

# **Churchill Contract Services LTD discretionary policies under the Local Government Pension Scheme Regulations and other related Regulations**

## **Summary**

1. This report makes recommendations for **Churchill Contract Services LTD** 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, **Churchill Contract Services LTD** 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 **Churchill Contract Services LTD** has the power to exercise on and from 1 April 2014 in relation to members of the CARE scheme.
6. **Churchill Contract Services LTD** 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 10(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, **Churchill Contract Services LTD** 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 **Churchill Contract Services LTD** 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. **Churchill Contract Services LTD** 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

### Effective date of policies

20. The policies on discretions to be exercised under the LGPS Regulations 2013 take immediate effect from the date **Churchill Contract Services LTD** 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 **Churchill Contract Services LTD** agrees the policies.

### Non-fettering of discretions

23. The recommendations contained within this report, if approved, will form **Churchill Contract Services LTD** policies on pension and compensation discretions. It should be noted that:
- the policies will confer no contractual rights
  - subject to paragraphs 20 to 22, **Churchill Contract Services LTD** 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.

**Contact Officer:** Name: Melanie Taylor

Tel: 01582 760055

E-mail: melanie.taylor@churchillservices.com

**Date:** **01/03/2025**

NOT PROTECTIVELY MARKED

## PART A – Compulsory Discretions

*(The 2 detailed below are the most frequently used under Regulations but remain optional – see LGA Discretions for the full list of optional employer discretions).*

### Power to award additional pension

#### Regulation 31

**Whether, at the full cost to the Scheme employer, to grant extra annual pension of up to £7,026 (figure at 1 April 2019) to an active member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency.**

A member whose employment is terminated on the above grounds over the age of 55 will have access to their unreduced pension; the employer would meet the cost of these reductions by paying a strain cost.

Members that are made redundant under the age of 55 do not have these protections so there would be no strain cost. In either case, the employer may choose to pay Additional Pension Contributions (APCs) to buy extra annual pension for the member, effectively paying both the employer and employee contributions to make this up.

### Employer Policy Decision

**Churchill Contract Services LTD** will not make use of the discretion to grant extra annual pension of up to £7,316 (figure at 1 April 2021) 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.

### Shared cost additional pension contributions

#### Regulation 16(2e) (4d)

**Whether, how much, and in what circumstances to contribute to a Shared Cost APC scheme.**

Where an active scheme member has decided to make Additional Pension Contributions (APCs) to purchase extra pension benefits up to £7,316 per annum (figure as at 1 April 2021), the employer can resolve to **voluntarily** contribute towards the cost of this too.

Note: This does not include instances where the employee is paying for **lost** pension via an APC where the election was made in the first 30 days (or longer if the employer allows) – in this circumstance the employer **must** pay two-thirds of the cost of such purchase

## Employer Policy Decision

**Churchill Contract Services LTD** will not generally make use of the discretion.

## Whether to allow flexible retirement

Regulation 30 (6) & TP11(2) & R30(8)

**Whether to allow flexible retirement for staff aged 55 or over who, with the agreement of the Scheme employer, reduce their working hours or grade [regulation 30(6) of the LGPS Regulations 2013] and, if so, as part of the agreement to allow flexible retirement:**

- whether, in addition to the benefits the member has built up prior to 1 April 2008 (which the member must draw), to allow the member to choose to draw
- all, part or none of the pension benefits they built up after 31 March 2008 and before 1 April 2014, and / or
- all, part or none of the pension benefits they built up after 31 March 2014 [regulations 11(2) and 11(3) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 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) [regulation 3(5) of the LGPS (Transitional Provision)].

Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up whilst still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade.

In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives the reduction either fully or in part or a member has protected rights.

Please be aware, if you allow members to retire under flexible retirement, and they meet the 85 year rule between the ages of 55 and 60, there may be a cost to the employer as there is no option to switch the 85 year rule off in this instance.

## Employer Policy Decision

**Churchill Contract Services LTD** will not generally agree to requests for flexible retirement, however these will be reviewed on a case-by-case basis.

## Switching on the 85year rule

Paragraph 1(1)(c) & 1(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014

**Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.**

Active members are now able to voluntarily retire between ages 55 and 60. If they were a member of the LGPS on 30 September 2006 then some of their benefits could be protected from reductions applied to early payment under the 85 year rule. This rule only applies automatically to members voluntarily retiring from age 60 but the employer has the discretion to “switch it on” for voluntary retirements between age 55 and 60.

This discretion does not apply to flexible retirement (see [Regulation 30\(6\)](#)) whereby the 85 year rule is always switched on.

