Office of the Police and Crime
Commissioner for Surrey

THE POLICE AND CRIME COMMISSIONER

LOCAL GOVERNMENT PENSION SCHEME

PAYMENT OF DISCRETIONARY COMPENSATION TO EMPLOYEES

POLICY ON EXERCISE OF EMPLOYER DISCRETIONS

The Police and Crime Commissioner (PCC) as an employer is under a legal duty to prepare and publish a written statement of its policy relating to certain discretionary powers under the Regulations which apply to the Local Government Pension Scheme ("the LGPS").

The PCC is also under a duty to formulate, publish and keep under review the policy that the PCC applies in exercising discretionary powers under Regulations relating to the payment of compensation to employees whose employment is terminated as a result of redundancy or certain other reasons.

This document is intended to comply with these duties and, in the following table, sets out the discretionary powers concerned, identifies the relevant Regulation that gives the PCC the discretion and describes how the discretion will be exercised.

The policy set out in this document will not be departed from except as provided for in the policy or following a variation to the policy approved by the PCC.

This statement is not a definitive statement of the law and is subject to the provisions of the relevant Regulations.

The Regulations that apply to the LGPS are:

- The Local Government Pension Scheme Regulations 2013 (these are referred to as the "Pensions Regulations");
- The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (referred to as the "Transitional Regulations");
- The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 applied to the LGPS before 1 April 2014, are preserved in part on a transitional basis by the Transitional Regulations and are referred to as the "Benefits Regulations"

The Regulations which apply to the payment of compensation to employees whose employment is terminated as a result of redundancy, other specified reasons or injury are:

- The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (referred to as the" Compensation Regulations").
- The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 (referred to as the "Injury Regulations").

In the table below:

(1) "The Scheme" or "the Pension Scheme" means the LGPS and "the Fund" or "the Pension Fund" means the fund maintained under the LGPS;

(2) "Member" means a member of the LGPS;

(3) "Active member" means a member in employment and paying, or treated as paying, contributions to the LGPS, or absent from employment for a reason mentioned in Regulation 11 of the Pensions Regulations.

(4) References to a member with transitional protection are those who can count membership accrued before 1 October 2006 and who have statutory transitional protection under the Transitional Regulations, wholly or partly, from changes that would otherwise be made to their pension entitlements and/or from actuarial reductions that would otherwise be applied to their pension benefits as a result of the coming into force of the Pensions Regulations on 1 April 2014.

(5) References to a member meeting "the 85 year rule" are those a members whose age in whole years when added to the member's total membership in whole years is 85 years or more.

The power to exercise and to take any decision in relation to the each of the discretions is delegated by the PCC to the Pension Board (Staff).

This statement was approved by the PCC and is intended to comply with the PCC's duties under Regulation 60 of the Pensions Regulations, Regulation 7 of the Compensation Regulations and Regulation 14 of the Injury Regulations.

No.	Area	Regulation	Discretion	Policy Summary	Explanation
1	**Whether to vary an employee's contribution band**	Regulations 9 and 10 Pensions Regulations	Members must pay pension contributions at the appropriate rate set on 1st April or the first day of active membership, if later. The employer may vary the contribution rate if there is a change in employment or a material change that affects the member's pensionable pay.	The PCC may vary the employee's contribution rate if there is a material change and each case will be considered on its merits.	Contribution bands are set on 1st April but the employer may change them if a member changes jobs or has a material pay increase / decrease.
2	**Whether to increase assumed pensionable pay in certain specific circumstances**	Regulation 21(5), 21(5A) and 21(5B) Pension Regulations	If a member is absent as a result of illness, child related leave or reserve forces leave their pension benefits may be based on assumed pensionable pay (APP). If, in the employer's opinion, the member's APP is materially lower than their pay in the twelve months preceding the absence they can either include (1) a "regular" lump sum received during that period or (2) substitute a higher pensionable pay having regard for their earnings in that period.	The PCC may increase assumed pensionable pay and each case will be considered on its merits.	If a member's APP is lower than their regular pensionable pay the employer can either substitute a higher rate of pay, based on the pay they received in the year before the absence began, or, include regular lump sums received during that period.

