

## Arun District Council Pension Discretions Policy 1 April 2024

### Background and Authority

The Council is required to set out its discretions for beneficiaries, deferred beneficiaries, and active members for each of the periods stated in this document. The beginning of each section makes it clear which period of membership the discretion relates to.

Please note that mandatory discretions are listed under Part A and the non-mandatory discretions are under Part B. This document has been cross referenced with the full list of LGPS discretionary policies for England and Wales.

The Policy applies to all employees or members of Arun District Council who are in, eligible to join, or have been a member of the Local Government Pension Scheme.

Where the discretion refers to 'the dismissing officer', this means a member of the Corporate Management Team or Group Head.

Reviewed: 13 December 2023

**The following discretions apply to members who were actively paying into the scheme as of 1 April 2014 onwards.**

**Part A - Mandatory Discretions**

Regulation and Arun Discretion
<b>Power to award additional pension. Regulation 31</b>
Whether, at the full cost to the Scheme employer, to grant extra annual pension of up to £7,579 (figure on 1 April 2023) 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 [regulation 31 of the LGPS Regulations 2013].
<b>Arun Discretion</b>
Arun does not exercise the option to award additional pension to active scheme members either during employment or within 6 months of ceasing to be active member by reason of redundancy or business efficiency.

<b>Shared cost additional pension contributions Regulation 16(2e) (4d)</b>
<b>Whether, how much, and in what circumstances to contribute to a Shared Cost APC scheme.</b>
Whether, where an active member wishes to purchase extra annual pension of up to £7,579 (figure as of 1 April 2023), by making additional pension contributions (APCs), to voluntarily contribute towards the cost of purchasing that extra pension via a shared cost additional pension contribution (SCAPC) [regulations 16(2)(e) and 16(4)(d) of the LGPS Regulations 2013].
Note: This does not include instances where the employee is paying for <b>lost</b> 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 <b>must</b> pay two-thirds of the cost of such purchase.
<b>Arun Discretion</b>
Arun does not exercise the option to contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC) entered on or after 1 April 2014.

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## Regulation and Arun 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:
  - I. all, part, or none of the pension benefits they built up after 31 March 2008 and before 1 April 2014, and / or
  - II. 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 Provisions, Savings and Amendment) Regulations 2014, regulation 18(3) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and regulations 30(6) and 30(8) of the LGPS Regulations 2013].

### **Arun Discretion**

#### i) Whether to allow flexible retirement

Arun District Council has a Flexible Retirement Policy. The approval process for Flexible Retirement is set out in the relevant policy document.

#### ii) Whether to allow the member to choose to take

- a. part or none of the pension benefits they built up after 31 March 2008 and before 1 April 2014, and / or

Arun will permit a member to draw all, or part of the pension benefits they accrued before 1 April 2014 so long as this complies with the Flexible Retirement Policy.

- b. all, part, or none of the pension benefits they built up after 31 March 2014

## Regulation and Arun Discretion

Arun will permit a member to draw all, or part of the pension benefits they accrued on or after 1 April 2014 so long as this complies with the Flexible Retirement Policy.

iii) Whether to waive, in whole or in part, any actuarial reductions which would otherwise be applied to the benefits taken on flexible retirement before Normal Pension Age (R30(8))

Arun District Council has a Flexible Retirement Policy which states that Flexible Retirement will be at no additional cost to the Council. Arun will not therefore waive any actuarial reduction that would apply, except in exceptional circumstances and where it has been determined by Full Council that restructuring proposals achieve a payback within 3 years.

