

## Appendix B - Governance of the Fund – Leicestershire Fund Discretions

### Governance and Policies

Ref	LGPS Regulation	Discretion	Leicestershire Pension Fund Policy
1	2013 Reg 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 and Compliance Statement is included in the latest Pension Fund Annual Report and can be found at:  <a href="https://leicsmss.pensiondetails.co.uk/home/scheme-member/lgps/fund-admin-and-guidance/pension-fund-and-finance">https://leicsmss.pensiondetails.co.uk/home/scheme-member/lgps/fund-admin-and-guidance/pension-fund-and-finance</a>
2	2013 Reg 58	Decide on the Funding Strategy for inclusion in funding strategy statement.	The Funding Strategy is reviewed and approved by the Fund's Local Pension Committee. The latest version can be found at:  <a href="https://leicsmss.pensiondetails.co.uk/home/scheme-member/lgps/fund-admin-and-guidance/pension-fund-and-finance">https://leicsmss.pensiondetails.co.uk/home/scheme-member/lgps/fund-admin-and-guidance/pension-fund-and-finance</a>
3	2013 Reg 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.	The Fund incorporates the Communication Policy within the Funds Administration Strategy. The latest version can be found at:  <a href="https://leicsmss.pensiondetails.co.uk/home/scheme-member/lgps/fund-admin-and-guidance/pension-fund-and-finance">https://leicsmss.pensiondetails.co.uk/home/scheme-member/lgps/fund-admin-and-guidance/pension-fund-and-finance</a>
4	2013 Reg 59 (1) Reg 59 (2)	Decide whether to have a written Pensions Administration Strategy and, if so, the matters it should include.	The Fund incorporates the Administration Strategy with the Communication Policy. The latest version can be found at:  <a href="https://leicsmss.pensiondetails.co.uk/home/scheme-member/lgps/fund-admin-and-guidance/pension-fund-and-finance">https://leicsmss.pensiondetails.co.uk/home/scheme-member/lgps/fund-admin-and-guidance/pension-fund-and-finance</a>

## Appeals and the Adjudication of Disagreements

Ref	LGPS Regulation	Discretion	Leicestershire Pension Fund Policy
5	2013 Reg 74(1)  2008 (Admin) Reg 58  1997 Reg 100	Appoint a person for dealing with applications under Stage One of the dispute resolution procedures (AADP) in relation to any disputes relating to the role as Administering Authority (includes in relation to councillor members).	Head of Law and Deputy Monitoring Officer will usually act as the adjudicator for the Fund in respect of Stage One appeals against Administering Authority disputes. This duty can be delegated as necessary.
6	2013 Reg 76(4)  2008 (Admin) Reg 60(8)  1997 Reg 99	Decide the procedure to be followed by the Administering Authority when exercising its Stage Two AADP functions (includes in relation to councillor members).	Director of Law and Governance will usually act as the adjudicator for the Fund in respect of Stage Two appeals against Administering Authority disputes. This duty can be delegated as necessary.
7	2013 Reg 79(2)  2008 (Admin) Reg 63(2)  1997 Reg 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.	Fund Officers will consider on a case by case basis, appealing 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 Fund Officers have been unable to persuade the employer to alter its actions (or inactions).

## Admission Agreements

Ref	LGPS Regulation	Discretion	Leicestershire Pension Fund Policy
8	2013 Sch 2 Part 3 Para 1	Whether to agree to an admission agreement with an external employer.	<p>Agreement to admission, as a scheme employer, as an admission body is decided by Fund Officers.</p> <p>A legally signed Admission Agreement is required in all cases.</p>
9	2013 Reg 4(2)(b)	Whether to agree to an admission agreement with a Care Trust, NHS Scheme employing authority or Care Quality Commission.	<p>NHS staff who are subject to transfer retain right to participate in the NHS Pension Scheme via a Direction Order with the new employing authority, so it is extremely unlikely the Administering Authority will need to exercise this discretion.</p> <p>However, in the rare event this is needed, agreement to admission, as a scheme employer, as an admission body is decided by Fund Officers. A legally signed Admission Agreement is required in all cases.</p>
10	2013 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>• the insolvency, winding up or liquidation of the body</li> <li>• a material breach by that body of its obligations under the admission agreement</li> <li>• the failure by that body to pay over sums due to the Fund within a reasonable period of being requested to do so.</li> </ul>	<p>The Fund would not normally terminate a transferee admission agreement earlier than the contract end. However, this would be considered in exceptional circumstances.</p> <p>Officers will refer to the Fund's Employer Risk Policy and transferee admission agreement if an employer failed to make payment of sums due to the Fund.</p>
11	2013 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.	<p>The Fund defines 'Employed in connection with' as meaning "employed mainly (i.e. at least 51% of their time) in the management or delivery of such services as are set out in the Contract.</p> <p>This is included in the Admission Agreement</p>

12	2013 Reg 54(1)	Whether to set up a separate admission agreement fund.	<p>The Administering Authority does not currently operate any separate admission agreement funds.</p> <p>Any proposal to create an admission agreement fund would be subject to discussion between Officers and the Fund Actuary.</p>
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## Employer Management