No.	Area	Regulation	Discretion	Policy Summary	Explanation
3	**Funding of Additional Pension Contributions**	Regulations 16(2)(e) and 16(4)(d)	Whether to fund, in whole or in part, a shared cost additional pension contributions (SCAPC) on behalf of an active member by regular contributions (Regulation 16(2)(e)) or by lump sum (Regulation 16(4)(d)). **Note:** The amount of additional pension that may be credited to an active member's pension accounts may not exceed the overall additional pension limit of £6,822 (April 2018 and uplifted annually).	The PCC will only award the Funding of Additional Pension Contributions in exceptional circumstances.	The employing authority can choose to pay additional pension contributions on behalf of active employees.
4	**Shared Cost Additional Voluntary Contributions (SCAVCs)**	Regulation 17(1) and Schedule 1 (definition of SCAVC) Pension Regulations.	Whether to contribute towards a Shared Cost Additional Contribution arrangement. Pre-2014 SCAVCs also fall under Regulation 17 by virtue of Regulation 15(2A) Transitional Regulations. The PCC operates a non-shared AVC scheme where an active member can invest money through an AVC provider. The scheme provider for Surrey County Council is Prudential. AVCs are deduced directly from your pay and attract tax relief.	The PCC will only award Shared Cost of Additional Pension Contributions in exceptional circumstances.	An employer can choose to contribute towards a SCAVC.

No.	Area	Regulation	Discretion	Policy Summary	Explanation
5	**Whether to grant early payment of pension on compassionate grounds (pre-1st April 1998 leavers)**	Regulation D11(2)(c) of 1995 Regulations	Whether to agree to early payment of pension benefits from age 50 on compassionate grounds. The employer should note that pension benefits paid before age 55 may attract an unauthorised payments surcharge and they may have to pay a strain cost because the pension benefits cannot be reduced.	The PCC will only grant early payment on compassionate grounds in exceptional circumstances.	The employer may agree to payment from age 50, but they may incur an unauthorised payments surcharge and/or a capital cost.
6	**Flexible Retirement**	Regulation 30(6), Pensions Regulations Regulations 11(2) and (3) of Transitional Regulations	Whether to agree to an employee aged 55 or over reducing their hours of work or their grade so that they may receive all or some of their retirement pension while still employed. Whether, in addition to any pre-1st April 2008 pension benefits which the member must draw, to permit the member to draw; (a) all, part or none of benefits accrued between 1st April 2008 and 31st March 2014 and (b) all, part or none of the pension benefits built up after 31st March 2014	The PCC may award Flexible Retirement but each case will be considered on its merits. See the 'Flexible Retirement' policy.	The employing authority can agree to an employee aged 55 or over drawing all or some of their pension and continuing to work in the same employment on reduced hours, pay or grade. The employer should note that granting consent would trigger the 85-year rule and may require a capital payment.

No.	Area	Regulation	Discretion	Policy Summary	Explanation
7	**Switching-on the 85-year rule**	Schedule 2 of Transitional Regulations	Whether to switch on the 85-year rule under Regulation 1(2) and 1(3) of Schedule 2 of the Transitional Regulations. If a member retires between 55 and 60 and had protection under the '85 year rule' (i.e. if you add age and length of service in whole years and this equates to 85) this will not automatically apply in full and their benefits might therefore be subject to actuarial reduction (as they will be receiving them earlier than what they would have done).	The PCC will only consider switching-on the 85year rule in exceptional circumstances.	The employer can agree to switch on the 85-year rule, which may mitigate reductions that would, otherwise, apply but the employer may have to make a capital payment.

