

# Perthyn discretionary policies under the Local Government Pension Scheme Regulations and other related Regulations

## Summary

1. This report makes recommendations for **Perthyn** policies on discretions to be exercised:
  - i) under the LGPS Regulations 2013 from 1 April 2014 in respect of members of the Career Average Revalued Earnings (CARE) scheme,
  - ii) under earlier LGPS Regulations in respect of former employees who were members of the LGPS and who left prior to 1 April 2014,

## Background

2. In March 2011, the Independent Public Service Pensions Commission, chaired by Lord Hutton, published its final report of the review of public service pensions. The report made clear that change was needed to “make public service pension schemes simpler and more transparent, [and] fairer to those on low and moderate earnings”.
3. As a result, it was decided that the Local Government Pension Scheme (LGPS) should be reformed so that, from 1 April 2014, benefits accrue on a Career Average Revalued Earnings (CARE) basis rather than on a final salary basis.
4. The provisions of the CARE scheme, together with the protections for members’ accrued pre 1 April 2014 final salary pension rights, are contained in the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014.
5. As a result of the changes, **Perthyn** is legally required to formulate, publish and send to the LGPS pension fund administering authority a written Statement of Policy on certain discretions under the LGPS which **Perthyn** has the power to exercise on and from 1 April 2014 in relation to members of the CARE scheme.
6. **Perthyn** is also legally required to (or where there is no requirement, is recommended to) formulate, publish and keep under review a Statement of Policy on certain other discretions it may exercise:
  - i) under earlier LGPS Regulations in respect of former employees who were members of the LGPS and who left prior to 1 April 2014
7. Overall, **Perthyn** is:
  - i) required to formulate, publish and keep under review a written Statement of Policy on certain discretions in accordance with:
    - regulation 60 of the Local Government Pension Scheme Regulations 2013,
    - paragraph 2(2) of Schedule 2 to the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014,

8. In formulating and reviewing its policies under the LGPS Regulations referred to in paragraphs 7(i) above **Perthyn** is required to have regard to the extent to which the exercise of its discretionary powers might lead to a serious loss of confidence in the public service.

### **Decisions required**

9. **Perthyn's Board of Trustees** is asked:
- i) to approve the policies on the discretions to be exercised under the LGPS Regulations in respect of those employees who are active scheme members after 31 March 2014 and members and who cease active membership after 31 March 2014, as set out in the table at Annex 1

### **Consultation**

10. **Perthyn** is not required to consult with UNISON when **Perthyn** intends to adopt new, or change existing, discretionary policies. However, it was considered appropriate to give advance notification to UNISON that this report would be considered by **Perthyn's Board of Trustees**.

### **Effective date of policies**

11. The policies on discretions to be exercised under the LGPS Regulations 2013 take immediate effect from the date **Perthyn** agrees the policies. Any change to the policies on existing discretions to be exercised under the LGPS Regulations in respect of former employees who were members of the scheme and who left pre 1 April 2014

### **Non-fettering of discretions**

12. The recommendations contained within this report, if approved, will form **Perthyn** policies on pension and compensation discretions. It should be noted that:
- the policies will confer no contractual rights
  - subject to paragraph 11, **Perthyn** will retain the right to change the policies at any time without prior notice or consultation and
  - only the policy which is current at the time a relevant event occurs to an employee / scheme member will be the one applied to that employee / member.

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**Date:** 1<sup>st</sup> April 2017

## Annex 1

| <b>Table A: Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations 2013 in relation to active scheme members (other than local authority councillor members) and members who cease active membership after 31 March 2014 (other than local authority councillor members).</b>   | <b>Perthyn policy</b>  |
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| <p>1. Whether, at full cost to <b>Perthyn</b>, to grant extra annual pension of up to £6,755 (figure at 1 April 2017<sup>1</sup>) to an active scheme member or, within 6 months of leaving, to a member who is dismissed by reason of redundancy or business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency.</p> | <p><b>Perthyn</b> will not make use of the discretion to grant extra annual pension of up to £6,755 (figure at 1 April 2017) to an active scheme member or, within 6 months of leaving, to a member who is dismissed by reason of redundancy or business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency except in exceptional circumstances where <b>Perthyn</b> considers it is in its financial or operational interests to do so. Each case will be considered on the merits of the financial and / or operational business case put forward.</p> |
| <p>2. Whether, where an active scheme member wishes to purchase extra annual pension of up to £6,755 (figure at 1 April 2017) by making Additional Pension Contributions (APCs), <b>Perthyn</b> will voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC).</p>                            | <p><b>Perthyn</b> will only voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC) in two situations. Firstly, where:</p> <ul style="list-style-type: none"> <li>- an active scheme member returns from a period of authorised leave of absence, and</li> <li>- the member does not, within 30 days of returning from the leave of absence, make an election to</li> </ul>  |

<sup>1</sup> The figure of £6,500 that applied at April 2014 is increased each April (starting April 2015) under the Pension (Increase) Act 1971 (as if it were a pension with a PI date of 1 April 2013).

