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Statement of Policy on Administering Authority LGPS Discretions

August 2020

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Statement of Policy on Administering Authority LGPS Discretions

Introduction

Derbyshire County Council, as the administering authority for the Derbyshire Pension Fund, has determined its discretionary policies in accordance with the Local Government Pension Scheme Regulations 2013, as amended, and related legislation.

The full Derbyshire Pension Fund's administering authority discretions policies are set out in this statement.

The policies will apply to all current members, including pension credit members, in the Fund.

Where relevant, the policies also apply to members who have left pensionable service, including councillor members.

The policies have been set in line with current LGPS and related legislation and were approved by the Derbyshire County Council Pensions and Investments Committee at its meeting on 8 May 2019 and were effective from that date unless stated otherwise within this statement.

The Committee retains the right to review and change the policies at any time and will ensure that any amended policy will be published within one month of changes coming into force.

The policies do not grant any contractual rights to any member of the Fund, and the discretions set will be applied in line with the provisions of existing LGPS Regulations and related legislation.

The policies will be reviewed as required in the light of future changes to the LGPS and/or other relevant legislation, or at least every three years.

Governance of the Fund - Key Strategies and Policies

Ref	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
1	2013 Reg 55	Publish a Governance Policy stating how functions are delegated and whether the Administering Authority complies with guidance given by the Secretary of State	A copy of the current Governance Policy & Compliance Statement can be found on the Fund's website.
2	2013 Reg 58	Decide on the Funding Strategy for inclusion in funding strategy statement.	Agreed in co-operation with the Fund's actuary and in consultation with employers. A copy of the current Funding Strategy can be found on the Fund's website.
3	2013 Reg 61	Develop a Communication Policy setting out how the Administering Authority communicates with members, representatives of members, prospective members and employing authorities and the format, frequency and method of communications.	A copy of the current Communications Policy Statement can be found on the Fund's website.
4	2013 Reg 59 (1) Reg 59 (2)	Decide whether to have a written Pensions Administration Strategy and, if so, the matters it should include.	A copy of the current Pension Administration Strategy can be found on the Fund's website.

Appeals and the Adjudication of Disagreements

Ref	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
5	2013 Reg 74(1) 2008 (Admin) Reg 58 1997 Reg 100	Appoint a person for dealing with applications under Stage One of the dispute resolution procedures (AADP) in relation to any disputes relating to the role as Administering Authority (includes in relation to councillor members).	Mary Fairman, Senior Solicitor has been appointed as the adjudicator for the Fund in respect of Stage One appeals against Administering Authority disputes.
6	2013 Reg 76(4) 2008 (Admin) Reg 60(8) 1997 Reg 99	Decide the procedure to be followed by the Administering Authority when exercising its Stage Two AADP functions (includes in relation to councillor members).	Stage 2 determinations are considered by the Pensions and Investment Committee following the provision of relevant advice and guidance from Pension Fund officers
7	2013 Reg 79(2) 2008 (Admin) Reg 63(2) 1997 Reg 105(1)	Whether the Administering Authority should appeal to the Secretary of State against an employer decision (or lack of a decision) – includes in relation to councillor members.	The Fund will appeal to the Secretary of State when there is sufficient evidence that an employer has made a decision or committed an act (or failed to act) that is both wrong in law and material, where we have been unable to persuade the employer to alter its actions (or inactions). Such matters will be decided by the Director of Finance and ICT.

Admission Agreements

Ref	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
8	2013 Sch 2 Part 3 Para 1	Whether to agree to an admission agreement with an external employer.	Agreement to admission as a scheme employer for an admission body is the delegated responsibility of the Director of Finance and ICT.
9	2013 Reg 4(2)(b)	Whether to agree to an admission agreement with a Care Trust, NHS Scheme employing authority or Care Quality Commission.	NHS staff who are subject to transfer retain right to participate in the NHS Pension Scheme via a Direction Order with the new employing authority, so it is unlikely the Administering Authority will need to exercise this discretion. Admission, if required, will be subject to agreement by the Director of Finance and ICT via the delegated responsibility.
10	2013 Sch 2 Part 3 Para 9(d)	Whether to terminate a transferee admission agreement in the event of: <ul style="list-style-type: none"> the insolvency, winding up or liquidation of the body a material breach by that body of its obligations under the admission agreement the 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 included in the admission agreement.
11	2013 Sch 2 Part 3 Para 12(a)	Employees of a contractor are only entitled to remain in the LGPS whilst they continue to be employed in connection with the original services that were transferred. This expression should be defined by the Administering Authority.	The fund defines 'Employed in connection with' as meaning "employed solely or mainly (i.e. at least 75% of their time) in the management or delivery of such services as are set out in the Contract. This is included in the Admission Agreement
12	2013 Reg 54(1)	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 would be subject to discussion between officers and the Fund actuary.