Where the employer does not choose to “switch on” the rule, then benefits built up would be subject to reduction in accordance with actuarial guidance issued by the Secretary of State regardless of whether a member meets the rule or not.

If the employer does agree to “switch on” the 85 year rule, the employer will have to meet the cost of any strain on fund resulting from the payment of benefits before age 60 i.e. where the member has already met the 85 year rule or will meet it before age 60.

### Employer Policy Decision

**Churchill Contract Services LTD** will not generally make use of this discretion.

### Waiving of actuarial reductions

Regulation 30(8), TP3(1), TPSch 2, para 2(1), B30(5) and B30A(5)

**Whether to waive, in whole or in part, any actuarial reductions on benefits which a member voluntarily draws before normal pension age (other than on the grounds of flexible retirement).**

Employers can agree to waive any actuarial reductions due in the case of employees retiring any time after age 55. Employers should also note that the strain cost of any such retirements would need to be met by the employer and paid into the Pension Fund at the appropriate time.

**There are 4 member groups which you would be making the discretions policy on, the below covers in what circumstance reductions can be waived and to which benefits these would apply:**

Members joined before 1 October 2006 and who reached 60 before 1 April 2016 – **Group 1**

- To waive on compassionate grounds, any actuarial reductions applied to benefits built up before 1 April 2016
- To waive on any grounds, actuarial reductions applied to benefits built up after 1 April 2016

Members joined before 1 October 2006 and who reach age 60 between 1 April 2016 and 31 March 2020 and also meet their critical retirement age before 1 April 2020 (date member meets the 85 year rule)– **Group 2**

- To waive on compassionate grounds, any actuarial reductions applied to benefits built up before 1 April 2020
- To waive on any grounds, actuarial reductions applied to benefits built up after 1 April 2020

Members joined before 1 October 2006 and who reach age 60 after 1 April 2016 but before 31 March 2020 and don't meet their critical retirement age before 1 April 2020 (date member meets the 85 year rule)– **Group 3**

- To waive on compassionate grounds, any actuarial reductions applied to benefits built up before 1 April 2014
- To waive on any grounds, actuarial reductions applied to benefits built up after 1 April 2014

Members joined after 1 October 2006 – **Group 4**

- To waive on compassionate grounds, any actuarial reductions applied to benefits built up before 1 April 2014
- To waive on any grounds, actuarial reductions applied to benefits built up after 1 April 2014.

### **Employer Policy Decision**

Where members choose to voluntarily draw their benefits on or after age 55 and before Normal Pension Age **Churchill Contract Services LTD** will not generally agree to waive in whole or in part (on any grounds, including compassionate grounds) any actuarial reduction that would otherwise be applied to their benefits.

**The following discretions apply to members who ceased active membership between 1 April 2008 and 31 March 2014**

### **Whether to “switch on” the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60**

Paragraph 1(1)(c) & 1(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014

**Whether to “switch on” the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60 or upon the voluntary early payment of a suspended tier 3 ill health pension.**

A member with a deferred benefit who left the scheme voluntarily between 1 April 2008 and 31 March 2014 and who has subsequently become a deferred pensioner may now claim their benefits from age 55 without their employers consent however these benefits will be reduced for early payment.

Where a member has reached the 85 year rule at the point of retirement, an employer can consent to switching on the 85 year rule for those between the age of 55 and 60.

Any “strain” to the Fund will be payable immediately by the Scheme employer.

#### **Employer Policy Decision**

#### **Whether to waive upon the voluntary early payment of deferred benefits or suspended tier 3 ill health pension, any actuarial reduction on compassionate grounds?**

Regulation 30(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014

#### **Whether to waive reductions, on compassionate grounds, which may occur on deferred benefits claimed between ages 55-60 or suspended tier 3 ill health for leavers between 1 April 2008 and 31 March 2014.**

A member with a deferred benefit who left the scheme voluntarily between 1 April 2008 and 31 March 2014 or was awarded a Tier 3 ill health pension under the 2007 Regulations and who has subsequently become a deferred pensioner may now claim their benefits from age 55 without their employers consent however these benefits will be reduced for early payment.

An employer can consent to waiving any reductions, on compassionate grounds, which may be applied to deferred benefits or suspended tier 3 ill health pension paid early.

