
Hollinswood and Randlay Parish Council

Chairman of Council: Cllr Paul Shutt

Clerk: Katrina Baker MBE MILCM

Hollinswood & Randlay Parish Council discretionary policies under the Local Government Pension Scheme Regulations and other related Regulations

Summary

1. This report makes recommendations for **Hollinswood & Randlay Parish Council** 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,
 - iii) under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 and earlier compensation regulations,
 - iv) under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011, and

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, **Hollinswood & Randlay Parish Council** 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

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which **Hollinswood & Randlay Parish Council** has the power to exercise on and from 1 April 2014 in relation to members of the CARE scheme.

6. **Hollinswood & Randlay Parish Council** 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, and
7. Any amended policy under paragraph 6(i) above must be published and sent to the LGPS pension fund administering authority within one month of the date the revisions to the policy were made.
8. Overall, **Hollinswood & Randlay Parish Council** 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,
 - regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008 (in respect of former employees who were members of the LGPS and who left between 1 April 2008 and 31 March 2014),
9. In formulating and reviewing its policies under the LGPS Regulations referred to in paragraphs 8(i) above **Hollinswood & Randlay Parish Council** 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

10. **The Finance & Audit Committee** 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, and

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- ii) to approve the policies on the discretions to be exercised under the LGPS Regulations in respect of former employees who were scheme members and who left prior to 1 April 2014 as set out in the table at Annex 2, and
- iii) to approve the policies on the discretions to be exercised under the Discretionary Compensation Regulations, as set out in the table at Annex 3.
- iv) to approve the policies on the discretions to be exercised under the Injury Allowances Regulations, as set out in the table at Annex 4.

Effective date of policies

- 11. The policies on discretions to be exercised under the LGPS Regulations 2013 take immediate effect from the date **Hollinswood & Randlay Parish Council** 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 take immediate effect from the date **the Parish Council** agrees the policies.

Non-fettering of discretions

- 12. The recommendations contained within this report, if approved, will form **Hollinswood & Randlay Parish Council** policies on pension and compensation discretions. It should be noted that:
 - the policies will confer no contractual rights
 - subject to paragraph 11 , Hollinswood & Randlay Parish Council will retain the right to change the policies at any time without prior notice or consultation **but the Parish Council will endeavour to discuss changes with the relevant Local Government Unions** 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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Annex 1

| 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). | Hollinswood & Randlay Parish Council policy |
|--|--|
| 1. Whether, at full cost to Hollinswood & Randlay Parish Council , to grant extra annual pension of up to £6,675 (figure at 1 April 2015 ¹) 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. | Hollinswood & Randlay Parish Council will not make use of the discretion to grant extra annual pension of up to £6,675 (figure at 1 April 2015) to an active Scheme member except in exceptional circumstances where the Parish Council 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. However, the Parish Council will make use of the discretion to grant extra annual pension 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. In these circumstances only Members of the Finance & Audit Committee will only use this |

¹ 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>discretion following recommendation and approval by Full Council in accordance with individual service records.</p> |
| <p>2. Whether, where an active scheme member wishes to purchase extra annual pension of up to £6,675 (figure at 1 April 2015²) by making Additional Pension Contributions (APCs), Hollinswood & Randlay Parish Council will voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC).</p> | <p>Hollinswood & Randlay Parish Council will only voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC) in three situations. Firstly, where:</p> <ul style="list-style-type: none">- an active scheme member returns from a period of authorised leave of absence, and- the member does not, within 30 days of returning from the leave of absence, make an election to buy-back the amount of pension 'lost' during that period of leave of absence, and- 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 |

² 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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- the original 30 day deadline was because the member had not been made aware of that deadline, and
- 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 **Hollinswood & Randlay Parish Council** may deem reasonable in any individual case.

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 Chairman of the Finance & Audit Committee** and, where it is agreed that the conditions are met, **Hollinswood & Randlay Parish Council** will be required to contribute 2/3rds of the cost of buying back the 'lost' pension via a SCAPC.