No.	Area	Regulation	Discretion	Policy Summary	Explanation
8	**Waiving of Actuarial Reduction to Pensions**	Regulation 30(8), Pensions Regulations Schedule 2 of Transitional Regulations	(Post 2014) Whether to agree to waive, in whole or in part, any actuarial reduction that would otherwise apply to the pension paid to a former employee aged 55 or over under 30(5) or 30(6) [flexible retirement] using regulation 30(8) of the Pension Regulations. The PCC does not normally agree to waive the costs of the actuarial reduction. Where this is the case, the grounds for doing so must be included in the business case for the early release of pension and is subject to the relevant approval processes. (Pre-2014) Whether to waive actuarial reductions entirely under 30(5) or 30A(5) [deferred pensioner members] of the Benefits Regulations and Regulation 2(1), of Schedule 2 of the Transitional Regulations.	The PCC will only waive actuarial reductions in exceptional circumstances. The PCC will treat each case fairly based on the circumstances and merits of the case.	The employing authority can agree to waive reductions to the pension of a member aged 55 or over who has left employment or been granted flexible retirement. The employer may be required to make a capital payment if they do so.

No.	Area	Regulation	Discretion	Policy Summary	Explanation
9	**Award of Additional Pension**	Regulation 31, Pensions Regulations	To award additional pension at full cost to the employer: (1) an active member; or (2) a former active member who was dismissed by reason of redundancy, business efficiency or mutual consent on grounds of business efficiency. **Note:** Any additional pension awarded (including any additional pension purchased by the employer or the member under Regulation 16 of the Pensions Regulations) may not exceed the overall additional pension limit of £6,822 (April 2018 and uplifted annually). Additionally, in the case of a member falling within (2) above, the resolution to award additional pension must be made within 6 months from the date on which the employment ended.	The PCC will only award additional pension in exceptional circumstances.	This means the employing authority has the power to award additional pension to an active member. The employer can also award additional pension to members who leave on the grounds of redundancy, business efficiency or mutual consent on grounds of business efficiency – up to six months after termination. The employer would be required to make a capital payment (in addition to the cost of purchase) if the member retired early on any grounds apart from permanent ill-health.

No.	Area	Regulation	Discretion	Policy Summary	Explanation
10	**Aggregation of Benefits: Concurrent Employments**	Regulation 22 (7)(b), Pensions Regulations	Whether to allow an active member with concurrent employments, who ceases an employment with an entitlement to a deferred pension, more than 12 months to elect **not** to have their deferred pension aggregated with their active member's pension account.	The PCC may extend the deadline but each case will be considered on its merits.	The employing authority can allow a member who leaves one of two (or more) employments - held at the same time - longer than 12 months to elect **not** to combine the deferred pension with the ongoing active pension.
11	**Aggregation of Benefits:** **Deferred Member becoming Active Member**	Regulation 22 (8)(b), Pensions Regulations	Whether to allow a deferred member who becomes an active member longer than 12 months in which to elect **not** to have their deferred benefits aggregated with the benefits in their active member's pension account.	The PCC may extend the deadline but each case will be considered on its merits.	The benefits are usually aggregated (joined-up), **unless** the member elects to keep them separate. The employing authority can agree to a former member having longer than 12 months to choose not to combine their pensions.
12	**Aggregation of Benefits:** **Deferred Member becoming Active Member (pre-2014 membership)**	Regulation 10(6)(b) Transitional Regulations	Whether to allow a deferred member who becomes an active member longer than 12 months in which to **elect** for their pre-2014 deferred benefits to be aggregated with their active member's pension account (but, technically, they would lose the final salary link if they have not made an election under 5(5) Transitional Regulations within twelve months of becoming an active member of 2013 scheme).	The PCC will only extend the deadline in exceptional circumstances.	The pre-2014 preserved benefits will be kept separate **unless** the member makes a positive election to aggregate them. The employing authority can agree to a former member having longer than 12 months to choose to combine their pensions.

