

## **NIC Services Group discretionary policies under the Local Government Pension Scheme Regulations and other related Regulations**

### **Summary**

1. This report makes recommendations for **NIC Services Group** 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,
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 **NIC Services Group** 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 **NIC Services Group** has the power to exercise on and from 1 April 2014 in relation to members of the CARE scheme.
6. Any amended policy 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.
7. Overall, **NIC Services Group** 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 **NIC Services Group** 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. **Simon Tidswell Group Financial Director** 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**

**NIC Services Group** is not required to consult with any recognised unions when **NIC Services Group** intends to adopt new, or change existing, discretionary policies.

### **Effective date of policies**

10. The policies on discretions to be exercised under the LGPS Regulations 2013 take immediate effect from the date **NIC Services Group** agrees the policies.

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

23. The recommendations contained within this report, if approved, will form **NIC Services Group** policies on pension discretions. It should be noted that:
  - the policies will confer no contractual rights
  - **NIC Services Group** will retain the right to change the policies at any time without prior notice or consultation
  - 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

<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>NIC Services Group policy</b>
<p>1. Whether, at full cost to <b>NIC Services Group</b>, to grant extra annual pension of up to £6,822 (figure at 1 April 2018<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>-</p>	<p><b>NIC Services Group</b> will not make use of the discretion to grant extra annual pension of up to £6,822 (figure at 1 April 2018) 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>NIC Services Group</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 £6,822 (figure at 1 April 2018) by making</p>	<p><b>NIC Services Group</b> will not make use of the discretion to voluntarily contribute towards the cost of purchasing</p>

<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).

<p>Additional Pension Contributions (APCs), <b>NIC Services Group</b> will voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC).</p>	<p>extra pension via a Shared Cost Additional Pension Contribution (SCAPC).</p> <p>-</p>
<p>3. Whether to permit flexible retirement for staff aged 55 or over who, with the agreement of <b>NIC Services Group</b>, reduce their working hours or grade and, if so, as part of the agreement:</p> <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) <sup>2</sup>.</li> </ul>	<p><u>Flexible retirement</u></p> <p><b>NIC Services Group</b> will not agree to flexible retirement except in circumstances where <b>NIC Services Group</b> considers it is in its financial or operational interests to do so. 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,</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>Group Financial Director</b></li> </ul> <p><u>Waiver of any actuarial reduction on flexible retirement</u></p> <p>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.</p>

<sup>2</sup> 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,

	<p><b>NIC Services Group</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 the Group Financial Director 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>NIC Services Group</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.</p>
<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>	<p>Where members choose to voluntarily draw their benefits on or after age 55 and before Normal Pension Age <b>NIC Services Group</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>NIC Services Group</b> considers it is in its financial or operational interests to do so or there are compelling compassionate<sup>3</sup> reasons for doing so.</p> <p>Each case</p>

<sup>3</sup> There is no definition in the Regulations of “compassionate grounds”. However, one could take the view that, for example, releasing benefits 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.

- we're not members of the LGPS before 1 October 2006 [Group 4 members], whether to:
  - waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits, if any, accrued before 1 April 2014, and / or
  - waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2014
  
- were members of the LGPS before 1 October 2006 and will be 60 or more on 31 March 2016 [Group 1 members], whether to:
  - waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April 2016, and / or
  - waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2016
  
- were members of the LGPS before 1 October 2006 and will not be 60 or more on 31 March 2016 and will not attain age 60 between 1 April 2016 and 31 March 2020 [Group 3 members], whether to:
  - waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April 2014, and / or
  - waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2014
  
- were members of the LGPS before 1 October 2006 and will not be 60 or more on 31 March 2016 but will attain age 60 between 1 April 2016 and 31 March 2020 [Group 2 members], whether to:

- will be considered on the merits of the financial and / or operational business case put forward, or
- will be considered on the merits of the compassionate case put forward, and
- will require the approval of **Group Financial Director** including, where the reduction is only to be waived in part, approval for the amount of reduction to be waived

<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>	
<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>-</p>	<p><b>Nic Services Group</b> will not enter into a shared cost AVC arrangement other than:</p> <ul style="list-style-type: none"> <li>a) in exceptional circumstances in which case the decision to contribute, and the amount of the contribution, will be subject to the approval of <b>Group Financial Director</b>, or</li> <li>b) where the scheme member enters into a SCAVC salary sacrifice arrangement, or</li> <li>c) where the scheme member enters into a SCAVC to increase the death in service lump sum, in which case <b>NIC Services Group</b> decide on a case by case basis what to contribute.</li> </ul>
<p>7. How the pension contribution band/rate to which an employee is to be allocated will be determined on joining the Scheme and at each subsequent April, and the circumstances in which the employer will, in addition to the review each April, review the pension contribution band/rate to which an employee has been allocated consequent upon a material change which affects the member's pensionable pay in the course of a Scheme year (1 April to 31 March).</p>	<p>NIC Service Group will look at the % annually at the beginning of each financial year</p>

<p>8. Whether or not, when calculating assumed pensionable pay when a member (other than a returning officer<sup>4</sup>) is:</p> <ul style="list-style-type: none"> <li>- on reduced contractual pay or no pay on due to sickness or injury, or</li> <li>- absent during ordinary maternity, paternity or adoption leave or paid shared parental leave, or during paid additional maternity or adoption leave (other than any part of that leave where the pensionable pay received is greater than the assumed pensionable pay for that part of the leave period), or</li> <li>- absent on reserve forces service leave, or</li> <li>- retires with a Tier 1 or Tier 2 ill health pension, or</li> <li>- dies in service</li> </ul> <p>to include in the calculation the amount of any 'regular lump sum payment' received by the member in the 12 months preceding the date the absence began or the ill health retirement or death occurred.</p> <p style="text-align: center;">-</p>	<p>In assessing Assumed Pensionable Pay (APP) <b>NIC Services Group</b> will not, other than in exceptional circumstances, include in the calculation any 'regular lump sum payments' in which case the decision to include the 'regular lump sum payment' will be subject to the approval of <b>Group Financial Director</b></p>

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<sup>4</sup> i.e. a returning officer or acting returning officer at local government elections, or elections for the National Assembly of Wales, or Parliamentary elections or European Parliamentary elections.