the Head of Legal and Democratic Services, Shropshire Council. The final level of appeal would be to the Pensions Ombudsman.
- 5.3 In all instances, all initial concerns, or matters whereby an employee is not in agreement, should be referred to the individual who made the original decision. The Pension Scheme will also be available to advise you of your rights under the Scheme.

## **6. Monitoring and Review**

The Board of Trustees will monitor the outcomes and impact of this policy/procedure on an annual/bi-annual basis in conjunction with school representatives.

This procedure will be reviewed no later than 2 years by Human Resources in consultation with Trade Unions.

## **Appendices**

### **Appendices**

Appendix A: Pension Discretions Employee Request Form

Appendix B: Pension Discretions CEO Report



**APPENDIX A**

**Pension Discretions – Employee Request Form**

*Before completing this form, please ensure that you have read the Pension Discretions Policy in conjunction with the Pension and Retirement Policy.*

Employee's Name

.....

Employee

Number.....

Name of Manager

.....

Department

.....

**Please indicate pension discretion request:**

**Please provide details of your request and when you wish this request to be effective from:**

Name (signature) ..... Date .....



**APPENDIX 2**

**Pension Discretions - CEO Report**

Employee Name:

Employee Number:

**Please indicate employee’s request:**

**Background**

**Include the following in your business case:**

- *Current employment details – include current post, hours worked and current SCP details*
- *Provide details of the exceptional circumstances where the Trust considers it is in its financial or operational interests to permit this discretion*
- *Details regarding the strain (if any) on the pension fund, and the cost implications in relation to the team budget (if any)*

I agree to this request for [INPUT REQUEST] and that pension payments commence with effect from [DATE].

**CEO:**

.....Date.....  
(Name and sign)

**Chair of Personnel/Audit Committee:**

.....Date.....  
(Name and sign)

**Chair of Trustees:**

.....Date.....  
(Name and sign)