

# Statement of Policy about Exercise of Discretionary Functions



## Statement of Policy about Exercise of Discretionary Functions

Under the LGPS Regulations, the Administering Authority has a number of discretions.

Whilst the Constitution sets out the responsibility for functions, this discretions document sets out the onward delegation and practice.

The description of discretions has been set out in the table below with references to supporting documents where applicable.<sup>1</sup>

All pension discretions will be reviewed at least on a four yearly basis, or as and when circumstances change.

This Statement will be reviewed at least every four years and will be updated to reflect any substantive changes in the interim. The last formal review was at the Pension Panel meeting in [April 2019](#).

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<sup>1</sup> R – LGPS Regulations 2013 / TP –Transitional Provisions 2014/ A – Administration Regulations 2007 / B – Benefit Regulations 2007 / T – Transitional Regulations 2008/ L – LGPS Regulations 1997/ -LGPS Regulations 1995

Regulation No- Description of discretion	WSCC practice/discretion
<b>R5(5)</b> & Schedule 2 Part 3, para 1 Whether to agree to an admission agreement with a body applying to be an admission body.	Agreement to Admission for an admission body is the delegated responsibility of the Chief Finance Officer. The Scheme of Delegation can be found in the WSCC Constitution.
<b>R</b> Schedule 2, Part 3, paragraph 12(a) Define what is meant by "employed in connection with"	The fund defines 'Employed in connection with' as meaning "employed solely or mainly (i.e. more than 50% of their time) in the management or delivery of such services as are set out in the Contract".
<b>R4(2)(b)</b> Whether to agree to an admission agreement with a Care Trust or NHS Scheme employing Authority.	NHS staff (Public Health) retain right to participate in the NHS Pension Scheme, so it is unlikely the Administering Authority will need to exercise this discretion.  Admission, if required, will be subject to agreement by the Chief Finance Officer.  The Scheme of Delegation can be found in the WSCC Constitution.
<b>R</b> Schedule 2, Part 3 para 9(d) Whether to terminate an admission agreement in the event of: • insolvency, winding up or liquidation of the body • breach by that body of its obligations under the admission agreement • failure by that body to pay over sums due to the Fund within a reasonable period of being requested to do so.	The Fund reserves the right to terminate any admission agreement (Community or Transferee) if the Admission Body is in breach of its obligations. This includes insolvency and failure to pay contributions.  This right is explicitly included in all admission agreements.
<b>R54(1)</b> Whether to set up a separate admission agreement fund.	The Administering Authority does not currently operate any separate admission agreement funds.  Any proposal to create an admission agreement fund will be subject to discussion between officers and the Fund actuary.
<b>R64(4)</b> Whether to obtain a revision of a employer's contribution rate if there are circumstances which make it likely a Scheme employer will become an exiting employer.	The Fund requires that a revised rates and adjustment certificate is obtained in anticipation of the termination of an admission agreement (community or transferee) or where a scheduled body is likely to cease.
<b>R64 (2A)</b> Whether to issue a written notice ("a suspension notice") to an exiting employer to suspend payment of an exit payment for a period of up to 3 years.	The Fund would look to issue a written notice ("a suspension notice") subject to discussion between officers and the Fund actuary, where it is reasonable to assume that an exiting employer will have one or more active members commence contributions to the Fund, within 3 years.
<b>R65</b> Decide whether to obtain a new rates and adjustment certificate if the Secretary of State amends the Benefits Regulations as part of the 'cost sharing' under <b>R63</b> .	The Fund may require that a reassessment is carried out when a change to the underlying benefits occurs in the inter-valuation period.  The Fund reserves the right to obtain a new rates and adjustment certificate subject to discussion with officers and the Fund actuary.