#### **Employer Policy Decision**

**The following discretions apply to members who ceased active membership between 1 April 1998 and 31 March 2008**

#### **Whether to ‘switch on’ the 85 year rule upon the voluntary early payment of deferred benefits**

Paragraph 1 (1) (f) & 1 (2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) regulations 2014

**Whether, as the 85 year rule does not automatically fully apply to members who would otherwise be subject to it and who choose to voluntarily draw their deferred benefits (on or after 14 May 2018) on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members.**

Deferred members who left the scheme after 1 April 1998 are now able to voluntarily retire between ages 55 and 60. If they were a member of the LGPS on 30 September 2006 then some of their benefits could be protected from reductions applied to early payment under the 85 year rule.

This rule only applies automatically to members voluntarily retiring from age 60 but the ceding employer has the discretion to “switch it on” for voluntary retirements between age 55 and 60.

Where the employer does not choose to “switch on” the rule, then benefits built up would be subject to reduction in accordance with actuarial guidance issued by the Secretary of State regardless of whether a member meets the rule or not

If the employer does agree to “switch on” the 85 year rule, the employer will have to meet the cost of any strain on the Fund resulting from the payment of benefits before age 60 i.e. where the member has already met the 85 year rule or will meet it before age 60. Any “strain” to the Fund will be payable immediately by the Scheme employer.

#### **Employer Policy Decision**

#### **Whether to grant applications for the early payment of pension benefits on or after age 50 and before age 55**

Regulation 31(2) of the LGPS Regulations 1997

**Whether to grant application for early payment of deferred benefits on or after age 50 and before age 55.**

A member with a deferred benefit who left the scheme between 1 April 1998 – 31 March 2008 can claim their benefits from age 50 with their employers consent. However, these benefits may be reduced for early payment and/or be subject to an unauthorised payment charge under the Finance Act 2004

#### **Employer Policy Decision**

#### **Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to benefits which are paid before age 65**

[Regulation 31(5) of the LGPS Regulations 1997 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]

**Whether to waive any actuarial reduction on compassionate grounds which would normally be applied to benefits which are paid before age 65.**



Employers can agree to waive any actuarial reductions on compassionate grounds due in the case of employees who ceased active membership between 1 April 1998 and 31 March 2008. Any “strain” to the Fund will be payable immediately by the Scheme employer.

#### **Employer Policy Decision**

**The following discretions apply to members who ceased active membership before 1 April 1998**

#### **Whether to grant applications for the early payment of deferred pension benefits on or after age 50 and before NRD on compassionate grounds** Regulation D11(2)(c) of the LGPS Regulations 1995

**Whether to grant early payment of a deferred benefit, on compassionate grounds, on or after age 50 and before NRD.**

An employer can grant application for early payment of deferred benefits on or after age 50 on compassionate grounds.

However, these benefits may be reduced for early payment and/or be subject to an unauthorised payment charge under the Finance Act 2004

#### **Employer Policy Decision**

### **PART B – Optional Discretions**

*(The 2 detailed below are the most frequently used under Regulations but remain optional – see LGA Discretions for the full list of optional employer discretions).*

#### **Membership Aggregation - Regulation 22 (7)(b) & (8)(b)**

Whether to extend the 12 month option period for a member to elect to join deferred benefits to their current employment/membership. The election to keep separate pension benefits must be made within 12 months of becoming an active member, who must be active at the date of election. An employer may allow a period longer than 12 months

#### **Employer Policy Decision**

#### **Transfers of Pension Rights - Regulation 100(6)**

Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS. Where an active member requests to transfer previous pension rights into the LGPS, the member must make a request within in 12 months of becoming an active member. An employer may allow a longer period than 12 months.

#### **Employer Policy Decision**

#### **Determine Rate of Employees' Contributions - Regulation 9(1) & 9(3)**

When, other than 01 April, an employer will re-determine an active member's contribution banding. Where an active member changes employment or there is a material change which affects the member's pensionable pay during the course of a financial year, an employer may determine that a contribution rate from a different band should be applied. Where an employer makes such a determination it shall inform the member of the revised contribution rate and the date from which it is to be applied.

#### **Employer Policy Decision**

### **PART C - where formulation is undertaken by the ERPF as administering authority**

#### **REGULATION 30 (8)**

#### **(formerly Regulation 30 Administration Regulations (2008))**

#### **Choice of early payment of pension in cases where a member's former employing authority has ceased to exist.**

Where a member's former employer has ceased to exist and there is no successor body, the administering authority can allow the early payment of deferred benefits to former members of the LGPS between the ages of 55 and 59. In such cases, pension benefits will be reduced in accordance with actuarial tables unless the administering authority waives reduction on compassionate grounds or a member has protected rights.

#### **Policy Decision**

Each case will be initially assessed taking account of the member's former employer's statement of policy. Where the policy allows for early payment of benefits, then this will be approved if there is no strain on fund costs.

