



**SOMPTING**  
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**PARISH COUNCIL**

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# **SOMPTING PARISH COUNCIL**

## **PENSION DISCRETION POLICY**

### **2023**

Agreed by Sompting Parish Council  
10<sup>th</sup> May 2023

## **LGPS 2014 - EMPLOYER DISCRETION POLICY**

### **OVERVIEW**

The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014. The provisions of the new LGPS, together with protections for members benefits accrued before 1 April 2014, are now contained in the Local Government Pension Scheme Regulations 2013 (the 'LGPS Regulations 2013') and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (the 'LGPS Transitional Regulations 2014').

Therefore, this statement now relates to the application of discretions under:

- (a) the LGPS Regulations 2013;
- (b) the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 ('LGPS Transitional Regulations 2014'); and
- (c) the Local Government Pension Scheme Regulations 1997 ('LGPS Regulations 1997') and the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 ('LGPS Benefits Regulations 2007'), which continue to have effect in so far as is necessary under Regulation 3 (Membership before 1 April 2014) of the LGPS Transitional Regulations 2014.

This statement is issued by West Sussex Pension Fund (the 'Fund') to assist Scheme Employers under the Fund.

Furthermore, this statement has been prepared on the Fund's understanding of the above regulations; therefore whilst it represents the views of the Fund it should not be treated as a complete and authoritative statement of the law. Employers may wish, or will need, to take their own legal advice on the interpretation of any particular regulations. No responsibility whatsoever will be assumed by the Fund for any liability, financial or otherwise, incurred by employers relying on this statement. The Fund does not accept any responsibility for reliance on the information contained, or referred to, in this statement.

## **INTRODUCTION**

Under Regulation 60 (statements of policy about exercise of discretionary functions) of the LGPS Regulations 2013 and paragraph 2(2) of Schedule 2 of the LGPS Transitional Regulations 2014, employers are required to make and publish policy statements on how they will exercise five specific discretions.

In addition, there are two further discretions relevant to employers, which relate to members who left before 1 April 2014. These are under Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008 (in respect of leavers between 1 April 2008 and 31 March 2014) and under Regulation 106 of the LGPS Regulation 1997 (in respect of leavers between 1 April 1998 and 31 March 2008).

Any policy statements made must not limit, or 'fetter' how an employer uses any of the discretions afforded by the scheme.

The use of any discretion is likely to lead to immediate and potentially continuing increased pension costs for Sompting Parish Council, which could be considerable.

Sompting Parish Council is required to keep its statement under review and make such revisions as are appropriate following a change in its policy. Following any changes in its policy Sompting Parish Council must publish the revised policy and send a copy to the Fund within one month of the date the policy is revised.

In formulating and revising the policy statements outlined below, Sompting Parish Council must have regard to the extent to which the exercise of its discretionary powers could lead to a serious loss of confidence in the public service.

The discretions listed below are those that require a written policy however, employers have further discretions under the regulations that they may wish to formulate a written policy on.

## **FUTHER GUIDANCE FROM THE LOCAL GOVERNMENT PENSION SCHEME SECRETARIAT**

When formulating any policies Scheme Employers should also take into account information provided by the LGPS Secretariat which can be found here:

<http://www.lgpsregs.org/images/AdministrationGuides/DiscretionsPoliciesv1.2clean>  
More detailed guidance specifically on all the discretions can be found here on the LGPS website at:  
<http://www.lgpsregs.org/images/AdministrationGuides/Discretionsv1.2clean>

## **SCHEME EMPLOYER DISCRETIONS**

### **Specific discretions under the LGPS Regulations 2013 and the LGPS Transitional Regulations 2014**

Details of the **five discretions** available are as follows:

#### **1. Shared cost Additional Pension Contributions – Regulation 16 (2)(e) and 16 (4)(d)**

Note: the specific provisions of Regulation 16 allow an active member who is paying into the main scheme to enter into an arrangement to pay additional contributions, either by regular contributions (Regulation 16(2)(e)) or by a lump sum payment (Regulation 16(4)(d)). The employer can pay into a shared cost Additional Voluntary Contribution arrangement on behalf of an individual to receive contributions by both employee and employer.

Sompting Parish Council does not consider contribution towards additional pension contributions to be an essential part of its employment strategy. The Parish Council will not exercise this option.

#### **2. Awarding Additional Pension - Regulation 31**

Note: Regulation 31 allows employers to grant additional pension up to the maximum allowed by the scheme rules provided that the member is active or is within 6 months of leaving for reasons of redundancy or business efficiency or whose employment was terminated by mutual consent on grounds of business efficiency.

Employers may wish to use this Regulation as an aid to recruitment, an aid to retention or to compensate or reward an employee who is retiring.

Employers should also consider provisions of this Regulation, in particular Regulation 31(4), if they decide to exercise their power under Section 1 (general power of competence) of the Localism Act 2011.

Sompting Parish Council does not consider contribution towards additional pension contributions to be an essential part of its employment strategy. The Parish Council will not exercise this option.

#### **3. Flexible Retirement - Regulation 30(6)**

Note: this provision in the Regulations allows Sompting Parish Council to consent for a member who has attained the age of 55 to draw all or part of their retirement benefits (both pension and lump sum) whilst continuing in employment and Fund membership provided that:

- there has been a reduction in hours, or
- a reduction in grade.

Employers can choose to waive any reductions that apply under Regulation 30(8).

Sompting Parish Council does not consider contribution towards additional pension contributions to be an essential part of its employment strategy. The Parish Council will not exercise this option.

#### **4. Switching on the 85 year rule [paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]**

Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.

Active members are now able to voluntarily retire between ages 55 and 60. If they were a member of the LGPS on 30 September 2006 then some of their benefits could be protected from reductions applied to early payment under the 85 year rule. This rule only applies automatically to members voluntarily retiring from age 60 but the employer has the discretion to “switch it on” for voluntary retirements between age 55 and 60.

This discretion does not apply to flexible retirement (see Regulation 30(6)) whereby the 85 year rule is always switched on.

Where the employer does not choose to “switch on” the rule, then benefits built up would be subject to reduction in accordance with actuarial guidance issued by the Secretary of State regardless of whether a member meets the rule or not.

If the employer does agree to “switch on” the 85 year rule, the employer will have to meet the cost of any strain on fund resulting from the payment of benefits before age 60 i.e. where the member has already met the 85 year rule or will meet it before age 60.

Sompting Parish Council does not consider contribution towards additional pension contributions to be an essential part of its employment strategy. The Parish Council will not exercise this option.

#### **5. Waiving actuarial reductions - Regulation 30(8)**

Note: Sompting Parish Council may waive the actuarial reductions applied to a member’s benefits, unless 85 year rule protections exist, employers can waive:

- all of the reductions in respect of pre 1 April 2014 benefits but only on compassionate grounds (paragraph 2 of Schedule 2 of the LGPS Transitional Regulations 2014);
- all or some of the actuarial reduction in respect of post 1 April 2014 on any grounds.

Where 85 year rule protections exist and the member has full or tapered protection Sompting Parish Council can waive all of the reductions but only on compassionate grounds for the service up to the date the 85 year rule protection ends (31 March 2016 (full) or 31 March 2020 (tapered)).

Sompting Parish Council does not consider contribution towards additional pension contributions to be an essential part of its employment strategy. The Parish Council will not exercise this option.

Agreed by Sompting Parish Council on 10th May 2023