Employer Management

Ref	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
13	2013 Reg 64(4)	Whether to obtain a revision of the rates and adjustments certificate if there are circumstances that make it likely that a Scheme Employer will be ceasing.	The Director of Finance and ICT to determine whether 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, taking into consideration the advice of the Fund Actuary.
14	2013 Reg 65	Whether to obtain a new rates and adjustments certificate if the Secretary of State amends the Regulations as part of the "cost sharing" valuation.	To be determined by the Director of Finance and ICT taking into consideration the advice of the Fund Actuary.
15	2013 Reg 68(2) 2014 (Transitional Provisions) Sch 2 Para 2(3) 1997 Reg 80(5)	Whether to require any strain on Fund costs to be paid "up front" by an employer following: <ul style="list-style-type: none"> • redundancy / business efficiency, flexible retirement, • the waiver (in whole or in part) of any actuarial reduction on voluntary or flexible retirement, or where rule of 85 is switched on before age 60. 	The Fund's policy is to recharge the full strain costs as a single lump sum. Director of Finance and ICT to agree exceptions to the current practice.
16	2013 Reg 80(1)(b) 2014 (Transitional Provisions) Reg 22(1) 2008 (Admin) Reg 64(1)(b)	Specify information to be supplied by employers to enable the Administering Authority to discharge its functions.	Employers are required to provide information in accordance with the approved Pensions Administration Strategy which is available on the Fund's website
17	2013 Reg 69(1)	Decide frequency of payment of contributions to the Fund by employers and whether to make an administration charge.	The due date for employer's contributions is the 19 th of the month following the month to which they relate. Employer contribution rates include an element to cover fund expenses including administration costs. This is referenced in the Fund's Actuarial Valuation report.
18	2013 Reg 69(4)	Decide the format and frequency of information from employers to accompany payments of contributions to the Fund.	Employers (or their payroll provider) must provide monthly remittance advice (Form CR1) to the Fund along with their payment. Details are included in the Pension Administration Strategy which is available on the Fund's website.
19	2013 Reg 70 2014 (Transitional Provisions) Reg 22(2)	Whether to issue an employer with a notice to recover additional costs incurred as a result of the employer's level of performance.	The Pensions Administration Strategy sets out measures in specific areas for when underperforming employers will be issued with additional administration charges. The Fund reserves the right to issue charges for additional administration incurred as a result of an employer's level of

			performance in areas not included in the Strategy on a case by case basis.
20	2013 Reg 71(1)	Whether to charge interest on payments by employers which are overdue.	The Administering Authority does not currently charge interest on late payment but proactively pursues employers to remedy any arrears. However, the Fund reserves the right to include a charge in exceptional circumstances as agreed by the Director of Finance and ICT on a case by case basis.
21	2013 Reg 36(3) 2008 (Admin) Reg 56(2) 1997 Reg 97(10)	The Administering Authority is required to approve medical advisors used by employers (for the determination of ill health benefits) – including in relation to councillor members.	The Director of Finance and ICT will determine whether an employer's appointed Occupational Health Provider is appropriate for the provision of medical certificates regarding members' incapacity

