



# **Administering Authority Discretions Policy**

**Sutton Council Pension Fund**

**June 2022**

# Introduction

Sutton Council, as Administering Authority to the Sutton Council Pension Fund, has determined its discretionary policies in accordance with the Local Government Pension Scheme Regulations 2013 (as amended), and related legislation, and these are outlined in this statement. We will apply these policies to all members of the Pension Fund, regardless of who their employer is. Where relevant, these policies equally apply to members who left pensionable service prior to 1 April 2014 (albeit only in relation to discretions exercised since the effective date of these policies), to councillor members and to pension credit members.

We updated the content of these policies in 2022 in line with current legislation. These amended policies were approved at the Pension Committee meeting on 28 June 2022 and are effective from that date unless stated otherwise within this document.

We retain the right to change these policies at any time as long as we republish the amended policy at least within one month of when the change(s) we are introducing come(s) into effect.

These policies do not give, nor shall they be deemed to give, any contractual rights to any member of the Pension Fund, or to any other person whatsoever. Nothing in this document will cause the Administering Authority's capacity to exercise its discretionary powers to be unlawfully fettered or restricted in any way.

We will exercise these discretions in line with the provisions of the various LGPS Regulations and other legislation. Nothing within this statement can overwrite the legal requirements within those provisions.

We will review the policies within this statement as required in the light of future changes to the LGPS legislation or other relevant legislation. It will also be reviewed at least every three years. The next review of this statement will be done no later than June 2025.

## Administering Authority Discretions

Ref	Regulation Ref*	Description	Policy Decision
<b>Key Strategies and Policies</b>			
1	R13 - 55	Publish a Governance Policy stating how functions are delegated and whether the Administering Authority complies with guidance given by the Secretary of State.	A copy of the current Governance Compliance Statement can be found on the Council's website.
2	R13 - 58	Decide on the Funding Strategy for inclusion in the funding strategy statement.	Agreed in cooperation with actuary. A copy of the current Funding Strategy Statement can be found on the Council's website.
3	R13 - 61	Develop a Communication Policy setting out how the Administering Authority communicates with members, representatives of members, prospective members and employing authorities and the format, frequency and method of communications.	A copy of the current Communications Policy is contained within the Pensions Administration Strategy and can be found on the Council's website.
4	R13 - 59(1) and (2)	Decide whether to have a written Pensions Administration Strategy and, if so, the matters it should include.	A copy of the current Pensions Administration Strategy can be found on the Council's website.
5	R13 - 105(2)	Whether to delegate any Administering Authority functions under the Regulations.	The Administering Authority does delegate certain functions to senior officers and to the Pension Fund Panel as appropriate. Details of these are set out in the Council's Constitution and in the Governance Policy Statement.

6	R13 - 106(3)	Whether to establish a joint local pensions board (if approval has been granted by the Secretary of State).	The Administering Authority did not establish a joint pension board.
7	R13 - 106(6)	Decide procedures applicable to the local pensions board.	Procedures have been decided and are detailed in the Governance Compliance Statement and the Board's Terms of Reference.
8	R13 - 107(1)	Decide appointment procedures, terms of appointment, and membership of the local pensions board.	The appointment procedures and terms have been decided and are detailed in the Governance Compliance Statement and the Board's Terms of Reference. The membership of the local pension board is set out on the Council's website.
<b>Disputes</b>			
9	R13 - 74(1) A58 R97 - 100	Appoint a person for dealing with applications under Stage One of the dispute resolution procedures (IDRP) in relation to any disputes relating to the role as Administering Authority (includes in relation to councillor members).	The Pensions Administration Manager will act as the Stage One IDRP adjudicator for Administering Authority disputes.
10	R13 - 76(4) A60(8) R97 - 99	Decide the procedure to be followed by the Administering Authority when exercising its Stage Two IDRP functions (includes in relation to councillor members).	Stage Two determinations are dealt with by the Head of Insurance and Pensions Administration, after obtaining relevant advice and guidance.
11	R13 - 79(2) A63(2) R97 - 105(1)	Whether the Administering Authority should appeal to the Secretary of State against an employer decision (or lack of a decision) (includes in relation to councillor members).	The Fund will appeal to the Secretary of State when there is sufficient evidence that an employer has made a decision or committed an act (or failed to act) that is both wrong in law and material, where we have been unable to persuade

