

# LONDON BOROUGH OF SOUTHWARK PENSION FUND

## STATEMENT OF ADMINISTERING AUTHORITY DISCRETIONS POLICIES

## Administering Authority statement of policy on discretions – effective 16 April 2019

### Introduction

Southwark Council, as administering authority to the London Borough of Southwark Pension Fund, has determined its discretionary policies in accordance with the Local Government Pension Scheme Regulations (LGPS) 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) and to pension credit members.

The content of these policies is drafted in line with current legislation. These policies were approved by the Strategic Director of Finance and Governance on 16 April 2019, following consideration by the Pensions Advisory Panel on 26 March 2019 and are effective from 16 April 2019, unless stated otherwise within this statement.

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.

## Administering Authority Discretions under the Local Government Pension Scheme

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Southwark Pension Fund Policy
<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	The current Governance Policy is included within the Governance Compliance Statement in the Annual Report and Accounts, which can be found on the Pension Fund's website.
2	R13 - 58	Decide on the Funding Strategy for inclusion in funding strategy statement	Agreed in co-operation with actuary. A copy of the current Funding Strategy can be provided by the Administering Authority upon request and can be found in the Pension Fund's annual report on the Pension Fund'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 Strategy is included within the Annual Report and Accounts, which can be found on the Pension Fund'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 Administration Strategy can be found on the Pension Fund's website.
<b>Scheme Management</b>			
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 Pensions Advisory Panel as appropriate. Details of these are set out in the council's Constitution and summarised in the Governance Policy and Compliance Statement.

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Southwark Pension Fund Policy
6	R13 – 106(3)	Whether to establish a joint local pension board (if approval has been granted by the Secretary of State)	The Administering Authority did not establish a joint local pension board.
7	R13 – 106(6)	Decide procedures applicable to the local pension board	Procedures have been decided, and are detailed in the local pension board's terms of reference, which can be provided upon request and are available on the Pension Fund's website.
8	R13 – 107(1)	Decide appointment procedures, terms of appointment, and membership of the local pension board	The appointment procedures and terms have been decided, and are detailed in the local pension board's terms of reference. The membership of the local pension board is set out on the Pension Fund's website.
<b>Disputes</b>			
9	R13 – 74(1) A58 R97 - 100	Appoint a person for dealing with applications under Stage One of the internal dispute resolution procedure (IDRP) in relation to any disputes relating to the role as Administering Authority	The Head of Financial and Information Governance and Executive HR Business Partner (operational) act as the Stage One IDRP assessor for Administering Authority disputes and Employer disputes where the employer no longer exists.
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	Stage 2 determinations are dealt with by the Director of Modernise and Executive HR Business Partner (operational) of the London Borough of Southwark, after obtaining relevant advice and guidance.
11	R13 – 79(2) A63(2) R97 – 105(1)	Whether the Administration Authority should appeal to the Secretary of State against an employer decision (or lack of a decision)	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 Strategic Director of Finance and Governance.
<b>Admission Agreements and Employer Management</b>			

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Southwark Pension Fund Policy
12	R13 – 3(5) and Sch 2, Part 3, Para 1	Whether to agree to an admission agreement with an external employer.	Please see our separate Funding Strategy Statement, which can be found in the Pension Fund Annual Report on the Pension Fund’s website.
13	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 Strategic Director of Finance and Governance, following advice from the Pensions Advisory Panel.
14	R13 – Sch 2, Part 3, para 9(d)	Whether to terminate a transferee admission agreement in the event of <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>	Please see our separate Funding Strategy Statement, which can be found in the Pension Fund Annual Report on the Pension Fund’s website.
15	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 50% of their time on the services covered by the contract to remain within the admission agreement (and the pension scheme for that employment).
16	R13 – Sch 2, Part 3, para 14	The start date of an admission agreement may be set to be earlier than the date the admission agreement is completed.	The decision whether to backdate an admission agreement will be made by the Strategic Director of Finance and Governance.
17	R13 - 54(1)	Whether to set up a separate admission agreement fund	Please see our separate Funding Strategy Statement, which can be found in the Pension Fund Annual Report on the Pension Fund’s website.