<b>Regulation No- Description of discretion</b>	<b>WSCC practice/discretion</b>
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<p><b>R68(2)</b> Whether to require any strain on Fund costs to be paid "up front" by employing authority following payment of benefits under <b>R30(6)</b> (flexible retirement). <b>R30(7)</b> (redundancy/business efficiency), or the waiver (in whole or in part) under <b>R30(8)</b> of any actuarial reduction that would otherwise have been applied to benefits which a member voluntarily draws before normal pension age or to benefits drawn on flexible retirement.</p> <p><b>TP</b> Schedule 2, para 2(3) Whether to require any strain on Fund costs to be paid 'up front' by employing authority following flexible retirement under <b>R30(6)</b> or waiver of actuarial reduction under <b>TP</b> schedule 2, para 2(1) or release of benefits before age 60 under <b>B30 of B30A</b></p> <p><b>R80(5)</b> Whether to require any strain on Fund costs to be paid 'up front' by employing authority following early voluntary retirement of a councillor, or early payment of a deferred benefit on health grounds or from age 50 with employer consent (pre 1.4.08 leavers)</p>	<p>The Administering Authority's requires employers to make upfront payment of strain charges following any decision to allow early payment of benefits (other than ill health).</p> <p>An employer can request to pay instalments over a three-year period, but this would be by exception.</p> <p>Chief Finance Officer to agree exceptions to the current practice.</p>
<p><b>R69(1)</b> Decide frequency of payments to be made over to Fund by employers and whether to make an administration charge</p>	<p>Employer contributions payments are due monthly by 19<sup>th</sup> of the month (22<sup>nd</sup> if electronic) following deduction.</p> <p>Employer contribution rates include an element to cover administration expenses. This is referred to in the Fund's Funding Strategy Statement.</p>
<p><b>R69(4)</b> Decide the form and frequency of information to accompany payments to the Fund.</p>	<p>Employer (or their payroll bureau) must provide monthly remittance to Financial Services along with their payment and complete a quarterly confirmation.</p> <p>All employers have been notified of this requirement.</p>
<p><b>R70 &amp; TP22(2)</b> Whether to issue employers with a notice to recover additional costs incurred as a result of the employer's level of performance.</p>	<p>The Administering Authority will work with employers to improve performance but of additional and disproportionate resources are required by the Pensions Team because of an employers poor performance, the cost of the additional resources may be recharged to the employer.</p>
<p><b>R71(1)</b></p>	<p>The Administering Authority will charge interest as defined in regulation 71 on late payments, except in exceptional circumstances.</p>

<b>Regulation No- Description of discretion</b>	<b>WSSC practice/discretion</b>
Whether to charge interest on payments by employers overdue by more than 1 month	

<b>Regulation No- Description of discretion</b>	<b>WSSC practice/discretion</b>
<p><b>R36(3)</b> Approve medical advisors used by employers (for ill health benefits).</p> <p><b>A56(2)</b> Approve medical advisors used by employers (for early payment, on grounds of ill health, of a deferred benefit or suspended Tier 3 ill health pension).</p> <p><b>L97(10)</b> Approve medical advisors used by employers (re: ill health benefits for councillors and pre 1.4.08 preserved benefits payable on health grounds).</p>	<p>Each employer appoints their own medical advisor based on required qualifications and the certificate wording confirms the doctor has the required qualifications.</p> <p>The Administering Authority requires employers to provide details of medical advisors used for assessing entitlement to ill health benefits and will liaise with any employer who is using a medical advisor of which the Administering Authority does not approve.</p> <p>This will be captured through the retirement process.</p>
<p><b>R79(2) &amp; A63(2) &amp; L105(1)</b> Whether the administering authority should appeal against employer decision (or lack of a decision).</p>	<p>This is considered on a case by case basis.</p>
<p><b>R58</b> Decide on Funding Strategy for inclusion in Funding Strategy statement.</p>	<p>The Funding Strategy is prepared, maintained and published in accordance with the Regulations.</p> <p>The Funding Strategy is consulted on by employers and approved by the Fund's Pensions Panel.</p> <p>The <a href="#">Funding Strategy Statement</a> is published on the Funds web pages.</p>
<p><b>R61</b> Communication policy must set out the policy on provision of information and publicity to, and communicating with, members, representatives of members, prospective member and Scheme employers; the format, frequency and method of communications; and the promotion of the Scheme to prospective members and their employers.</p>	<p>The Communication policy is prepared, maintained and published in accordance with the Regulations and circulated to employers.</p> <p>The <a href="#">Communications Policy</a> is published on the Funds web pages.</p>
<p><b>R59(1) &amp; (2)</b> Whether to have a written pensions administration strategy and, if so, the matters it should include</p>	<p>A Pension's <a href="#">administration strategy</a> has been prepared, maintained and published in accordance with the Regulations.</p>

