

CAMBRIDGESHIRE PENSION FUND



Pension Committee

Date: 13 December 2018

Report by: Head of Pensions

Subject:	Administering Authority Discretions Policy
Purpose of the Report	To present the Pension Committee with an updated Administering Authority Discretions Policy for approval
Recommendations	The Committee are asked to consider and approve the updated Administering Authority Discretions Policy
Enquiries to:	Name – Jo Walton, Governance and Regulations Manager E-mail – jwalton@northamptonshire.gov.uk

1. Background

- 1.1 There are a number of areas within Local Government Pension Scheme (LGPS) legislation that provide either the administering authority (i.e. Cambridgeshire County Council as guardian of the Fund) or individual employers participating in the Fund with flexibility over how the particular provision is exercised. In some cases there is a specific requirement for a policy decision in relation to such provisions to be published.
- 1.2 This report presents a comprehensive “Administering Authority Discretions Policy” for consideration by the Pension Fund Committee. The proposed policy is only dealing with the discretions required to be exercised by Cambridgeshire County Council in its role as an administering authority. These policy decisions will apply to all employers and scheme members in the Cambridgeshire Pension Fund and not just Cambridgeshire County Council.
- 1.3 On the whole, administering authority discretions have little risk attached to them and relate to day to day operational matters.
- 1.4 In October 2012 the Cambridgeshire Pension Fund Board (as it was then) agreed a set of proposed policies in relation to the exercise of the discretions that may be exercised by the administering authority. This was the first time that the Fund had such a comprehensive set of policies in place in relation to the exercise of their discretions.
- 1.5 Those policies were reviewed and updated in June 2014 following the introduction of the ‘new look’ LGPS on 1 April 2014.
- 1.6 Having a set of formally approved policies in this way fosters good governance and assists LGSS Pensions to administer the Fund with consistency.

2. Draft Policy

- 2.1 The introduction of The Local Government Pension Scheme (Amendment) Regulations 2018 (S.I. 2018 No. 493), which came into force on 14 May 2018, brought a handful of changes in relation to discretions and it is therefore an opportune time to review and update the existing discretions and the Regulation references so that they remain meaningful and appropriate. Appendix 1 provides a comprehensive list of all administering authority discretions that the Fund may now exercise, together with the relevant regulation references and the proposed policy.
- 2.2 The majority of the proposed policies reflect those already in place. As already mentioned, however, there are some changes and additions to implement and in order to draw attention to these, they have had a grey shading added so they stand out from the ones that it is recommended stay the same as when last agreed in June 2014. Brief details of the shaded, new or changed, discretions are set out below.

2.3 Scheme Management

- 2.3.1 **Delegations:** This reflects an existing discretion that was in operation whereby the administering authority had delegated certain functions and these were documented in the Council's Constitution but were not reflected in the Administering Authority Discretions Policy document.
- 2.3.2 **Local Pension Board:** There are entries documenting the position on three discretions relating to local pension boards:
- It is possible to establish a joint pension board in certain circumstances. The entry simply records that this option has not been taken up.
 - Procedures applicable to the local pension board were required and these have been decided and are documented elsewhere.
 - Specific appointment and removal procedures were required along with terms of appointment and membership of the local pension board. These have been decided and are documented elsewhere.
- 2.4 **Disputes:** There are updates to the five discretions concerning the Scheme's Internal Dispute Resolution Procedure (IDRP); those that relate purely to Regulation reference updates and retitling of the Guides to the IDRP have not been highlighted.
- The first shaded update simply records the long standing position that the Head of Pensions is the Stage 1 adjudicator for disputes arising from administering authority decisions.
 - The second reflects a change in that Cambridgeshire County Council's Monitoring Officer is now making decisions on behalf of the administering authority when at Stage 2 of the formal IDRP they are called upon to reconsider a decision that has been disputed, which was initially made by either the administering authority or a Cambridgeshire Pension Fund Scheme employer. This was formerly undertaken by the LGSS Director of Law & Governance Northamptonshire and Cambridgeshire.

2.5 Admission Agreements and Employer Management:

- 2.5.1 There are some minor Regulation referencing changes which are not highlighted. Those discretions that are highlighted relate to:
- A clarifying note relating to the purpose of the discretion, in that it requires a definition of what “in connection with” means in the context detailed.
 - New discretions that:
 - permit the backdating of an admission agreement; this was introduced primarily to address issues nationwide whereby admission agreements were, for a variety of reasons, not always being executed in time for transfers of staff (introduced 14 May 2018; effective date 1 April 2014).
 - Permit suspension for up to 3 years of an obligation for what would otherwise be an exiting employer to pay an exit payment to the Fund if they are likely to again have active members within an agreed suspension period (introduced 11 April 2015; effective date 1 April 2014).
 - Permit an extension to the period of 3 months within which the Fund must pay an exit credit to an exiting employer, subject to the agreement of the exiting employer (introduced and effective from 14 May 2018).