Payments relating to deceased members

Ref	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
22	2013 Reg 82(2) 2008 (Admin) Reg 52(2) 1997 Reg 95	A death grant due to a scheme member's estate, can be paid to the personal representative(s), or anyone appearing to be, without the need for grant of probate / letters of administration if the death grant is less than the amount specified in any order under Section 6 of the Administration of the Estates (Small Payments) Act 1965 (£5,000 at the time of the making of this policy). This also relates to councillor members.	The Fund will normally pay the death grant without production of grant of probate / letters of administration where the sum due is less than £5,000, subject to review.
23	2013 Regs 17(12), 40(2), 43(2), 46(2) 2014 (Transitional Provisions) Reg 17(5) to (8) 2008 (Transitional Provisions) Sch 1 1997 Regs 38(1), 155(4) 1995 Reg E8 2007 (Benefits) Regs 23(2), 32(2), 35(2)	The Administering Authority may, at its absolute discretion, pay any death grant due (including AVCs, SCAVCs and life assurance relating to AVCs) to or for the benefit of the member's nominee, personal representatives or any person appearing to the authority to have been a relative or dependent of the member. This also relates to councillor members.	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, the decision to whom payment is made is delegated to the Director of Finance and ICT, or Probate is obtained.
24	2013 Sch 1 2014 (Transitional Provisions) Reg 17(9)(b) 2007 (Benefits) Reg 25	The Administering Authority must decide the evidence required to determine financial dependence of a co-habitee on a scheme member or financial interdependence between the co-habitee and the scheme member	The appropriate parties will be provided with the details of the evidence required to determine financial dependence or interdependence. Where required, the final decision will be made by the Director of Finance and ICT.
25	2014 (Transitional Provisions) Regs 3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b) 2007 (Benefits) Reg 10(2)	Where member dies before making an election in respect of the use of average of 3 years pay for final pay purposes, the Administering Authority can decide whether to make that election on behalf of the deceased member.	The most advantageous figure will be automatically applied by the Fund.

26	<p>2014 (Transitional Provisions) Regs 3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b)</p> <p>2008 (Transitional Provisions) Sch 1</p> <p>1997 Reg 23(9)</p>	<p>Whether to make an election on behalf of a deceased member who had a certificate of protection of pension benefits so their benefits may be calculated using the best pay figure.</p>	<p>The most advantageous figure will be automatically applied by the Fund.</p>
27	<p>1997 Reg 22(7)</p>	<p>Whether to select an alternative final pay period for deceased non-councillor member (applies to leavers between 31st March 1998 and 1st April 2008).</p>	<p>The most advantageous figure will be automatically applied by the Fund.</p>
28	<p>2013 Sch 1 "Eligible Child"</p> <p>2014 (Transitional Provisions) Reg 17(9)</p>	<p>Whether to treat a child as being in continuous education or vocational training, despite a break (including a child of a councillor member) so that the child's pension resumes after the break.</p>	<p>The Fund will normally accept short breaks including term holidays, and also gap years, as being interruptions in education or training and will restart a suspended child's pension at the end of such a break or gap, providing evidence is received that education/training has resumed.</p>
29	<p>1997 Reg 47(1)</p> <p>1995 Reg G11(1)</p>	<p>How to apportion children's pension amongst eligible children (children of councillor members and children of leavers between 31st March 1998 and 1st April 2008).</p>	<p>Where there is more than one eligible child, the Fund will normally divide a children's pension equally between the eligible children.</p>
30	<p>2007 (Benefits) Reg 27(5)</p> <p>1997 Reg 47(2)</p> <p>1995 Reg G11(2)</p>	<p>Whether to pay the whole or part of a child's pension to another person for the benefit of the child (includes children of councillor members). This applies to pre 1st April 2014 leavers only.</p>	<p>Where a child is under 17, we will normally pay his/her pension to the person who has the care of the child, to be applied for the benefit of that child.</p>
31	<p>1995 Reg F7</p>	<p>Whether or not to suspend of spouses' pensions during remarriage or cohabitation</p>	<p>The Fund will not suspend spouse's pensions due to remarriage or cohabitation and, therefore, they will be paid for life.</p>