			the employer to alter its actions (or inactions). Such matters will be decided by the Assistant Director responsible for the pensions administration service.
<b>Admission Agreements and Employer Management</b>			
12	R13 - 3(5) and Sch 2, Part 3, Para 1	Whether to agree to an admission agreement with an external employer.	This will be subject to agreement by the Pension Committee, unless delegated to senior officers.
13	R13 - Sch2, Part 3, Para 14	Whether to backdate the effective date of an admission agreement with an external employer.	This will be subject to agreement by the Pension Committee, unless delegated to senior officers.
14	R13 - 4(2)(b)	Whether to agree to an admission agreement with a Care Trust, NHS Scheme employing authority or Care Quality Commission.	This will be subject to agreement by the Pension Committee, unless delegated to senior officers.
15	R13 - Sch 2, Part 3, para 9(d)	<p>Whether to terminate a transferee admission agreement in the event of</p> <ul style="list-style-type: none"> <li>• insolvency, winding up or liquidation of the body;</li> <li>• breach by that body of its obligations under the admission agreement;</li> <li>• failure by that body to pay over sums due to the Fund within a reasonable period of being requested to do so.</li> </ul>	This will be subject to agreement by the Pension Committee, unless delegated to senior officers.
16	R13 - Sch 2, Part 3, para 12(a)	Employees of a contractor are only entitled to remain in the LGPS whilst they continue to be "employed in connection with" the original services that were transferred. This expression should be defined by the Administering Authority.	This is defined as meaning an employee will be expected to work at least 75% of their time on the services covered by the contract to remain in the LGPS.

17	R13 - 54(1)	Whether to set up a separate admission agreement fund.	Sutton Council does not operate a separate admission agreement fund.
18	R13 - 64(2A)	Whether to suspend, for up to 3 years, an employer's obligation to pay an exit payment where the employer is again likely to have active members within the specified period of suspension.	This will be decided on a case by case basis by the Assistant Director responsible for the pensions administration service.
19	R13 - 64 (2ZAB)	To determine the amount of any exit credit that may be payable to an exiting employer, taking into account the factors set out in the regulations	This will be decided by the Head of Insurance and Pensions Administration in accordance with the Funding Strategy Statement.
20	R13 - 64(2ZA)	Whether to agree to pay an exit credit which is payable to an exiting employer, beyond six months of the date on which that employer ceases to be a Scheme employer. This would be an extension of the usual timescale and would only be permitted if agreement is also received from the exiting employer.	This will be decided by the Head of Insurance and Pensions Administration and the exiting employer.
21	R13 - 64(4)	Whether to obtain a revision of the rates and adjustments certificate if there are circumstances that make it likely that a Scheme Employer will become an exiting employer.	This will be decided by the Head of Insurance and Pensions Administration in accordance with the Funding Strategy Statement.
22	R13 - 68(2) TP14 - Sch 2, Para 2(3) R97 - 80(5)	Whether to require any strain on Fund costs to be paid "up front" by an employer following redundancy / business efficiency retirement, flexible retirement, or the waiver (in whole or in part) of any actuarial reduction on	Employers are invoiced upfront for all required strain costs. Requests to spread these costs using a payment plan will be decided by the Head of Insurance and Pensions Administration.

		voluntary or flexible retirement.	
23	R13 - 80(1)(b) TP14 - 22(1) A64(1)(b)	What information should be supplied by employers to enable the Administering Authority to discharge its functions.	Details are available in the Pension Administration Strategy, which can be found on the Council's website.
24	R13 - 69(1)	Decide frequency of payment of contributions to the Fund by employers and whether to make an administration charge for late receipt.	Details are available in the Pension Administration Strategy, which can be found on the Council's website.
25	R13 - 69(4)	Decide the format and frequency of information from employers to accompany payments of contributions to the Fund.	Details are available in the Pension Administration Strategy, which can be found on the Council's website.
26	R13 - 70 TP14 - 22(2)	Whether to issue an employer with a notice to recover additional costs incurred as a result of the employer's level of performance.	Details are available in the Pension Administration Strategy, which can be found on the Council's website.
27	R13 - 71(1)	Whether to charge interest on overdue payments by employers.	Interest may be charged on any amount overdue under regulation 71 which includes contributions and performance penalties. In addition, there will be a one-off charge for administration. Details are available in the Pension Administration Strategy, which can be found on the Council's website.
28	R13 - 36(3) A56(2) R97 - 97(10)	The Administering Authority is required to approve medical advisors used by employers (for the determination of ill health benefits) (including in relation to councillor members).	Independent Registered Medical Practitioners used by employers will be accepted as long as they hold the relevant medical qualifications and the appropriate declaration is signed on the ill-health retirement certificate.

