

## – LGPS 2014: Discretionary Policies and Procedures

### Background

Within the LGPS 2014, there is provision in specific regulations for Scheme employer to exercise discretion over the entitlements of its current or past employees.

Where a former employer has ceased to be a Scheme employer, the administering authority must exercise discretion over the entitlements of past employees of this employer in cases under certain regulations.

Under Regulation 60 a policy must be made and published on how such discretionary powers are to be exercised.

This document sets out the policy that Avon Pension Fund has decided to exercise its discretionary powers

Avon Pension Fund will exercise their discretionary policies by using the same process arrangements as used by Bath and North East Somerset, Human Resources Department for their discretions, with the actual Fund discretion being made by delegated powers granted to the Chief Financial Officer and Divisional Director; Business Support and exercised by Head of Business, Finance and Pensions.

In drawing up its policy, Avon Pension Fund must satisfy themselves that:

- They are applying the discretions reasonably
- The discretions are not fettered i.e. being used in such a way that individual circumstances cannot be considered.

Any policy statement must be published to LGPS Fund members and:

- kept under review
- appropriate revisions made following a change in the policy.

Discretionary powers must:

- not be used for an ulterior motive and be exercised reasonably
- be used taking account of all relevant factors e.g. the cost to the Fund must be balanced against the benefit to scheme member
- be duly recorded when used.

The policy will be kept under review by the Pensions Section.

**Discretions upon which Avon Pension Fund must make and publish policies.****Waiving actuarial reductions**

**Decisions required by Avon Pension Fund as administering authority in respect of former employees where their former employer has ceased to be a Scheme employer**

<b>Local Government Pension Regulations 2013</b>		<b>Discretion Criteria</b>
Regulation 30 (8)	waiving of an actuarial reduction	Any grounds e.g. Financial, Operational Compassionate
<b>Local Government Pensions Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014</b>		
Schedule 2 paragraph 1(1)(c)	To allow rule of 85 before age 60.	Any grounds e.g. Financial, Operational Compassionate
Schedule 2 paragraph: 2(1)	Waive actuarial reduction for not satisfying rule of 85	Compassionate Grounds

**1) LGPS Regulations 2013:****Regulation 30(8):- relating to post 2014 benefits only**

Authority for Avon Pension Fund to agree to waive in whole or in part any actuarial reduction required by paragraphs 30(5) [Voluntary Retirement] or 30(6) [Flexible Retirement] where at leaving date member is over age 55 but under State Pension Age. This is in respect of former employees where their former employer has ceased to be a Scheme employer. Costs from any decisions made will be met from across the whole Fund.

**Discretionary Policy 1**

**Avon Pension Fund will as a general rule not normally make use of the discretion to waive any actuarial reduction in pension benefits for an employee aged 55 to SPA. The Fund may consider using this discretion on compassionate grounds, which might include but not be limited to where the member is needed to look after and care for a dependant relative full time.**

## **2. Local Government Pensions Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014**

### **Schedule 2: 1(1)(c) - To allow rule of 85 before age 60**

A Scheme member who was subject to the LGPS 2014 scheme and who has left the Scheme and is no longer in the employment in relation to that scheme membership, can elect to receive their benefits before age 60 without obtaining employer's consent. If the Scheme Member satisfies the rule of 85 before age 60 there is potentially a strain cost to the Fund. The Government Actuary guidance has therefore introduced a reduction to cover this position. However, Schedule 2 ,1(1)(c) allows the discretion to ignore such a reduction.

#### **Discretionary Policy 2**

**Avon Pension Fund will as a general rule not normally make use of the discretion to ignore any actuarial reduction on account of satisfying the rule of 85 before age 60. The Fund may consider using this discretion on compassionate grounds, which might include but not be limited to where the member is needed to look after and care for a dependant relative full time.**

### **Schedule 2: 2(1) - Waive actuarial reduction for not satisfying rule of 85.**

In 2006 the Rule of 85 was abolished but certain protections were put in place for those nearing retirement. A Scheme member who was subject to this protection and who received their benefits before age 65 would be subject to an actuarial reduction if they did not satisfy the Rule of 85. This regulation gives the Fund the discretion to waive any such reduction. The only criteria that can be used whilst exercising this discretion is on compassionate grounds.