No.	Area	Regulation	Discretion	Policy Summary	Explanation
13	**Inward Transfer of Pension Rights**	Regulation 100, Pensions Regulations	Whether to allow an employee who has been an active member in their current employment for more than 12 months to ask for the transfer of certain accrued pension rights to be considered. **Note:** Regulation 100(6) of the Pensions Regulations requires that a request must be made within 12 months beginning with the date on which the member first became an active member in an employment or such longer period as the employer and the Administering Authority may allow. The discretion is, therefore, only exercisable if both the Employing Authority and the Administering Authority agree	The PCC may extend the deadline but each case will be considered on its merits.	Members who have been in the pension scheme for more than twelve months can ask for a transfer-in to be considered - but it will only be investigated if **both** the employing authority and the administering authority agreed.
14	**Redundancy Payments**	Regulation 5, Compensation Regulations 2006	Whether to base redundancy pay on actual pay where actual pay exceeds the statutory maximum under the Employment Rights Act 1996 (£508.00 from April 2018).	The PCC may pay statutory improved redundancy payments and each case will be considered on its merits. See the Redundancy and Redeployment Procedure.	The employer can base the calculation of a week's pay for redundancy on actual pay if it is higher than the statutory limit (currently £508 in April 2018).

No.	Area	Regulation	Discretion	Policy Summary	Explanation
15	**Compensation for loss of Employment**	Regulation 6, Compensation Regulations 2006	Whether to pay compensation to a person whose employment ceases • by reason of redundancy • in the interests of the efficient exercise of the employing authority's functions Note: Compensation may not be paid under this Regulation if: • a person's period of membership of the Pension Scheme has been increased under Regulation 12 of the Benefits Regulations 2007 (see above); or - a person has been awarded an additional pension under Regulation 13 of the Benefits Regulations 2007 see above). In all cases the amount of compensation paid under this Regulation may not exceed 104 weeks' pay less any redundancy payment payable. In all cases the decision to pay compensation under this Regulation must be made no later than 6 months after the date of termination of the person's employment.	The PCC may award compensation for loss of employment in exceptional circumstances and each case will be considered on its merits. See the Redundancy and Redeployment Procedure.	The employing authority can make an award of up to 104 week's pay (less any redundancy payment payable).

No.	Area	Regulation	Discretion	Policy Summary	Explanation
16	**Injury Allowances**	14(1) of the Compensation Regulations 2011	Scheme employers (LGPS employers), **apart from admission bodies**, must formulate, publish and keep under review a policy on: 1) Whether to make an injury award to those who sustain an injury or contract a disease as a result of anything they were required to do in performing the duties of their job and in consequence of which they: • suffer a reduction in remuneration, or • cease to be employed as a result of an incapacity which is likely to be permanent and which was caused by the injury or disease, or • die leaving a surviving spouse, civil partner or dependant, and 2) if the Scheme Employer has a policy to make such payment, how it will determine the amount of injury allowance to be paid?	The PCC will only pay injury allowances in exceptional circumstances.	An employing authority may award an injury allowance to employees who contract an injury or illness related to their employment.

No.	Area	Regulation	Discretion	Policy Summary	Explanation
17	**Drop in pay**	23(4) of LGPS 1997 Regulations	Whether to consider issuing a certificate of protection of pension benefits for a reduction in pay where an employee fails to apply for one but has subsequently realised that they should have done so. If pay is reduced, or increases to pay are restricted in the last 10 years of continuous employment, an employee can continue to have the option to have all their pre April 2014 membership based on the average of any 3 consecutive years' pay in the last 13 years (ending on a 31 March). If they have a certificate of protection which was issued for a reduction or restriction in pay beyond their control before 1 April 2008 and they leave the LGPS within 10 years of the reduction or restriction, then this protection continues to apply after April 2014 for benefits built up in the final salary scheme.	The PCC may consider issuing a Certificate of Protection but each case will be considered on its merits.	An employing authority may consider issuing a Certificate of Protection if it was clear an employee was unable to apply at the time due to circumstances beyond their control.