### **Switching on the 85-year rule**

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

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: -

- a) if the member has already met the 85 year rule, the member’s benefits are to be reduced in accordance with actuarial guidance issued by the Secretary of State (with the benefits from any pre 1 April 2008 membership for members who will not be 60 or more on 31 March 2016, and benefits from any pre 1 April 2016 membership for members who will be 60 or more on 31 March 2016, which would not normally have been subject to an actuarial reduction nonetheless being subject to a reduction calculated by reference to the period between the date the benefits are drawn and age 60) [paragraphs 1(2) and 1(4) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014], or
- b) if the member has not already met the 85 year rule, the member’s benefits are to be reduced in accordance with actuarial guidance issued by the Secretary of State (with the reduction on that part of the member’s benefits subject to the 85 year rule being calculated by reference to the period between the date the benefits are drawn and age 60, or the date of attaining the 85 year rule, whichever is the later), and

## Regulation and Arun Discretion

- c) the Scheme employer can exercise a discretion to waive any actuarial reductions (including where an actuarial reduction may still be applied to a member's benefits after 'switching back on' the 85-year rule in full) (at cost to the Scheme employer, via an employer strain charge).

### **Arun Discretion**

Where a member meets the criteria for the 85-year rule and wishes to retire on or after age 55 and before age 60, the Council will only grant such an application in exceptional or compassionate circumstances. Each application will be considered by the relevant CMT Member in conjunction with the Group Head with responsibility for Human Resources.

### **Waiving of actuarial reductions**

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

Employers can agree to waive any actuarial reductions due in the case of employees retiring any time after age 55. For active members voluntarily retiring on or after age 55 and before Normal Pension Age (NPA), who elect under regulation 30(5) of the LGPS Regulations 2013 to immediately draw benefits, and for 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 NPA.

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

- To waive on compassionate grounds, any actuarial reductions applied to benefits built up before 1 April 2016, and/or
- To waive, in whole or in part, on any grounds, actuarial reductions applied to benefits built up after 31 March 2016

#### **Group 2 - 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)**

- To waive on compassionate grounds, any actuarial reductions applied to benefits built up before 1 April 2020, and/or
- To waive in whole or in part on any grounds, actuarial reductions applied to benefits built up after 31 March 2020

#### **Group 3 - Members joined before 1 October 2006 and who reach age 60 after 31 March 2020 (or who would reach age 60 between 1 April 2016 and 31 March**

## Regulation and Arun Discretion

2020 and don't meet their critical retirement age before 1 April 2020 (date member meets the 85-year rule)

- To waive on compassionate grounds, any actuarial reductions applied to benefits built up before 1 April 2014, and/or
- To waive, in whole or in part on any grounds, actuarial reductions applied to benefits built up after 31 March 2014

Group 4 - Members joined after 1 October 2006

- To waive on compassionate grounds, any actuarial reductions applied to benefits built up before 1 April 2014, and/or
- To waive, in whole or in part on any grounds, actuarial reductions applied to benefits built up after 31 March 2014

### **Arun Discretion**

Arun will consider waiving actuarial reduction of benefits on compassionate grounds for all the above-mentioned groups.

Compassionate grounds are likely to be considered as follows:

- Looking after a sick relative.
- Ill health where payment of unreduced benefits might not be certified.
- Other exceptional compassionate grounds.

Each case will be considered on an individual basis and will require the agreement of a CMT member in conjunction with the Group Head responsible for Human Resources.

**The following discretions apply to members who left the scheme between 1 April 2008 and 31 March 2014**

Regulation and Arun Discretion
<b>Mandatory Discretions</b>
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.  A member with a deferred benefit who left the scheme voluntarily between 1 April 2008 – 31 March 2014 and who has subsequently become a deferred pensioner may now claim their benefits from age 55 without their employer’s 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. Any ‘strain’ to the Fund will be payable immediately by the Scheme employer.
<b>Arun Discretion</b>
Arun does not exercise the discretion to “switch on” the 85-year rule upon the voluntary early payment of deferred benefits.

<b>Whether to ‘switch on’ the 85-year rule upon the voluntary early payment of a suspended tier 3 ill health pension?</b> [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 a suspended tier 3 ill-health pension voluntarily drawing benefits (on or after 14 May 2018) on or after age 55 and before age 60.  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. Any ‘strain’ to the Fund will be payable immediately by the Scheme employer.
<b>Arun Discretion</b>
Arun does not exercise the discretion 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

## Regulation and Arun Discretion

### **Whether to waive upon the voluntary early payment of deferred benefits 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]

A member with a deferred benefit who left the scheme voluntarily between 1 April 2008 – 31 March 2014 may now claim their benefits from age 55 without their employer's consent. However, these benefits will be reduced for early payment.