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|  | <p>buy-back the amount of pension 'lost' during that period of leave of absence, and</p> <ul style="list-style-type: none"> <li>- the member subsequently makes an election to do so whilst an active member and it can be demonstrated that the reason for the member missing the original 30 day deadline was because the member had not been made aware of that deadline, and</li> <li>- the election is made no more than 3 months after the member returns from the period of leave of absence or such longer period as <b>Perthyn</b> may deem reasonable in any individual case.</li> </ul> <p>A decision on whether the member meets the above criteria (and on whether the 3 month period referred to should be extended in any individual case) will be taken by the Board of Trustees and, where it is agreed that the conditions are met, <b>Perthyn</b> will be required to contribute 2/3rds of the cost of buying back the 'lost' pension via a SCAPC.</p> <p>Secondly, in exceptional circumstances where <b>Perthyn</b> considers it is in its financial or operational interests to do so. Each case to contribute to a SCAPC (and a decision on the amount to be contributed) will be considered on the merits of the financial and / or operational business case put forward.</p> |
| <p>3. Whether to permit flexible retirement for staff aged 55 or over who, with the agreement of <b>Perthyn</b>, reduce their working hours or grade and, if so, as part of the agreement:</p> | <p><u>Flexible retirement</u><br/> <b>Perthyn</b> will not agree to flexible retirement except in circumstances where <b>Perthyn</b> considers it is in its financial or operational interests to do so. Each case</p>   |

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| <ul style="list-style-type: none"> <li>- whether, in addition to the benefits the member has accrued prior to 1 April 2008 (which the member must draw if flexible retirement is agreed), to permit the member to choose to draw <ul style="list-style-type: none"> <li>• all, part or none of the pension benefits they accrued after 31 March 2008 and before 1 April 2014, and / or</li> <li>• all, part or none of the pension benefits they accrued after 31 March 2014, and</li> </ul> </li> <li>- whether to waive, in whole or in part, any actuarial reduction which would otherwise be applied to the benefits taken on flexible retirement before Normal Pension Age (NPA) .</li> </ul> | <ul style="list-style-type: none"> <li>- will be considered on the merits of the financial and / or operational business case put forward,</li> <li>- will set out whether, in addition to any pre 1 April 2008 benefits, the member will be permitted, as part of the flexible retirement agreement, to take <ul style="list-style-type: none"> <li>a) all, some or none of their 1 April 2008 to 31 March 2014 benefits, and /or</li> <li>b) all, some or none of their post 31 March 2014 benefits, and</li> </ul> </li> <li>- will require the approval of <b>Perthyn’s Board of Trustees</b></li> </ul> <p><u>Waiver of any actuarial reduction on flexible retirement</u><br/>Where flexible retirement is agreed, the benefits payable will be subject to any actuarial reduction applicable under the Local Government Pension Scheme Regulations and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014. <b>Perthyn</b> will only waive any such reduction, in whole or in part, where it considers it is in its financial or operational interests to do so. Each case will be considered on the merits of the financial and / or operational business case put forward and will require the approval of <b>Perthyn’s Board of Trustees</b> including, where the reduction is only to be waved in part, approval for the amount of reduction to be waived.</p> |
| <p>4. Whether, as the 85 year rule does not (other than on flexible retirement – see 3 above) <u>automatically</u> apply to members who would otherwise be subject to it and who choose to voluntarily draw their benefits on or after age 55 and before age 60, to apply the 85 year rule to such voluntary retirements.</p>  | <p><b>Perthyn</b> will not agree to apply the 85 year rule where members choose to voluntarily draw their benefits on or after age 55 and before age 60 except in circumstances where <b>Perthyn</b> considers it is in its financial or operational interests to do so. Each case</p>  |

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| <p>.</p>   | <ul style="list-style-type: none"> <li>- will be considered on the merits of the financial and / or operational business case put forward, and</li> <li>- will require the approval of <b>Perthyn's Board of Trustees</b>.</li> </ul>   |
| <p>5. For:</p> <ul style="list-style-type: none"> <li>i) active members voluntarily retiring on or after age 55 and before Normal Pension Age who elect under regulation 30(5) of the LGPS Regulations 2013 to immediately draw benefits, and</li> <li>ii) deferred members and suspended Tier 3 ill health pensioners who elect under regulation 30(5) of the LGPS Regulations 2013 to draw benefits (other than on ill health grounds) on or after age 55 and before Normal Pension Age</li> </ul> <p>who:</p> <ul style="list-style-type: none"> <li>- were <u>not</u> members of the LGPS before 1 October 2006 [Group 4 members], whether to: <ul style="list-style-type: none"> <li>o waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits, if any, accrued before 1 April <u>2014</u>, and / or</li> <li>o waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March <u>2014</u></li> </ul> </li> <li>- <u>were</u> members of the LGPS before 1 October 2006 and <u>will</u> be 60 or more on 31 March 2016 [Group 1 members], whether to: <ul style="list-style-type: none"> <li>o waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2016</u>, and / or</li> </ul> </li> </ul> | <p>Where members choose to voluntarily draw their benefits on or after age 55 and before Normal Pension Age <b>Perthyn</b> will not agree to waive in whole or in part any actuarial reduction that would otherwise be applied to their benefits except in circumstances where <b>Perthyn</b> considers it is in its financial or operational interests to do so or there are compelling compassionate reasons for doing so.</p> <p>Each case</p> <ul style="list-style-type: none"> <li>- will be considered on the merits of the financial and / or operational business case put forward, or</li> <li>- will be considered on the merits of the compassionate case put forward, and</li> <li>- will require the approval of <b>Perthyn's Board of Trustees</b> including, where the reduction is only to be waived in part, approval for the amount of reduction to be waived</li> </ul> |