Regulation No- Description of discretion	WSCC practice/discretion
<p><b>R76(4) and A60(8) &amp; L99</b> Decide procedure to be followed by Administering Authority when exercising its stage two Internal Dispute Resolution Procedure (IDRP) functions and decide the manner in which those functions are to be exercised.</p>	<p>Any stage two IDRP applications will be referred to the nominated person, Head of Law &amp; Assurance, to provide a report on the appropriateness of the stage one decision. This report will be considered by the administering authority when making a determination under stage two.</p> <p>A copy of the <a href="#">IDRP</a> and application form is published on the Funds web pages.</p>
<p><b>TP3(13), A70(1), A71(4)(c) &amp; T12 &amp; L109, L110(4)(b)</b> Decide policy on abatement of pensions following re-employment.</p>	<p>The Administering Authority will not abate pension (reduce or suspend) for any re-employment starting after 4<sup>th</sup> March 2019. Pensions already abated at this date will continue to be abated until the re-employment ends.</p>
<p><b>R80(1)(b) &amp; TP 22(1) &amp; A64(1)(b)</b> Specify information to be supplied by employers to enable the Administering Authority to discharge its functions.</p>	<p>The Administering Authority will specify the standard information and actions required by employers, their format, frequency and level of accuracy in our Employer's Guide and Administration Strategy.</p>
<p><b>R89(5) &amp; 106A(5)</b> Date to which benefits shown on annual benefit statement are calculated.</p>	<p>Benefits in the Annual Benefit Statement will be as at 31 March each year.</p>
<p><b>RPS 2</b> To decide whether it is legally able to offer Voluntary Scheme Pays and, if so, to decide the circumstances (if any) upon which it would do so.</p>	<p>The Director of Finance and Support Services will consider a request for Voluntary Scheme Pays where <b>each</b> of the conditions below are met:</p> <ul style="list-style-type: none"> <li>• the member is subject to the tapered annual allowance</li> <li>• the member exceeds the standard annual allowance</li> <li>• a member is not able to utilise Mandatory Scheme pays</li> <li>• their AA calculation relates solely to the West Sussex LGPS</li> <li>• where the AA charge is above £2,000</li> <li>• the Fund is notified by the end of November following the tax year.</li> </ul> <p><u>OR</u></p> <ul style="list-style-type: none"> <li>• In exceptional circumstances where the member was not provided with the necessary information and has missed the Mandatory Scheme Pays deadline due to administrative difficulties caused by the Administering Authority, <u>and</u></li> <li>• following identification of the administrative error and the Fund notifying the member of the availability of Voluntary Scheme Pays, the member notifies the Fund within a reasonable time of their request to use Voluntary Scheme Pays.</li> </ul>
<p><b>R98(1)(b)</b> Agreement to bulk transfer payments.</p>	<p>Bulk transfer terms will be negotiated and agreed on a case by case basis in consultation with the Fund Actuary and the Scheme employer.</p>
<p><b>R22(3)(c)</b> Pension account may be kept in such form as is considered appropriate.</p>	<p>Hampshire Pension Services, on behalf of the Administering Authority maintain pension accounts on their UPM administration system.</p>