Transferring or Linking of Pension Benefits

Ref	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
32	2013 Reg 98(1)(b)	Whether to agree to the payment of a bulk transfer.	Bulk transfer terms will be negotiated and agreed on a case by case basis in consultation with the Fund Actuary and the Scheme employer.
33	2013 Reg 100(6)	The Administering Authority (with the agreement of the employer) may extend the 12 month time limit for a scheme member to elect to transfer in benefits from a non-LGPS or personal pension plan.	The Fund will usually only allow transfers from *Public Sector Transfer Club Schemes, provided that the application is made within 12 months of joining the Scheme. The 12 month time limit may be extended by agreement with the Director of Finance and ICT and the employer.
34	2013 Reg 100(7)	Whether to allow transfers of pension rights into the Fund.	*The Public Sector Transfer Club is a network of public sector pension schemes generally providing membership credits of equivalent lengths when a member transfers between them.
35	2014 (Transitional Provisions) Reg 15(1)(d) 2008 (Admin) Reg 28(2)	Whether to charge a scheme member for the provision of an estimate of the additional pension that would be provided in the Fund in return for a transfer in of in house AVC/SCAVC funds (only applies where the arrangement was entered into before 1st April 2014).	Scheme members may request one estimate in any 12 month period that is provided free of charge. In the exceptional case that a further quote is requested by the same member in the same 12 month period, the Fund reserves the right to impose an administration charge on the scheme member.
36	2014 (Transitional Provisions) Reg 10(9)	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).	The most advantageous figure will be automatically applied by the Fund.
37	1997 Reg 118	Whether the Fund will retain the Contributions Equivalent Premium (CEP) where a scheme member transfers out to a Contracted-in pension scheme (for councillor members and pre 1.4.08. leavers).	The CEP amount will be retained by the Fund and used towards providing the balance of benefits due to the scheme member.

Miscellaneous Provisions

Ref	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
38	2013 Reg 89(5) 1997 Reg 106A(5)	The date to which benefits shown on member's Annual Benefit Statements are calculated.	All annual benefit statements will be calculated as at the 31st March preceding their distribution.
39	2014 (Transitional Provisions) Reg 3(13) 2008 (Admin) Reg 70(1), 71(4)(c) 2008 (Transitional Provisions) Reg 12 1997 Reg 109, 110(4)(b)	Abatement of pensions on re-employment (applies to pre 1 April 2014 retirees only including councillor members).	From 1 April 2014 Derbyshire Pension Fund has not abated pensions in payment based on earnings, following re-employment. Cases subject to abatement at that time are considered on a case by case basis.
40	2013 Reg 22(3)(c)	The member's pension account may be kept in such form as is considered appropriate.	Pension accounts are maintained on the Administering Authority's pension administration system. Appropriate measures are in place to ensure the administration system meets the requirements of the regulations.
41	2013 Reg 83 2008 (Admin) Reg 52A	An Administering Authority may determine how and to whom benefits may be paid if the recipient (other than an eligible child) is incapable of managing their affairs by reason of mental disorder or otherwise.	The Fund will pay benefits to the person having care of the pensioner, or such other person as they may determine where the pensioner is incapable of managing his or her affairs as agreed by the Director of Finance and ICT.
42	2013 Reg 16(1)	Whether to turn down a request to pay an APC/SCAPC by regular contributions over a period of time where it would be impractical to allow such a request, for example, due to the pension being bought resulting in very small payments	To be determined by the Director of Finance and ICT on a case by case basis.
43	2013 Reg 16(10)	Whether to require a satisfactory medical before agreeing to an application to pay an APC or SCAPC	A satisfactory medical report by a registered medical practitioner is required. 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. All costs incurred to establish that a member is in reasonably good health to undertake