Secondly, where a member has a string of odd days of authorised unpaid leave of absence throughout the Scheme year (1 April to 31 March). In such a case **the Parish Council** will, instead of requiring elections to buy-back the amount of pension 'lost' during the periods of leave of absence to be made within 30 days

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| | <p>of returning from each day of absence, allow the member (whilst an active member) to make a single election during the Scheme year to cover each one of the absences that occur during the Scheme year.</p> <p>Thirdly, in exceptional circumstances where the Parish Council 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 55³ or over who, with the agreement of Hollinswood & Randlay Parish Council, reduce their working hours or grade and, if so, as part of the agreement:</p> <ul style="list-style-type: none"> - 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 | <p>Hollinswood & Randlay Parish Council will not agree to flexible retirement except in circumstances where the Parish Council considers it is in its financial or operational interests to do so. Each case</p> <ul style="list-style-type: none"> - will be considered on the merits of the financial and / or operational business case put forward, |

³ Age 50 for those LGPS members transferred from the Learning and Skills Council to whom regulation 16A of the LGPS (Benefits, Membership and Contributions) Regulations 2007 applies. Such members only need the employer’s permission to reduce their working hours or grade but, if that permission is given, do not require their employer’s permission to draw their benefits (as such members have the automatic right to take the benefits by virtue of regulation 18A of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and regulation 24 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014).

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- all, part or none of the pension benefits they accrued after 31 March 2008 and before 1 April 2014, and / or
- all, part or none of the pension benefits they accrued after 31 March 2014, and
- 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) ⁴.

- 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
 - a) all, some or none of their 1 April 2008 to 31 March 2014 benefits, and /or
 - b) all, some or none of their post 31 March 2014 benefits, and
- will require the approval of the Finance & Audit Committee

Waiver of any actuarial reduction on flexible retirement

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

⁴ NPA means the employee's individual State Pension Age at the time the employment is terminated, but with a minimum of age 65 (although, the NPA for membership accrued prior to 1 April 2014 is still linked to age 65, apart from those LGPS members transferred from the Learning and Skills Council to whom regulation 16A of the LGPS (Benefits, Membership and Contributions) Regulations 2007 applies for whom the NPA for membership accrued prior to 1 April 2014 is, by virtue of that regulation and regulation 24 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, still linked to age 60, and those LGPS members who are employees of the Meat Hygiene Service in the London Pension Fund Authority fund who are covered by regulation 144B of the LGPS Regulations 1997 for whom the NPA for membership accrued prior to 1 April 2014 is, by virtue of that regulation and regulation 24 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014, still linked to age 60). State Pension Age is currently age 65 for men. State Pension Age for women is currently being increased to be equalised with that for men and will reach 65 by November 2018. The State Pension Age will then increase to 66 for both men and women from December 2018 to October 2020. Under current legislation the State Pension Age is due to rise to 67 between 2026 and 2028 and to 68 between 2044 and 2046. However, the government has announced plans to link rises in the State Pension Age above age 67 to increases in life expectancy.

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| | <p>Amendment) Regulations 2014. Hollinswood & Randlay Parish Council 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 the Finance & Audit Committee, 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 rule⁵ to such voluntary retirements.</p> | <p>Hollinswood & Randlay Parish Council 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 the Parish Council considers it is in its financial or operational interests to do so. Each case</p> <ul style="list-style-type: none">- will be considered on the merits of the financial and / or operational business case put forward, and- will require the approval of the Finance & Audit Committee. |

⁵ The 85 year rule does not apply to former members of the Metropolitan Civil Staffs Superannuation Scheme, or Meat Hygiene Service members, or civil servants transferred to the Environment Agency who by virtue of regulation 24 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 are subject to, respectively, regulation 144A of, and Schedule 7 to, the LGPS Regulations 1997, regulation 144B of the LGPS Regulations 1997 and regulation 15 of the LGPS (Transitional Provisions) Regulations 2008.