<b>Regulation No- Description of discretion</b>	<b>WSCC practice/discretion</b>
	<p>The Administering Authority in partnership with Hampshire Pension Services will decide the form in which pension accounts are kept based on any published guidance, best practice and in an efficient manner.</p> <p>Appropriate measures are in place to ensure the administration system meets the requirements of the regulations.</p>
<p><b>31(2)</b> Agree to pay annual compensation on behalf of employer and recharge payments to employer.</p>	<p>The Administering Authority will pay annual compensation and recharge the payments on a monthly basis.</p> <p>Appropriate quarterly reconciliation measures are in place to ensure that the recharge takes place.</p>
<p><b>R100(7)</b> Allow the transfer of pension rights into the Fund.</p> <p><b>R100(68)</b> Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS.</p>	<p>The Pension Fund will usually allow transfers from Club and Non-Club Schemes<sup>2</sup> provided that the application is made within 12 months of joining the Scheme.</p> <p>The 12 month time limit may be extended in agreement with the Principal Pension Consultant (Administration &amp; Employers) and the employer if it is clear that you were unable to meet the normal time period due to circumstances beyond your control.</p>
<p><b>TP10(9)</b> Decide, in the absence of an election from the member within 12 months of ceasing a concurrent employment, which ongoing employment benefits from the concurrent employment which has ceased should be aggregated (where there is more than one ongoing employment).</p>	<p>The Administering Authority will aggregate with the earliest remaining employment.</p>
<b>Regulation No- Description of discretion</b>	<b>WSCC practice/discretion</b>
<p><b>R16(10)</b> Whether to require a satisfactory medical before agreeing to an application to pay an Additional Pension Contribution (APC) or Share Cost Additional Pension Contribution (SCAPC).</p> <p>Whether to turn down an application to pay an APC/SCAPC if not satisfied that the member is in reasonably good health.</p>	<p>A satisfactory medical report by a registered medical practitioner is required.</p> <p>The report should detail whether in their opinion the member is in reasonably good health to undertake APC/SCAPC's. If this is not satisfied, then the application to pay an APC/SCAPC will be turned down.</p> <p>All costs incurred to establish that a member is in reasonably good health to undertake APC/SCAPC's are at the member's expense.</p> <p>Members are advised of this requirement on the Fund's website.</p>
<p><b>R16(1)</b> Whether to turn down a request to pay an APC/SCAPC over a period of time where it would be impractical to allow such a request (e.g. where</p>	<p>The Administering Authority has not set a minimum payment threshold.</p>

<sup>2</sup> Transfer Club is a network of public sector pension schemes generally providing membership credits of equivalent lengths when a member transfers between them. Personal pension plans not provided by companies in the Transfer Club are rarely of an equivalent length and can vary greatly from scheme to scheme.

<b>Regulation No- Description of discretion</b>	<b>WSCC practice/discretion</b>
the sum being paid is very small and could be paid as a single payment).	
<b>TP15(1)(d) &amp; A25(3)</b> Whether to charge member for the provision of an estimate of additional pension that would be provided by the Scheme in return for the transfer of in house Additional Voluntary Contribution / Shared Cost Additional Voluntary Contribution (AVC/SCAVC) funds (where AVC/SCAVC arrangement was entered into before 1/4/14).	The Administering Authority charges for estimates in accordance with its Pension Administrators estimates policy available from the <a href="#">Employer forms web page</a> .
<b>TP15(1)(c) &amp; T schedule 1 &amp; L83(5)</b> Extend time period for capitalisation of added years contract.	The Administering Authority will not extend the time limit for applications to pay off added years contracts.
<b>A45(3) &amp; L89(3)</b> Outstanding employee contributions can be recovered as a simple debt or by deduction from benefits.	Outstanding employee contributions will be recovered by deduction from benefits as agreed by the Principal Pension Consultant (Administration & Employers).
<b>R32(7)</b> Whether to extend the time limits within which a member must give notice of the wish to draw benefits before normal pension age or upon flexible retirement.	This is considered on a case by case basis, as agreed with the Principal Pension Consultant (Administration & Employers).
<b>R49(1)(c) &amp; B42(1)(c)</b> Decide, in the absence of an election from the member, which benefit is to be paid where the member would be entitled to a benefit under 2 or more regulations in respect of the same period of Scheme membership.	Considered on a case by case basis, with generally the most advantageous option taken as this would be chosen by the member.

<b>Regulation No- Description of discretion</b>	<b>WSCC practice/discretion</b>
<b>R34(1) &amp; B39 &amp; T14(3) &amp; L49 &amp; L156</b> Decide whether to commute small pension.	The Administering Authority would look to commute a small pension, as calculated under the regulations and within HMRC limits.
<b>L50 &amp; L157</b> Commute benefits due to exceptional ill-health (councillor members, pre 1.4.08 leavers and 1.4.08 Pension Credit members).	The Administering Authority would provide the member with the option to commute where appropriate.
<b>TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) &amp; B10(2) &amp; E8</b> Where member to whom <b>B10</b> applies (use of average of 3 years pay for final pay purposes) dies before making an election, whether	The most advantageous figure is applied as this would be chosen by deceased member.