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Southwark Pension Fund Policy
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 by the Strategic Director of Finance and Governance.
19	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 be ceasing.	This will be decided by the Strategic Director of Finance and Governance in accordance with the Fund’s Funding Strategy.
20	R13 - 65	Whether to obtain a new rates and adjustments certificate if the Secretary of State amends the Regulations as part of the “cost sharing” valuation	This will be decided by the Strategic Director of Finance and Governance.
21	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, flexible retirement, or the waiver (in whole or in part) of any actuarial reduction on voluntary or flexible retirement.	Where costs arise from an employer’s decision to allow early retirement, the council and external employers (including schools) will be required to meet any strain cost payment in accordance with regulations.
22	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 Administration Strategy, a copy of which can be found on the Pension Fund’s website.
23	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 included in the Administration Strategy, a copy of which can be found on the Pension Fund’s website.
24	R13 – 69(4)	Decide the format and frequency of information from employers to accompany payments of contributions to the Fund	Details are included in the Administration Strategy, a copy of which can be found on the Pension Fund’s website.

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Southwark Pension Fund Policy
25	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 included in the Administration Strategy, a copy of which can be found on the Pension Fund's website.
26	R13 – 71(1)	Whether to charge interest on payments by employers that are overdue	Details are included in the Administration Strategy, a copy of which can be found on the Pension Fund's website.
27	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).	The Pensions Manager will determine whether an employer can use an alternative Occupational Health Provider to the council's own provider.
<b>Payments relating to Death</b>			
28	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).	The Fund will normally pay the death grant without production of grant of probate / letters of administration in such cases, subject to the agreement of the Pensions Manager.
29	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.	Delegated powers to decide who is to receive payment of death grants have been given to any two of the following – <ul style="list-style-type: none"> <li>• Head of Financial and Information Governance</li> <li>• Strategic Director of Finance and Governance</li> <li>• Head of Human Resources</li> <li>• Pensions Manager</li> </ul> A quorum of two of the officers is required for a decision to be made.

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Southwark Pension Fund Policy
30	R13 – Sch 1 TP14 – 17(9)(b) B25	The Administering Authority must decide the evidence required to determine financial dependence of a co-habitee on a scheme member or financial interdependence between the co-habitee and the scheme member	We will provide the appropriate parties with the details of the evidence required to determine financial dependence or interdependence, and the final decision about any cases will be made by the Pensions Manager based on the evidence provided.
31	TP14 – 3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b) B10(2)	Where a member to whom B10 applies (use of average of 3 years pay for final pay purposes) dies before making an election, the Administering Authority can decide whether to make that election on behalf of the deceased member	This discretion will automatically be applied if it would result in higher benefits being paid.
32	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	This discretion will automatically be used if it would result in higher benefits being paid.
33	R97 - 22(7)	Whether to select an alternative final pay period for a deceased member (applies to leavers between 31 March 1998 and 1 April 2008)	This discretion will automatically be used if it would result in higher benefits being 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 so that the child's pension resumes after the break.	We will normally accept short breaks including term holidays, and also gap years, as being interruptions in education/training and will restart a suspended child's pension at the end of such a break or gap, providing confirmation from the relevant body is received that education/training has resumed. The Pensions Manager will decide each case on its own merits.

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Southwark Pension Fund Policy
35	R97 - 47(1) R95 – G11(1)	How to apportion a children's pension amongst eligible children between 31 March 1998 and 1 April 2008)	Where there is more than one eligible child, the Fund will normally divide a children's pension equally between the eligible children, with delegated authority given to the Pensions 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. 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 Manager.
37	R95 - F7	The discretion to cease spouses' pensions on remarriage or cohabitation applies to members who left before 1 April 1998.	We will not suspend spouse's pensions, irrespective of the date the original member left service, and therefore the spouse will be paid for the remainder of their lifetime.
<b>Transferring or Linking Benefits</b>			
38	R13 – 98(1)(b)	Whether to agree to the payment of a bulk transfer	This will be decided by the Strategic Director of Finance and Governance in accordance with the Fund's Funding Strategy taking into consideration the advice of the Fund Actuary.
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.	We expect scheme members to request all transfers within 12 months, and will only extend the 12-month time limit in exceptional circumstances where the scheme member can demonstrate the reason for their late request was outside of their control. The Pensions Manager will determine any such requests in consultation with the employer.
40	R13 – 100(7)	Whether to allow transfers of pension rights into the Fund	We will accept all transfer values (subject to meeting the appropriate timescales).