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| <ul style="list-style-type: none"> <li>○ waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March <u>2016</u></li> <li>- <u>were</u> members of the LGPS before 1 October 2006 and will <u>not</u> be 60 or more on 31 March 2016 and will <u>not</u> attain age 60 between 1 April 2016 and 31 March 2020 [Group 3 members], whether to: <ul style="list-style-type: none"> <li>○ waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2014</u>, and / or</li> <li>○ waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March <u>2014</u></li> </ul> </li> <li>- <u>were</u> members of the LGPS before 1 October 2006 and will <u>not</u> be 60 or more on 31 March 2016 but <u>will</u> attain age 60 between 1 April 2016 and 31 March 2020 [Group 2 members], whether to: <ul style="list-style-type: none"> <li>○ waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2020</u>, and / or</li> <li>○ waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March <u>2020</u></li> </ul> </li> </ul> |  |
| <p>6. Whether, how much, and in what circumstances to contribute to a shared-cost Additional Voluntary Contribution (SCAVC) arrangement entered into on or after 1 April 2014 and whether, how much, and in what circumstances to continue to contribute to any shared cost Additional Voluntary Contribution (SCAVC) arrangement entered into before 1 April 2014.</p>   | <p><b>Perthyn</b> will not enter into a shared cost AVC arrangement other than:</p> <p>a) in exceptional circumstances in which case the decision to contribute, and the amount of the</p> |

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|  | <p>contribution, will be subject to the approval of <b>Perthyn's Board of Trustees</b></p>  |
| <p>7. Whether to extend the 12 month time limit within which a scheme member who has a deferred LGPS benefit in England or Wales following the cessation of an employment (or cessation of a concurrent employment) after 31 March 2014 may elect not to have the deferred benefits aggregated with their new LGPS employment (or ongoing concurrent LGPS employment) if the member has not made an election to retain separate benefits within 12 months of commencing membership of the LGPS in the new employment (or within 12 months of ceasing the concurrent membership).</p> | <p><b>Perthyn</b> will only extend the 12 month time limit within which a scheme member who has a deferred LGPS benefit in England or Wales following the cessation of an employment (or cessation of a concurrent employment) after 31 March 2014 may elect not to have the deferred benefits aggregated with their new LGPS employment (or ongoing concurrent LGPS employment):</p> <ul style="list-style-type: none"> <li>a) where <b>Perthyn</b> agrees that the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration;</li> <li>b) where <b>Perthyn</b> agrees that the available evidence indicates the member had made an election within 12 months of joining the LGPS but the election was not received by the Pension Fund administering authority (e.g. the election form was lost in the post); or</li> <li>c) where the member has pre 1 April 2014 membership and <b>Perthyn</b> agrees the available evidence indicates that, due to maladministration, the member had not been informed of the implications of having benefits aggregated and would, in consequence, suffer a detriment to their pension benefits (for example, where member's whole-time equivalent pensionable pay on commencing with <b>Perthyn</b> is, in real terms after allowing for inflation, significantly less than the</li> </ul> |

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|  | <p>whole-time equivalent pensionable pay upon which the deferred benefits were calculated).</p>  |
| <p>8. Whether, with the agreement of the Pension Fund administering authority, to permit a Scheme member to elect to transfer other pension rights into the LGPS if he / she has not made such an election within 12 months of joining the LGPS.</p> | <p><b>Perthyn</b> will only extend the 12 month time limit within which a scheme member must make an election to transfer other pension rights into the LGPS after joining the LGPS:</p> <ul style="list-style-type: none"> <li>- where the member asked for transfer investigations to be commenced within 12 months of joining the LGPS but a quotation of what the transfer value will purchase in the LGPS has not been provided to the member within 11 months of joining the LGPS. The time limit for such a member to make a formal election to transfer pension rights into the LGPS will be extended to one month beyond the date of the letter issued by the Pension Fund administering authority notifying the Scheme member of the benefits the transfer will buy in the LGPS;</li> <li>- where the available evidence indicates the member made an election within 12 months of joining the LGPS, but the election was not received by the Pension Fund administering authority (e.g. the election form was lost in the post);</li> <li>- where the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration.</li> </ul> |