#### **Discretionary Policy 3**

**Avon Pension Fund will as a general rule not normally make use of the discretion to waive any actuarial reduction on account of not satisfying the rule of 85 before age 65, unless there are sufficient compassionate grounds, which might include but not be limited to where the member is needed to look after and care for a dependant relative full time.**

**Other Requirements under the Local Government Pension Scheme.**

Administering Authority adopting employer responsibilities where employer has ceased to be a Scheme employer

On the abolition of Avon County Council in 1996, an arrangement was adopted whereby any employer decisions that were required for former members of employers no longer operating [e.g. Avon County Council: deferred members] would be administered by Bristol City Council as lead authority.

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 have been amended and require the administering authority to fulfil such functions. Such cases would include requests from deferred members for early payment of benefits on ill health grounds or for early retirement payments before age 60 and the exercise of discretion for waiving any actuarial reductions. As a result, an arrangement was adopted with Bath and North East Somerset, Human Resources Department to process these in the same way as they would as the employing authority. The ultimate responsibility for exercising discretions is with the Fund and such cases would be approved by delegated powers granted to the Chief Financial Officer and Divisional Director; Business Support and exercised by Head of Business, Finance and Pensions.

All costs incurred in this process would be met by the Fund.

**Approval is therefore sought to ratify this arrangement**

## Recommendations to be agreed in 2.1 of Report

The Pension Committee agrees that

<b>Discretionary Policy 1</b>		<b>Delegated Power to</b>
Regulation 30(8), Local Government Pension Regulations 2013	<b>Avon Pension Fund will as a general rule not normally make use of the discretion to waive any actuarial reduction in pension benefits for an employee aged 55 to SPA. The Fund may consider using this discretion on compassionate grounds, which might include but not be limited to where the member is needed to look after and care for a dependant relative full time.</b>	<b>Chief Financial Officer and Divisional Director; Business Support and exercised by Head of Business, Finance and Pensions.</b>
<b>Discretionary Policy 2</b>		
Schedule 2 1(1)(c) Local Government Pensions Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014	<b>Avon Pension Fund will as a general rule not normally make use of the discretion to ignore any actuarial reduction on account of satisfying the rule of 85 before age 60. The Fund may consider using this discretion on compassionate grounds, which might include but not be limited to where the member is needed to look after and care for a dependant relative full time.</b>	<b>Chief Financial Officer and Divisional Director; Business Support and exercised by Head of Business, Finance and Pensions.</b>
<b>Discretionary Policy 3</b>		
Schedule 2 2(1) Local Government Pensions Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014	<b>Avon Pension Fund will as a general rule not normally make use of the discretion to waive any actuarial reduction on account of not satisfying the rule of 85 before age 65, unless there are sufficient compassionate grounds, which might include but not be limited to where the member is needed to look after and care for a dependant relative full time.</b>	<b>Chief Financial Officer and Divisional Director; Business Support and exercised by Head of Business, Finance and Pensions.</b>
<b>Ratification of Procedures under previous regulations and to grant delegated Powers</b>		
Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007	<b>Avon Pension Fund ratify the procedures set out above for Avon Pension Fund as administering authority to make decisions in respect of former employees where their former employer has ceased to be a Scheme employer under Regulations 30 (2)(c) (choice of early payment of pension) and (5), 30A (3) and (5) (choice of payment of pension: pensioner member with deferred benefits) and 31 (6) (early payment of pension: ill-health)</b>	<b>Chief Financial Officer and Divisional Director; Business Support and exercised by Head of Business, Finance and Pensions.</b>