Payments relating to Death			
29	R13 - 82(2) A52(2) R97 - 95	A death grant due to a scheme member's estate can be paid to the personal representative(s), or anyone appearing to be, without the need for grant of probate / letters of administration if the death grant is less than the amount specified in any order under Section 6 of the Administration of the Estates (Small Payments) Act 1965 (£5,000 at the time of the making of this policy). This also relates to councillor members.	The Administering Authority will normally not require a grant of probate / letters of administration where the amounts due are below the specified amount.
30	R13 - 17(12), 40(2), 43(2) & 46(2) TP14 - 17(5) to (8) B23(2), 32(2) & 35(2) T08Sch1 R97 - 38(1) & 155(4) R95 - E8	The Administering Authority may, at its absolute discretion, pay any death grant due (including AVCs, SCAVCs and life assurance relating to AVCs) to or for the benefit of the member's nominee, personal representatives or any person appearing to the authority to have been a relative or dependent of the member. This also relates to councillor members.	The Administering Authority will consider such matters on a case-by-case basis, taking into account the evidence available to it (including any completed nomination forms, the information gathering form and associated legal documents).
31	R13 - Sch 1 TP14 - 17(9)(b) B25	The Administering Authority must decide the evidence required to determine financial dependence of a cohabiting partner on a scheme member or financial interdependence between the cohabiting partner and the scheme member.	The Administering Authority will require information and evidence about the interrelationship between the parties' and their finances. This may include whether or not they were financially dependent or interdependent, whether they lived together, who paid the ongoing bills e.g. mortgage, gas, electric, and broadband.
32	TP14 - 3(6), 4(6)(c), 8(4),	Where a member to whom regulation B10 applies (use of average of three years	The Administering Authority would make the election on behalf of the member to



	10(2)(a), 17(2)(b) B10(2)	pay for final pay purposes) dies before making an election, whether to make that election on behalf of the deceased member.	ensure that the highest benefits are paid.
33	TP14 - 3(6), 4(6)(c), 8(4), 10(2)(a) & 17(2)(b) T08 - Sch 1 R97 - 23(9)	Whether to make an election on behalf of a deceased member who had a certificate of protection of pension benefits so their benefits may be calculated using the best pay figure.	The Administering Authority would make the election on behalf of the member to ensure that the highest benefits are paid.
34	R13 - Sch 1 "Eligible Child" TP17(9)	Whether to treat a child as being in continuous education or vocational training, despite a break (including a child of a councillor member) so that the child's pension resumes after the break.	The fund will usually suspend the pension and reinstate after the break. The decision will be made by the Pensions Administration Manager.
35	R97 - 47(1) R95 - G11(1)	How to apportion children's pension amongst eligible children (applies to children of leavers between 1 April 1998 and 31 March 2008 and children of councillor members).	Where there is more than one eligible child, the Fund will normally divide the child's pension equally between the eligible children, with delegated authority given to the Pension Administration Manager to determine what is appropriate.
36	B27(5) R97 - 47(2) R95 - G11(2)	Whether to pay the whole or part of a child's pension to another person for the benefit of the child (includes children of councillor members). This applies to pre 1 April 2014 leavers only.	Where a child is below the age of 17, we will normally pay his/her pension to the person who has the care of the child, to be applied for the benefit of that child. This will be decided on a case-by-case basis by the Pensions Administration Manager.
37	R95 - F7	Whether to suspend spouses' pensions during remarriage or cohabitation.	The Fund will continue payment of a survivor's pensions during any period of remarriage or cohabitation.