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Annex 2

| Table B: Discretions to be exercised on and after 1 April 2014 under the LGPS Regulations in relation to scheme members who ceased active membership between 1 April 2008 and 31 March 2014 (other than local authority councillor members) | Hollinswood & Randlay Parish Council policy |
|--|---|
| 1. Whether ⁶ to grant applications for the early payment of deferred pension benefits on or after age 55 ⁷ and before age 60 (on grounds other than permanent ill health). | Where a former scheme member who left the scheme between 1 April 2008 and 31 March 2014 requests early release of deferred benefits on or after age 55 and before age 60 (on grounds other than permanent ill health), approval will be given. Each case will be considered on its merits and will be subject to the approval of the Finance & Audit Committee . Subject to entry 2 below, the benefits payable in such circumstances will be subject to any actuarial reduction applicable under the relevant LGPS Regulations. |

⁶ This discretion does not apply to those LGPS members transferred from the Learning and Skills Council to whom regulation 16A of the LGPS (Benefits, Membership and Contributions) Regulations 2007 applies or to those LGPS members who are former members of the Metropolitan Civil Staffs Superannuation Scheme and who are covered by regulation 144A of, and Schedule 7 to, the LGPS Regulations 1997 or to former NHS Scheme members who are covered by regulation 23 of the LGPS (Transitional Provisions) Regulations 1997 (as such members have the automatic right to take benefits on or after age 50 and before age 60).

⁷ Age 50 for those civil servants transferred to the Environment Agency to whom regulation 15 of the LGPS (Transitional Provisions) Regulations 2008 applies.

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| <p>2. Whether, on compassionate grounds⁸, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65⁹.</p> | <p>Hollinswood & Randlay Parish Council will not waive, on compassionate grounds, any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.</p> |
| <p>3. Whether¹⁰ to grant applications for the early payment of a suspended Tier 3 ill health pension on or after age 55¹¹ and before age 60 (on grounds other than permanent ill health).</p> | <p>Where a former scheme member who left the scheme between 1 April 2008 and 31 March 2014 requests early release of deferred benefits on or after age 55 and before age 60 (on grounds other than permanent ill health), approval will not be given.</p> |

⁸ There is no definition in the Regulations of “compassionate grounds”. However, one could take the view that, for example, waiving a reduction because the member is short of funds / out of work would not be appropriate (as the pension scheme is not a social security scheme); whereas, for example, releasing benefits because the member has had to give up work to look after orphaned grandchildren would clearly be a case where an employer might wish to exercise compassion.

⁹ Age 60 in the case of members transferred from the Learning and Skills Council to whom regulation 16A of the LGPS (Benefits, Membership and Contributions) Regulations 2007 applies, and for employees of the Meat Hygiene Service in the London Pension Fund Authority fund who are covered by regulation 144B of the LGPS Regulations 1997, and for former members of the Metropolitan Civil Staffs Superannuation Scheme and who are covered by regulation 144A of, and Schedule 7 to, the LGPS Regulations 1997, and for former NHS Scheme members who are covered by regulation 23 of the LGPS (Transitional Provisions) Regulations 1997.

¹⁰ This discretion does not apply to those LGPS members transferred from the Learning and Skills Council to whom regulation 16A of the LGPS (Benefits, Membership and Contributions) Regulations 2007 applies or to those LGPS members who are former members of the Metropolitan Civil Staffs Superannuation Scheme and who are covered by regulation 144A of, and Schedule 7 to, the LGPS Regulations 1997 or to former NHS Scheme members who are covered by regulation 23 of the LGPS (Transitional Provisions) Regulations 1997 (as such members have the automatic right to take benefits on or after age 50 and before age 60).

¹¹ Age 50 for those civil servants transferred to the Environment Agency to whom regulation 15 of the LGPS (Transitional Provisions) Regulations 2008 applies.

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Annex 3

| Table D: Discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 | Hollinswood & Randlay Parish Council policy |
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| 1. Whether to base a redundancy payment on an employee's actual weeks' pay where this exceeds the statutory week's pay limit of, currently, £475 per week (as at 6 April 2015). | Any redundancy payment will be calculated on an employee's weekly pay, but limited to the statutory weeks' pay limit where pay exceeds that limit. |