Where there is no former employer's statement of policy or if there is strain on fund costs then the request for early payment of benefits will only be approved on compassionate grounds. This is where a deferred member is unable to work because they are providing full time care to a dependant. In compassionate cases, any actuarial reduction will be waived and the strain on fund costs will be met by all Fund employers.

The Director of Corporate Resources has delegated authority to exercise the discretion in accordance with the policy.

**Approved by the Pensions Committee (Minute 816, 14 December 2012)**

**REGULATION 30 (8)  
(formerly Regulation 30A, Administration Regulations (2008))**

**Choice of early payment of pension: pensioner member with deferred benefits in cases where a member's former employing authority has ceased to exist.**

Where a member's former employer has ceased to exist and there is no successor body, the administering authority can allow the early payment of deferred benefits to pensioner members of the LGPS between the ages of 55 and 59. A deferred pensioner member is a former employee retired on ill health grounds with the award of Tier 3 benefits that have now ceased.

In such cases, pension benefits will be reduced in accordance with actuarial tables unless the administering authority waives reduction on compassionate grounds or a member has protected rights.

**Policy Decision**

Each case will be initially assessed taking account of the member's former employer's statement of policy. Where the policy allows for early payment of the pension, then this will be approved if there is no strain on fund costs.

Where there is no former employer's statement of policy or if there is strain on fund costs then the request for early payment of benefits will only be approved on compassionate grounds. This is where a deferred pensioner member is unable to work because they are providing full time care to a dependant. In compassionate cases, any actuarial reduction will be waived and the strain on fund costs will be met by all Fund employers.

The Director of Corporate Resources has delegated authority to exercise the discretion in accordance with the policy.

**Approved by the Pensions Committee (Minute 816, 14 December 2012)**

**REGULATION 38 (3) (6) and Transitional Regulation (2014) 12(6)  
(formerly Regulation 31 Admin Regs (2008))**

**Early payment of pension: ill-health in cases where a member's former employing authority has ceased to exist.**

Where a member's former employer has ceased to exist and there is no successor body, the administering authority can allow the early payment of deferred benefits to a deferred member or the suspended Tier 3 ill health pension brought back into payment for a deferred pensioner member of the LGPS before Normal Retirement Age where a member has become permanently incapable of undertaking any gainful employment as defined in the LGPS Regulations 2008.

In the case of the deferred pensioner member, this could be because the original ill health condition has worsened or the member is suffering from another ill health condition that renders the deferred pensioner member permanently incapable of undertaking any gainful employment.

**Policy Decision**

Before deciding whether to agree to such a request, the Fund must obtain a certificate from an Independent Registered Medical Practitioner (IRMP) as to whether, in the IRMP's opinion, the member is suffering from a condition that renders the member permanently incapable of undertaking any gainful employment.

Where in the IRMP's opinion, the member is suffering from a condition that renders the member permanently incapable of undertaking any gainful employment, the Fund will approve the early payment of the deferred pension benefits or the deferred pensioner tier 3 ill health pension and the strain on fund costs will be met by all Fund employers.

The Director of Corporate Resources has delegated authority to exercise the discretion in accordance with the policy.

**Approved by the Pensions Committee (Minute 816, 14 December 2012)**

**REGULATION 38 (3) (6) and Transitional Regulation (2014) 12(6)  
(formerly Regulation 31 Admin Regs (2008))**

**Statements of policy concerning abatement of retirement pensions in new employment.**

Where a scheme member retires and seeks re-employment, if they choose to remain outside the local government sphere, their pension continues. If they return to an employer who participates in the LGPS, their pension can be reduced or stopped.

Subject to consultation with Fund employers, the administering authority has discretion to determine how it wishes to treat re-employed scheme members who retire after 31<sup>st</sup> March 1998.

Abatement (where this is relevant) will only apply to the pre-1 April 2014 accrued pension benefits.

**Policy Decision**

Where the re-employment starts before 1 April 2007, then the policy approved is:

- (a) That any ill health pension should cease in the event of re-employment subject to the protection afforded to members who were subject to the 1995 Regulations;
- (b) That with regard to other retirement pension no abatement be applied where the statutory pension in payment is £5,000 per annum or less, this amount to be increased in line with the annual index linking from April 1999 and thereafter; and
- (c) That where an annual statutory pension exceeds £5,000 per annum then the statutory pension in excess of this amount be abated subject to the protection afforded to members who were subject to the 1995 Regulations.

Where the re-employment starts after 31 March 2007, there will be no abatement of the retirement pension.

**Approved by the Pensions Committee (Minute 440, 26 January 2007)**