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Southwark Pension Fund Policy
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)	<p>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.</p> <p>The decision as to whether to impose a charge will be made on a case by case basis by the Pensions Manager.</p>
42	TP14 – 10(9)	Where a deferred member also has ongoing multiple concurrent employments, the member may be able to choose which employment the deferred benefits are aggregated with. We can decide this where the member does not make their own election within 12 months.	The Pensions Manager will decide this based on what appears to be the most beneficial approach at the point 12 months after the person became a deferred member for that 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 pre 1.4.08. leavers)	The CEP amount will be retained by the Fund and used towards providing the balance of benefits due to the scheme member.
<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 for deferred members will be calculated as at the Pensions Increase date in the April 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)	Retirement benefits are not abated.

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Southwark Pension Fund Policy
46	R13 – 22(3)(c)	The pension account may be kept in such form as is considered appropriate	Southwark Council as Administering Authority will determine the form a pension account should be kept in.
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 Pensions 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 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	We will not decline a request unless an employer asks us to and, if an employer does so, the Pensions 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.	Any scheme member wishing to purchase additional pension of more than £1,000 via an APC/SCAPC by paying regular contributions will be required to undergo a medical examination and to be found to be in reasonable health prior to being permitted to commence payment of additional contributions.
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.	We expect any elections to be made within the time limits in the regulations. However, the time limit may be extended by the Pensions Manager in exceptional circumstances.
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 will normally apply the prescribed 3 month time limit, however the Pensions Manager may extend this in exceptional circumstances.

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Southwark Pension Fund Policy
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 continue 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 Manager.
54	R97 - 147	Whether to permit a Pension Credit to remain in the Fund or require a transfer out	These cases will be dealt with in accordance with the Pension Credit member's wishes.
55	R97 - 50 and 157	Whether to commute benefits due to exceptional ill-health (applies to pre 1 April 2008 leavers only)	In these circumstances, we will pay a lump sum in lieu of a pension unless the member elects for it not to be paid.
56	R97 - 91(6)	The Administering Authority may determine the timing of pension increase payments by employers to Fund (applies to pre 1 April 2008 leavers only)	N.A.
<b><i>Discretions relating to employers which no longer exist</i></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.	We will follow the policy of the employer immediately before it ceased to be a Scheme employer where possible. If this is not known, we will follow the policy of Southwark Council as the main employer in the Fund.

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Southwark Pension Fund Policy
58	<b>B30(2) and 30A(3)</b>	<p>An employer may consent on compassionate grounds to the early payment of deferred retirement benefits for scheme members between age 50 and 55. The Administering Authority may decide this if that employer no longer exists.</p> <p>This only applies to members who left before 1 April 2008.</p>	<p>We will follow the policy of the employer immediately before it ceased to be a Scheme employer where possible. If this is not known, we will follow the policy of Southwark Council as the main employer in the Fund. It should be noted that payments made prior to age 55 will be subject to additional tax charges.</p>
59	<b>TP14 – Sch 2, Paras 1(2) and 2(2)</b>	<p>An employer can choose to allow 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.</p>	<p>We will follow the policy of the employer immediately before it ceased to be a Scheme employer where possible. If this is not known, we will follow the policy of Southwark Council as the main employer in the Fund.</p>
60	<b>TP14 – 3(1), Sch 2, Paras 2(1) and 2(2) B30(5) and 30A(5)</b>	<p>An employer can choose whether to waive on compassionate grounds any 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.</p>	<p>We will follow the policy of the employer immediately before it ceased to be a Scheme employer where possible. If not, we will follow the policy of Southwark Council as the main employer in the Fund.</p>
61	<b>R13 – 30(8)</b>	<p>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.</p>	<p>We will follow the policy of the employer immediately before it ceased to be a Scheme employer where possible. If this is not known, we will follow the policy of Southwark Council as the main employer in the Fund.</p>

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Southwark Pension Fund Policy
62	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.	We will follow the policy of the employer immediately before it ceased to be a Scheme employer where possible. If this is not known, we will follow the policy of Southwark Council as the main employer in the Fund.

## Discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended)

Ref	Regulation Reference	Description of Discretion	London Borough of Southwark Pension Fund Policy
63	31(2)	Where an employer terminates employment early, the Administering Authority may agree to pay compensation on behalf of employer from the Fund and recharge payments to employer	N.A.

### \*Key to Regulation References:

- 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

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