An employer can consent to waiving any reductions, on compassionate grounds, that would normally be applied to deferred benefits which are paid before age 65.

#### **Arun Discretion**

Arun will consider waiving actuarial reduction of deferred benefits paid early on compassionate grounds, where a member retires voluntarily on or after age 55. Circumstances likely to be considered are:

- Looking after a sick relative
- Ill health where payment of unreduced benefits might not be certified.
- Other exceptional compassionate grounds

Each case will be considered on an individual basis and will require the agreement of the Group Head responsible for Human Resources.

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

[regulation 30A(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]

A member with a suspended tier 3 ill health pension and who left the scheme between 1 April 2008 – 31 March 2014 may now claim for their pension to be brought back into payment from age 55 without their employer's consent. However, these benefits will be reduced for early payment.

An employer can consent to waiving any reductions, on compassionate grounds, that would normally be applied to deferred benefits which are paid before age 65.

#### **Arun Discretion**

Each case will be considered on an individual basis and will require the agreement of the Group Head responsible for Human Resources.



**The following discretions apply to members who left the scheme between 1 April 1998 and before 1 April 2008**

Regulation and Arun Discretion
<b>Whether to ‘switch on’ the 85-year rule upon the voluntary early payment of deferred benefits</b> [paragraph 1 (1) (f) & 1 (2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) regulations 2014]
<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>
<b>Arun Discretion</b>
Arun does not exercise its discretion 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.

<b>Whether to grant applications for the early payment of pension benefits on or after age 50 and before age 55</b> [regulation 31(2) of the LGPS Regulations 1997].
<b>Whether to grant application for early payment of deferred benefits on or after age 50 and before age 55.</b>
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 employer’s consent.

## Regulation and Arun Discretion

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

### **Arun Discretion**

Arun will consider an application for early payment of deferred benefits on or after age 55 and before age 60. This would normally only be granted in exceptional compassionate circumstances. Whether or not to grant early payment will require the agreement of the Group Head responsible for Human Resources.

### **Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to benefits.**

[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 should 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.

### **Arun Discretion**

Arun will consider waiving actuarial reduction of deferred benefits paid early on exceptional compassionate grounds, where a member retires voluntarily on or after age 55. Circumstances likely to be considered are:

- Looking after a sick relative
- Ill health where payment of unreduced benefits might not be certified.
- Other exceptional compassionate grounds

Each case will be considered on an individual basis and will require the agreement of the Group Head responsible for Human Resources.

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

Regulation and Arun Discretion
<b>Whether to grant applications for the early payment of deferred pension benefits on or after age 50 and before NRD on compassionate grounds</b> [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.  If granted, these benefits may be reduced for early payment and/or be subject to an unauthorised payment charge under the Finance Act 2004.
<b>Arun Discretion</b> Arun will consider granting an application for early payment of deferred benefits on or after age 50 for a pre-1.4.98 leaver only on compassionate grounds. Each case will be considered on an individual basis and will require the agreement of the Group Head responsible for Human Resources.

## Part B – Non-mandatory discretions

### **Shared Cost Additional Voluntary Contribution arrangements**

Regulation 17 of the LGPS Regulations 2013 and regulation 15(2A) of the LGPS (Transitional Provisions and Amendment) Regulations 2014

Whether to allow a Shared Cost Additional Voluntary Contribution (SCAVC) arrangement. To determine how much will be allowed to be contributed to the SCAVC arrangement. To define in what circumstances contribution to a SCAVC arrangement will be allowed.

### **Arun Discretion**

The Council will pay SCAVC contributions where an employee has elected to pay AVCs by salary sacrifice. The amount of these employer SCAVC contributions will not exceed the amount of salary sacrificed by the employee. This is a Council discretion which is subject to the employee meeting the Council's conditions for acceptance into the salary sacrifice shared cost AVC scheme and may be withdrawn or changed at any time.