			APC/SCAPC's are at the member's expense.
44	2013 Reg 32(7)	A scheme member wishing to receive benefits other than at normal pension age, or on flexible retirement, must elect to do so within certain time limits. The Administering Authority may extend these time limits.	To be determined by the Director of Finance and ICT on a case by case basis.
45	2014 (Transitional Provisions) Reg 15(1)(c) 2008 (Transitional Provisions) Sch 1 1997 Reg 83(5)	Whether to extend the time period for a scheme member electing to capitalise remaining contributions to an added years contract in cases of redundancy.	A member may make an election to make a lump sum payment, if they stop paying added years contributions before their Normal Retirement Date on leaving their employment by reason of redundancy, at least 12 months after electing to pay them. An election must be made within 3 months of the date of redundancy and may only be extended in exceptional circumstances by agreement of the Director of Finance and ICT.
46	2013 Reg 34(1) 2007 (Benefits) Reg 39 2008 (Transitional Provisions) Reg 14(3) 1997 Regs 49, 156	The Administering Authority may commute small pensions into a lump sum where they are below limits set by HMRC.	The Fund will pay a lump sum in lieu of a pension which is below limits set by HMRC unless the member elects to continue to receive the pension as an ongoing payment.
47	2013 Reg 49(1)(c) 2007 (Benefits) Reg 42(1)(c)	Decide, in the absence of an election from the scheme member, which benefit is to be paid where the member would be entitled to a benefit under two or more regulations in respect of the same period of Scheme membership.	The most advantageous figure will be automatically applied by the Fund.
48	1997 Reg 147	Whether to permit a Pension Credit to remain in the Fund or require a transfer out.	To be considered on a case by case basis.
49	1997 Regs 50, 157	Whether to commute benefits due to exceptional ill-health (applies to councillor members and pre 1st April 2008 leavers only).	The Fund will provide a member with the option to commute to a lump sum payment in lieu of a pension where the member has a serious life limiting condition.

Discretions relating to employers which no longer exist

Ref	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
50	2013 Reg 30(8)	Decide whether to waive, in whole or in part, the actuarial reduction on pension benefits paid on flexible retirement.	The Fund, acting as employer, will not waive the actuarial reduction in respect of applications for flexible retirement.
51	2013 Regs 30(8), 31(5) 2014 (Transitional Provisions) Reg 3(1), Sch 2 Para 2(1) 2007 (Benefits) Reg 30(5), 30A(5) 1997 Reg 31(5)	Decide whether to waive, in whole or in part, the actuarial reduction on benefits which a member voluntarily draws before normal pension age, including on compassionate grounds.	The Fund, acting as Employer, will not normally exercise this discretion but may consider it under exceptional circumstances on a case by case basis, taking into account the individual or business case and foreseeable costs to the Fund.
52	2013 Reg 60 2014 (Transitional Provisions) Sch 2 Paras 1(2), 1(1)(c), 1(1)(f)	Decide whether, to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of Flexible Retirement).	The Fund, acting as Employer, will not normally exercise this discretion but may consider it under exceptional circumstances on a case by case basis, taking into account the individual or business case and foreseeable costs to the Fund.
53	2014 (Transitional Provisions) Reg 12(6)	Whether to use a certificate produced by an Independent Registered Medical Practitioner (IRMP) under the 2008 scheme for the purposes of making an ill health determination under the 2014 scheme.	The Fund, acting as employer, will ask the IRMP to complete the correct certificate.
54	2013 Reg 38(3)	Decide whether a deferred beneficiary meets the criteria of being permanently incapable of their former job because of ill health and is unlikely to be capable of undertaking gainful employment before normal pension age or for at least three years, whichever is the sooner.	The Fund, acting as employer, will make a determination taking into account the IRMP’s recommendation and any further relevant information.
55	2013 Reg 38(6)	Decide whether a suspended ill health tier 3 member is unlikely to be capable of undertaking gainful employment before normal pension age because of ill health.	The Fund, acting as employer, will make a determination taking into account the IRMP’s recommendation and any further relevant information.
56	2007 (Benefits) Reg 31(4)	Decide whether a deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria.	The Fund, acting as employer, will make a determination taking into account the IRMP’s recommendation and any further relevant information.
57	2007 (Benefits) Reg 31(7)	Decide whether a suspended ill health tier 3 member is	The Fund, acting as employer, will make a determination taking into account the

		permanently incapable of undertaking any gainful employment.	IRMP's recommendation and any further relevant information.
58	<p>2014 (Transitional Provisions) Reg 3(5A)(vi)</p> <p>1997 (Transitional Provisions) Reg 4</p> <p>1997 Reg 106(1)</p> <p>1995 Reg D11(2)(c)</p>	<p>Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds. Although the common provisions of the 1997 Transitional Provisions regulations do not specify regulation D11(2)(c) from the 1995 regulations, their intention was that it should apply to this regulation.</p> <p>Note – D11(2)(c) from the LGPS 1995 regulations enables an employing authority to award early payment of deferred benefits on compassionate grounds to a member aged 50+</p>	<p>The Fund, acting as employer, will consider each case on a case by case basis.</p>