

**By:** Roger Gough – Cabinet Member for Business Strategy,  
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**To:** Personnel Committee **Date:** 25 January 2012

**Subject:** Local Government Pension Scheme (LGPS) Discretions

**Classification:** Unrestricted

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**Summary:** The Local Government Pension Scheme (LGPS) Regulations require KCC to review the employer discretions in the scheme on a regular basis and to make changes when appropriate.

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## 1. INTRODUCTION

Under the requirements of the Pension Scheme each employer is required to publish its Employer Pension Discretions. These were last updated and agreed for the organisation in 2007. Since then there are 3 new Regulations that require employer discretion. The following will highlight the 3 new Regulations and proposed discretions along with a revised Schedule.

## 2. NEW DISCRETIONS

<b>Regulation</b>	<b>Policy</b>
<b>13(5)(b)</b>  <b>Scheduled bodies only</b>	<b>Short term contract</b>  Employees with employment contracts of 13 weeks or less are not allowed to automatically join the pension scheme. The discretion allow an individual to become a member of the scheme should their contract be extended and to pay contributions from the first day of joining.  <b>Proposed discretion</b>  A scheme member who was initially employed on a short term contract of less than 3 months and whose contract is then extended can elect to back date their date of joining provided that their election is made within 3 months of being notified of the extension. This time limit may be extended if the scheme member can demonstrate exceptional circumstances so as to justify this.
<b>30A (3)</b>	<b>Early Payment</b>  Where a Tier 3 ill health benefit ceases to be paid it would not

	<p>normally be paid again until the scheme member's normal retirement age.</p> <p>This regulation allows an employer to agree to the early payment of the deferred benefits (previously Tier 3 ill health benefits) for a scheme member aged 55+.</p> <p>It is possible that the benefits would be actuarially reduced. In this situation it is unlikely that there would be a cost to the employer.</p> <p>If however it is not possible to actuarially reduce the benefits eg 85 year rule protection, there may be a cost to the employer.</p> <p><b>Proposed position</b></p> <p>It is not KCC's general policy to give consent to the early payment of benefits prior to age 60 to a deferred scheme member that had previously been awarded a Tier 3 ill health. However, each request will be considered on its merits.</p>
<p><b>30A(5)</b></p>	<p><b>Compassionate Grounds</b></p> <p>Where early payment of the deferred benefits has been agreed under Regulation 30A(3), <b>and</b> compassionate grounds apply, the employer can make a policy decision under this regulation to waive any actuarial reduction.</p> <p>The definition of 'Compassionate grounds' currently in the Blue Book is that the circumstances must be exceptional and would not reasonably be expected to prevail i.e. the occurrence of a disaster or accident etc. Financial hardship alone would not normally be deemed sufficient.</p> <p><b>Proposed position</b></p> <p>If it is determined that *compassionate grounds apply for the early payment of a deferred benefit to a scheme member that had previously been awarded a Tier 3 ill health, the benefits may be paid without reduction.</p> <p><i>* The definition of compassionate grounds is determined by each employer. The cost of the early payment of unreduced benefits will be charged to the employer</i></p>

## **2. IMPLICATIONS**

### **2.1 Regulation 13(5)(b)**

Although this is the first time Regulation 13(5)(b) has been written into these discretions KCC has been implementing the regulation for many years.

Regulation 13(5)(b) is not likely to have a significant impact and is in effect what KCC has been implementing for a number of years. Analysis indicates that there were no cases of this applying in the last financial year.

The costs to KCC will only apply should that individual decides to pay employee contributions for the earlier employment period to gain more pensionable service.

## **2.2 Regulation 30 A(3)**

It should be noted that no significant increase in expenditure is anticipated for Regulations 30A(3). Individuals who re-apply after the completion of the three year Tier 3 benefit payments, i.e. their condition has deteriorated will be referred to Staff Care Services and it is only the cost of the referral which will be paid by the organisation.

## **2.2 Regulation 30 A(5)**

It should be noted that no significant increase in expenditure is anticipated for Regulations 30A(5). This is due to the definition used for compassionate grounds.