The proposed policy on each of these is that the decision be taken by the Head of Pensions taking into consideration the advice of the Fund Actuary and, with the final one above, the exiting employer agreeing.

2.6 Payments relating to Death:

- 2.6.1 From 14 May 2018 the administering authority’s absolute discretion over who to make lump sum payments due on the death of a member to (within the scope of permissible recipients set out in the Regulations) now extends to lump sums from Additional Voluntary Contribution (AVC) funds and Shared Cost AVC funds which previously would have had to be paid to the deceased’s Personal Representatives.

In updating the nature of the discretion, the opportunity has been taken to propose a rewording of how the discretion will be exercised; the intention of the wording is to make it clear that appropriate details will be sought before making a decision and all circumstances will be considered when coming to a decision. Taking this approach demonstrates that discretion is being exercised appropriately taking account of circumstances; this is important in guarding against challenges to the way the discretion has been exercised.

2.7 Discretions relating to employers which are no longer Scheme employers:

- 2.7.1 These have been highlighted purely because the ‘turning on the 85 year rule’ and ‘waiving reductions’ discretion provisions apply in slightly different circumstances now that those that left active membership before 1 April 2014 with deferred benefits have, following the Amendments from 14 May 2018, the ability to draw benefits once they have attained age 55 and before age 60 without requiring the consent of their former employer.

The exercise of such discretions is usually determined by the former Scheme employer, however where the member’s former employer is no longer a Scheme employer in the Fund it falls to the administering authority to determine.

There is no change proposed to the way that the discretion will be exercised.

2.8 Discretion under the Registered Pension Schemes (Modification of Scheme Rules) Regulations 2011:

- 2.8.1 This policy relating to the circumstances when a member's application to have Voluntary Scheme Pays apply in relation to an Annual Allowance Charge they have incurred as a result of membership of the LGPS in the Cambridgeshire Pension Fund was approved by the Committee at the 19 October 2017 meeting but had not previously been added to the published Administering Authority Discretions Policy document.

3. Relevant Pension Fund Objectives –

Have robust governance arrangements in place, to facilitate informed decision making, supported by appropriate advice, policies and strategies, whilst ensuring compliance with appropriate legislation and statutory guidance. <i>Objective 1</i>
Manage the Fund in a fair and equitable manner, having regard to what is in the best interest of the Fund's stakeholders, particularly the scheme members and employers. <i>Objective 2</i>

4. Finance and resource implications

- 4.1 There are no finance or resource implications associated with this proposal

5. Risk Management

- 5.1 There are a number of areas within Local Government Pension Scheme legislation that provide either the administering authority or individual employers participating in the Fund with flexibility over how some provisions are exercised. There is a requirement for there to be an Administering Authority Discretions Policy in place.
- 5.2 The risks associated with Pension Committee not giving full consideration to the Policy have been captured in the Fund's risk register as detailed below.

Risk register	Risk mitigated	Residual risk
Governance (risk 1)	Failure to administer the scheme in line with regulations and policies.	Amber
Governance (risk 2)	Those charged with governance of the Fund and Scheme are unable to fulfil their responsibilities effectively.	Amber
Governance (risk 4)	Policies and Strategies not being in place and up to date.	Green
Governance (risk 12)	Changes to the LGPS and lack of expertise in the new/revised area.	Green
Governance (risk 18)	Failure to provide adequate information to the Pension Committee/Pension Board.	Green

- 5.3 The full risk register can be found on the LGSS Pensions website at the following link: <http://pensions.northamptonshire.gov.uk/governance/key-documents/cambridgeshire/>

6. Communication Implications

Website	Discretions will need to be published to the website within 1 month of approval
Training	LGSS Pensions staff will need to be informed of the approved discretionary policies, and any changes to current policy highlighted.

7. Legal Implications

- 7.1 Consideration has been given to the requirements of the Local Government Pension Scheme Regulations in drafting the relevant policies.

8. Consultation with Key Advisers

- 8.1 The policy recommendations were reached as a result of discussions between Officers in LGSS Pensions and input from the Fund's benefits consultancy adviser, Aon.

9. Alternative Options Considered

- 9.1 This review incorporates all identified administering authority discretions, including historic regulations. In undertaking the review, consideration has been given to the efficacy of any existing policy, possible alternatives where they exist as well as best practice across other LGPS Funds. .

10. Background Papers

- 10.1 Not applicable

11. Appendices

- 11.1 Appendix 1 - Proposed Administering Authority Discretions Policy

Checklist of Key Approvals	
Is this decision included in the Business Plan?	No
Will further decisions be required? If so, please outline the timetable here	No
Is this report proposing an amendment to the budget and/or policy framework?	No
Has this report been cleared by Chief Finance Officer/Section 151 Officer?	Sarah Heywood – 29 November 2018
Has this report been cleared by Head of Pensions?	Mark Whitby – 26 November 2018
Has the Chairman of the Pension Fund Committee been consulted?	Councillor Rogers – 29 November 2018
Has this report been cleared by Legal Services?	Fiona McMillan – 26 November 2018