Transferring or Linking Benefits			
38	R13 - 98(1)(b)	Whether to agree to the payment of a bulk transfer.	Details are available in the Funding Strategy Statement, which can be found on the Council's website. This will be decided on a case by case basis by Sutton Council's Section 151 Officer.
39	R13 - 100(6)	The Administering Authority (with the agreement of the employer) may extend the 12 month time limit for a scheme member to elect to transfer in benefits from a non-local government pension scheme or personal pension plan.	The employer can extend with the agreement of the Administering Authority providing this is not of financial detriment to the Fund or employer. The Administering Authority decision will be made by the Pensions Administration Manager.
40	R13 - 100(7)	Whether to allow transfers of pension rights into the Fund.	The Fund will allow transfers in within 12 months from the date of joining the fund unless maladministration has occurred when consideration will be given to extending that time period (see above).
41	TP14 - 15(1)(d) & A28(2)	Whether to charge a scheme member for the provision of an estimate of the additional pension that would be provided in the Fund in return for a transfer in of in house AVC/SCAVC funds (only applies where the arrangement was entered into before 1 April 2014).	Scheme members may request one quote per financial year that is provided free of charge. In the exceptional case that a further quote is requested by the same member, we reserve the right to impose an administration charge on the scheme member. The decision as to whether to impose a charge will be made on a case-by-case basis by the Pension Administration Manager.
42	TP14 - 10(9)	Where a deferred member also has ongoing multiple concurrent employments, the member may be able to choose which employment	Where the member does not make a decision, the Fund will aggregate benefits in the way that appears most beneficial to the

		the deferred benefits are aggregated with. We can decide this where the member does not make their own election within 12 months.	member, which is usually aggregating to the highest paid post or main employment.
43	R97 - 118	Whether the Fund will retain the Contributions Equivalent Premium (CEP) where a scheme member transfers out to a contracted in pension scheme (for councillor members and pre 1 April 2008 leavers).	The Fund will retain the CEP in these circumstances.
<b>Other Miscellaneous Discretions</b>			
44	R97 - 106A(5)	The date to which benefits shown on deferred Annual Benefit Statements are calculated.	All annual benefit statements will be calculated as at 31 March preceding their distribution.
45	TP14 - 3(13) A70(1) & A71(4)(c) T08 - 12 R97 - 109 & 110(4)(b)	Abatement of pensions on re-employment (applies to pre 1 April 2014 retirees only including councillor members).	The Fund will not abate pensions on re-employment.
46	R13 - 22(3)(c)	The pension account may be kept in such form as is considered appropriate.	Pension accounts will be kept in the format specified by the Fund's pensions administration software provider.
47	R13 - 83 A52A	An Administering Authority may determine how and to whom benefits may be paid if the recipient is incapable of managing their affairs by reason of mental disorder or otherwise.	In these circumstances we may decide to pay some or all of the benefit to someone else to be applied for the benefit of the scheme member. The Pension Administration Manager will decide these matters on a case-by-case basis.
48	R13 - 16(1)	Whether to turn down a request to pay an APC/SCAPC by regular contributions over a period	We will not decline a request unless an employer asks us to and, if an employer does so, the

		of time where it would be impractical to allow such a request, for example, due to the pension being bought resulting in very small payments.	Pension Administration Manager will decide whether to decline the request.
49	R13 - 16(10)	Whether to require a satisfactory medical before agreeing to an application to pay an APC or SCAPC, and whether to turn down the application if not satisfied that the member is in reasonably good health.	The Administering Authority reserves the right to require a medical examination.
50	R13 - 32(7)	A scheme member wishing to receive benefits other than at normal pension age, or on flexible retirement, must elect to do so within certain time limits. The Administering Authority may extend these time limits.	The Administering Authority expects any elections to be made within the time limits set out in the regulations. However, the time limit can be extended and this will be considered on a case by case basis.
51	TP14 - 15(1)(c) T08 - Sch1 & R97 - 83(5)	Whether to extend the time period for a scheme member electing to capitalise remaining contributions to an added years contract in cases of redundancy.	We expect any elections to be made within the time limits in the regulations. However, the time limit may be extended by the Pension Administration Manager depending on the circumstances of the case.
52	R13 - 34(1) B39 T08 - 14(3) R97 - 49 & 156	The Administering Authority may commute small pensions into a lump sum where they are below nationally prescribed limits.	We will pay a lump sum in lieu of a pension which falls below the nationally defined limits unless the member elects to receive the pension as an ongoing payment.
53	R13 - 49(1)(c) B42(1)(c)	Decide, in the absence of an election from the scheme member, which benefit is to be paid where the member would be entitled to a benefit under two or more regulations in respect of the same period of Scheme membership.	These will be decided on a case-by-case basis by the Pensions Administration Manager and the decision will usually be to award the highest benefit.