### **Time limit for a member to elect to purchase additional pension by way of a shared cost additional pension contribution (SCAPC) upon return from a period of absence.**

Regulation 16(16) of the LGPS Regulations 2013.

Whether to extend the 30-day deadline for member to elect for a SCAPC upon return from a period of absence from work with permission with no pensionable pay (otherwise than because of illness or injury, relevant child-related leave, or reserve forces service leave)

### **Arun Discretion**

Arun does not exercise the option to contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC) entered on or after 1 April 2014.

### **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

### **Arun Discretion**

Where a member asks for an extension of the 12-month option period to elect not to have their deferred benefits aggregated, Arun will grant this discretion where there are sound reasons, normally as follows:

- Member not made aware of the right to aggregate.
- Member not provided with the necessary paperwork.
- Previous delays in providing information within that fund.

This will require the approval of the Group Head responsible for Human Resources and the Pension Administrators.

**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

**Arun Discretion**

Arun will consider a limited extension of this period if the member has not been provided with information in a timely way or where evidence indicates that the member made an election within the 12 months', but the election was not received by the Pension Fund Administering Authority.

**Extension of time limit to aggregate pension.**

TP10(6)

Whether to extend the 12-month option period for a member (who did not become a member of the 2014 Scheme by virtue of TP5(1)) to elect that pre-1 April 2014 deferred benefits should be aggregated with a new employment.

**Arun discretion**

Arun will consider a limited extension of this period if the member has not been provided with information in a timely way or where evidence indicates that the member made an election within the 12 months', but the election was not received by the Pension Fund Administering Authority.

**Employee contribution band determination**

R9(1) &amp; R9(3)

Where an active member changes employment or there is a material change which affects the member's pensionable pay during a financial year, the scheme employer may determine that a contribution rate from a different band (as set out in Regulation 9 (2) and subsequent adjustments) should be applied.

**Arun discretion**

The contribution rate paid by active members is determined by reference to pay bands which form part of the contract of employment for an individual. Other variable and non-variable pay which is pensionable is detailed in a list held by HR & Payroll. Arun will review the employee's contribution band from the date the permanent change to pay is applied. Under Scheme rules members also have the option to pay 50% contributions for 50% benefits for a period to be determined by them.

**Whether to include a regular lump sum payment when calculating assumed pensionable pay (APP)?**

R21(5)

In determining Assumed Pensionable Pay (APP), the employer needs to consider whether a lump sum payment made in the previous 12 months is a “regular lump sum”.

**Arun discretion**

The elements which make up pensionable pay for Arun employees are set out on the intranet or from Human Resources. Where a lump sum payment arises and is not covered by the current definition the decision will be made by the Group Head responsible for Human Resources or delegated to the Human Resources Manager in their absence.

**Whether, subject to qualification, to substitute a higher level of pensionable pay when calculating assumed pensionable pay (APP)?**

R21(5A) & R21(B)

When a member is:

- on reduced contractual pay or no pay due to sickness or injury, or
- absent during ordinary maternity, paternity, or adoption leave, or paid shared parental leave, or during paid additional maternity or adoption leave, or
- absent on reserve forces service leave, or
- retires with a Tier 1 or Tier 2 ill health pension, or
- dies in service

Where in the Employer’s opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments) in the 3 months (or 12 weeks if not paid monthly) preceding the commencement of Assumed Pensionable Pay (APP), is materially lower than the level of pensionable pay the member would have normally received, decide whether to substitute a higher level of pensionable pay having had regard to the level of pensionable pay received by the member in the previous 12 months.

**Arun Discretion**

This will be considered, in exceptional circumstances and each case should be considered on an individual basis by the Group Head responsible for Human Resources.

- These policies may be subject to review from time to time. Any subsequent change in this Policy Statement will be notified to affected employees.
- If it is decided to amend the policy, no change can come into effect until one month has passed since the date the amended policy statement was published.

- Any changes to this policy will be notified to the Hampshire Pension Services within 1 month of the change.

**Signed on behalf of:**

**Completed by:**

**Position:**

**Signature:**

**Date:**

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