## **3 RECOMMENDATION**

3.1 Personnel Committee endorse the wording of the updated Schedule for Employer Policy Discretions.

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## Schedule of Kent County Council Employer Policy Decisions

### The Local Government Pension Scheme (Administration) Regulations 2007

Regulation	Policy
13(5)(b) <b>Scheduled bodies only</b>	A scheme member who was initially employed on a short term contract of less than 3 months and whose contract is then extended can elect to back date their date of joining provided that their election is made within 3 months of being notified of the extension. This time limit may be extended if the scheme member can demonstrate exceptional circumstances so as to justify this.
16(4)(b)(ii)	If a scheme member wishes to aggregate the most recent of their periods of previous scheme membership with their current membership, the election to do so must be made within 12 months of the Pension Section being notified that they have become an active member of the Kent Scheme. This time limit may be extended if the scheme member can demonstrate exceptional circumstances so as to justify this.
22(2)	Scheme members who have the option to pay contributions in respect of a period of unpaid absence must elect to do so within 30 days of the date of the notice issued to them. This time limit may be extended if the scheme member can demonstrate exceptional circumstances so as to justify this.
25(3)	It is not KCC's policy to operate a shared cost AVC scheme for employees.
83(8)	If a scheme member wishes to transfer any pension benefits they have built up in other schemes to the Local Government Pension Scheme, the election to do so must be made within 12 months of the Pension Section being notified that they have become an active member of the Kent Scheme. This time limit may be extended if the scheme member can demonstrate exceptional circumstances so as to justify this.

### The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007

12	It is not KCC's general policy to grant additional pension scheme membership to scheme members under this regulation. However each case will be considered on its merits and so on occasion additional membership may be awarded.
13	It is not KCC's general policy to grant additional pension to scheme members under this regulation. However each case will be considered on its merits and so on occasion additional pension may be awarded.

- 18(1) Each request to take flexible retirement will be considered on its merits. The effect on service delivery will be taken into account when making a decision.
- 18(3) If consent has been given under Regulation 18(1), it is not KCC's general policy to waive, in whole or part, any actuarial reduction to the scheme member's benefits.
- 30(2) It is not KCC's policy to give consent to the immediate payment of benefits to a scheme member who voluntarily retires prior to age 60 unless there is a demonstrable benefit to the organisation which would take full account of any extra costs.
- It is not KCC's general policy to give consent to the early payment of benefits to a deferred scheme member prior to age 60. However each request will be considered on its merits.
- 30(5) If it is determined that \*compassionate grounds apply for the early payment of benefits, the benefits may be paid without reduction.
- \* The definition of compassionate grounds is determined by each employer. The cost of the early payment of unreduced benefits will be charged to the employer*
- 30A (3) It is not KCC's general policy to give consent to the early payment of benefits prior to age 60 to a deferred scheme member that had previously been awarded a Tier 3 ill health. However each request will be considered on its merits.
- 30A(5) If it is determined that \*compassionate grounds apply for the early payment of a deferred benefit to a scheme member that had previously been awarded a Tier 3 ill health, the benefits may be paid without reduction.
- \* The definition of compassionate grounds is determined by each employer. The cost of the early payment of unreduced benefits will be charged to the employer*

**Under Regulation 66(1) of the Local Government Pension Scheme (Administration) Regulations 2007, it is compulsory for all employers to make a policy decision under Regulations 12, 13, 18, and 30.**

**Under Regulation 66(2) a copy of the policies must be made available to the Pensions Section and be publishable to their scheme members on request.**

**Under Regulation 66(3) employers must keep the policies under review and make any appropriate changes.**

**Under Regulation 66(4) any amendments to these policies must be made available to the Pensions Section and to scheme members within a month of the date of change.**

**The Local Government (Early Termination of Employment)  
(Discretionary Compensation) (England and Wales) Regulations 2006**

<b>Regulation</b>	<b>Policy</b>
5	Where a redundancy payment is due under the 1996 Act, it is KCC's general policy that calculation be made using the actual weekly rate of pay rather than the statutory maximum in place at the time.
6	It is not KCC's general policy to award lump sum compensation under this regulation

**Under Regulation 7(1) of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, it is compulsory for all scheduled bodies to formulate, publish and keep under review the policy that they apply in the exercise of their discretionary powers under regulations 5 and 6 (this does not apply if you have an Admission Agreement with the Kent Pension Fund)**

**Under regulation 7(2), if the scheduled body decides to change their policy, they must publish a statement of the amended policy and may not give effect to any policy change until one month after the date of publication.**