54	R97 - 147	Whether to permit a Pension Credit to remain in the Fund or require a transfer out.	Pension Credit benefits will remain in the Fund unless an election to transfer-out is received from the Pension Credit member.
55	R97 - 50 and 157	Whether to commute benefits due to exceptional ill-health (applies to councillor members and pre 1 April 2008 leavers only).	The Fund will commute benefits where evidence of exceptional ill-health is received.
56	R97 - 91(6)	The Administering Authority may determine the timing of pension increase payments by employers to the Fund (applies to pre 1 April 2008 leavers only).	The Fund has no such employers.
<b>Discretions relating to employers which no longer exist</b>			
57	R13 - 38(3) & 38(6) B31(4) and 31(7)	A former employer must decide whether a deferred member meets the criteria for permanent ill health. This also applies to a scheme member who was formerly in receipt of Tier 3 ill-health benefits. The Administering Authority may decide this if that employer no longer exists.	The Administering Authority will make a decision based on the medical evidence. The decision will be made by the Pensions Administration Manager.
58	TP14 - Sch 2, Paras 1(2) and 2(2)	An employer can choose to allow the rule of 85 protections to apply to a scheme member's benefits on voluntary retirement. In doing this some or all of the early retirement reduction would not apply. This provision can only apply to scheme members who have reached age 55. The Administering Authority may decide this if that employer no longer exists.	The Fund will not allow the rule of 85 protections to apply on voluntary retirements.
59	TP14 - 3(1), Sch 2, Paras 2(1) and 2(2)	An employer can choose whether to waive on compassionate grounds any	Where the employer no longer exists, the decision whether to waive actuarial

	B30(5) and 30A(5)	reduction to benefits that might otherwise apply. This can also apply to former Tier 3 Ill-Health members. The Administering Authority may decide this if that employer no longer exists.	reductions on compassionate grounds will be made by the Pensions Administration Manager and each case will be considered on its merits.
60	R13 - 30(8)	An employer can choose to waive, in whole or in part, any reduction that might otherwise apply to that scheme member's benefits on flexible retirement. The Administering Authority may decide this if that employer no longer exists.	The Fund will not usually waive any actuarial reductions in retirement cases, but each case will be considered on its own merits and a decision will be made by the Pensions Administration Manager.
61	R13 - 30(8)	An employer can choose to waive, in whole or in part, any early retirement reduction that might otherwise apply to a scheme member's benefits on voluntary retirement. These provisions only apply to scheme members who have reached age 55. The Administering Authority may decide this if that employer no longer exists.	The Fund will not usually waive any actuarial reductions in retirement cases, but each case will be considered on its own merits and a decision will be made by the Pensions Administration Manager.
<b>Other</b>			
62	R20 - 31(2)	Where an employer terminates employment early, the Administering Authority may agree to pay compensation on behalf of the employer from the Fund and recharge payments to the employer.	The Administering Authority will pay compensation on behalf of the employer from the Fund and recharge payments to the employer.

#### Key to Regulation Ref:

R13 - The Local Government Pension Scheme Regulations 2013

TP14 - The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014

A - The Local Government Pension Scheme (Administration) Regulations 2008

B - The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007

T08 - The Local Government Pension Scheme (Transitional Provisions) Regulations 2008

R97 - The Local Government Pension Scheme Regulations 1997

R95 - The Local Government Pension Scheme Regulations 1995

R20 - The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended)

*Note that references to old provisions (e.g. R97) generally apply in relation to scheme members who left under those provisions.*