<b>Regulation No- Description of discretion</b>	<b>WSCC practice/discretion</b>
to make that election on behalf of the deceased member.	
<b>L22(7)</b> Select appropriate final pay period for deceased non-councillor member (leavers post 31.3.98/pre 1.4.08)	The most advantageous figure would be used as this would be chosen by deceased member.
<b>TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) &amp; T Schedule 1 &amp; L23(9)</b> Make an election on behalf of a deceased member with a certificate of protection of pension benefits (i.e. determine the best pay figure to use in the benefit calculations (pay cuts/restrictions occurring pre 1 April 2008)).	Considered on a case by case basis, with generally the most advantageous option taken as this would be chosen by the member.
<b>TP17(5) to (8), R40(2), R43(2), R46(2) &amp; B23(2), B32(2), B35(2) &amp; T Schedule 1 &amp; L155(4)</b> Decide to whom a death grant is paid.	Where it is clear, having taken account of all the circumstances, payment is taken in accordance with the member's expression of wish. If no wish has been made, then payment is made to the legal spouse, cohabiting partner or civil partner following receipt of Grant of Probate or Form of Indemnity.  Where there is any doubt this is delegated to the Principal Pension Consultant (Administration & Employers).
<b>R82(2) &amp; A52(2) &amp; L95</b> Whether to pay death grant due to personal representatives or anyone appearing to be beneficially entitled to the estate without need for grant of probate / letters of administration where payment is less than amount specified in s6 of the Administration of Estates (Small Payments) Act 1965.	The Administering Authority will pay death grants that are under the amount specified in the Administration of Estates (Small Payments) Act 1965 without the need for grant of probate/ letters of administration.

<b>Regulation No- Description of discretion</b>	<b>WSCC practice/discretion</b>
<b>R17(12)</b> Decide to whom any AVC/SCAVC monies (including life assurance monies) are to be paid on death of the member.	Where it is clear, having taken account of all the circumstances, payment is made in accordance with the member's expression of wish. If no wish has been made, then payment is made to the legal spouse, cohabiting partner or civil partner.  Where there is any doubt this is delegated to the Principal Pension Consultant (Administration & Employers) or Probate obtained.
<b>R83 &amp; A52A</b> Whether, where a scheme pensioner (including an eligible child) is incapable of managing their affairs, to pay the whole or part of that	The Fund will pay benefits to the person having care of the scheme pensioner or eligible child, or such other person as they may determine where the scheme pensioner or eligible child is incapable of managing his or her affairs as agreed by the Principal Pension Consultant (Administration & Employers).

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person's pension benefits to another person for their benefit.	
<b>B27(5) &amp; L47(2) &amp; G11(2)</b> Whether to pay the whole or part of a child's pension to another person for the benefit of that child.	The Fund will pay benefits to the child's legal guardian or such other person as they may determine where the child is under the age of 18 or where it can clearly be identified that it would be in the child's best interests when they are over the age of 18, as agreed by the Principal Pension Consultant (Administration & Employers).
L47(1) & G11(1) Apportionment of Children's pension amongst eligible children (children of pre 1.4.98 retirees/pre 1.4.98 deferreds).	Eligible children's pensions will be paid on an equal share basis.
<b>R</b> Schedule 1 & <b>TP17(9)</b> Decide to treat child as being in continuous education or vocational training despite a break.	The Fund will treat the child being in continuous education or training despite a break.
<b>R</b> Schedule 1 & <b>TP17(9)(b) &amp; B25</b> Decide evidence required to determine the financial dependence of a cohabiting partner on scheme member or financial interdependence of a cohabiting partner and scheme member.	Considered on a case by case basis, taking consideration of LGPS Regulation requirements and advice from the Council's Legal Services team.
<b>F7(1)</b> Suspension of spouses' pensions during re-marriage or cohabitation.	Spouse's pensions are not ceased on re-marriage or cohabitation but are payable for life. This was introduced to equalise benefits for those members leaving active service after 31 March 1998.
<b>L147</b> How to discharge Pension Credit liability.	The Administering Authority will discharge its liability by granting pension credit rights on the person entitled to the pension credit.