Ref	LGPS Regulation	Discretion	Leicestershire Pension Fund Policy
13	2013 Reg 64(4)	Whether to obtain a revision of the rates and adjustments certificate (R&A) if there are circumstances that make it likely that a Scheme Employer will be ceasing.	<p>The Fund would not normally obtain a revised rates and adjustment certificate. However, Section 3.3. note (g) of the Fund's FSS gives the Fund the right to obtain a revised R&amp;A in the following circumstances:</p> <ul style="list-style-type: none"> <li>- in the opinion of the Administering Authority there are circumstances which make it likely that an employer (including an admission body) will become an exiting employer sooner than anticipated at the last valuation;</li> <li>- an employer is approaching exit from the scheme within the next two years and before completion of the next valuation</li> </ul>
14	2013 Reg 68(2)  2014 (Transitional Provisions) Sch 2 Para 2(3)  1997 Reg 80(5)	<p>Whether to require any strain on Fund costs to be paid "up front" by an employer following:</p> <ul style="list-style-type: none"> <li>• Flexible retirement</li> <li>• Redundancy, business efficiency</li> <li>• The waiving (in whole or in part) of any actuarial reductions that would have otherwise been applied on voluntary or flexible retirement</li> <li>• Where the rule of 85 is switched on before age 60</li> <li>• Where actuarial reductions are waived on compassionate grounds</li> <li>• Payment of a pre-1 April 2008 deferred benefit on ill-health</li> </ul>	<p>Section 3.6 of Fund's Funding Strategy Statement currently sets out the Fund's policy:</p> <p>The Fund's policy is to recharge the full strain costs as a single lump sum, in all cases.</p>

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15	2013 Reg 80(1)(b)  2014 (Transitional Provisions) Reg 22(1)  2008 (Admin) Reg 64(1)(b)	Specify information to be supplied by employers to enable the Administering Authority to discharge its functions.	Employers are required to provide information in accordance with the Fund Administration and Communication Strategy.
16	2013 Reg 69(1)	Decide frequency of payment of contributions to the Fund by employers and whether to make an administration charge.	<p>The due date for employer contributions is the 19<sup>th</sup> of the month following the month to which they relate. Employer contribution rates include an element to cover fund administration expense.</p> <p>Additional payments (e.g. strain costs for all early payments) are charged in full in the year the member leaves the scheme.</p> <p>The Administration and Communication Strategy provides details when an administration charge may be applied. These are charged in the year the work occurs.</p>
17	2013 Reg 69(4)	Decide the format and frequency of information from employers to accompany payments of contributions to the Fund.	<p>From the 31 March 2022 the Fund requires all employers to submit their monthly return electronically via IConnect. New employers are required to use IConnect.</p> <p>All employers reconcile their full years contributions at year end and submit an annual return.</p>
18	2013 Reg 70  2014 (Transitional Provisions) Reg 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.	The Fund's administration and communication strategy sets out measures when charges can be raised for additional costs incurred.
19	2013 Reg 71(1)	Whether to charge interest on payments by employers which are overdue.	<p>The Fund does not normally charge interest on late payment but proactively pursues employers to remedy any arrears.</p> <p>The Fund reserves the right to included interest in exceptional circumstances as agreed by Fund Officers.</p> <p>Employers only benefit from</p>

			investment returns from the date payment is received, hence other employers are not adversely impacted by late payment.
20	<p>2013 Reg 36(3)</p> <p>2008 (Admin) Reg 56(2)</p> <p>1997 Reg 97(10)</p>	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.	Fund Officers will determine whether an employer's appointed Occupational Health Provider is appropriate for the provision of medical certificates regarding members incapacity in relation to the Local Government Pension Scheme Regulations.

## Payments relating to deceased members

Ref	LGPS Regulation	Discretion	Leicestershire Pension Fund Policy
21	<p>2013 Reg 82(2)</p> <p>2008 (Admin) Reg 52(2)</p> <p>1997 Reg 95</p>	<p>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. This also relates to councillor members.</p>	<p>The Fund will normally pay the death grant without production of Grant of Probate or Letters of Administration where the sum due is less than £15,000</p>
22	<p>2013 Regs 17(12), 40(2), 43(2), 46(2)</p> <p>2014 (Transitional Provisions) Reg 17(5) to (8)</p> <p>2008 (Transitional Provisions) Sch 1</p> <p>1997 Regs 38(1), 155(4)</p> <p>1995 Reg E8</p> <p>2007 (Benefits) Regs 23(2), 32(2), 35(2)</p>	<p>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.</p>	<p>Fund Officers will try to abide with the scheme member's expression of wish, where it is clear and having taken account of all circumstances.</p> <p>If no wish has been made, but there is no uncertainty or dispute, the decision to whom payment is made is made by Fund Officers.</p> <p>In exceptional cases where Fund Officers are uncertain or if there is a dispute, regarding the member's nominee, personal representatives or any person appearing to the authority to have been a relative or dependent of the member, internal legal advice may be requested, and Grant of Probate or Letter of Administration may be sought. Fund Officers will make the final decision.</p> <p>With all Fund payments of death grants, Fund Officers will use the Administering Authority's absolute discretion.</p>
23	<p>2013 Sch 1</p> <p>2014 (Transitional Provisions) Reg 17(9)(b)</p> <p>2007 (Benefits) Reg 25</p>	<p>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</p>	<p>The appropriate parties will be provided with details of the evidence required to determine financial dependence or interdependence. Where required, the final decision will be made by Fund Officers.</p>



24	<p>2014 (Transitional Provisions) Regs 3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b)</p> <p>2007 (Benefits) Reg 10(2)</p>	<p>Where member dies before making an election in respect of the use of average of 3 years pay for final pay purposes, the Administering Authority can decide whether to make that election on behalf of the deceased member.</p>	<p>The most advantageous figure will be automatically applied by the Fund.</p>
25	<p>2014 (Transitional Provisions) Regs 3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b)</p> <p>2008 (Transitional Provisions) Sch 1</p> <p>1997 Reg 23(9)</p>	<p>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.</p>	<p>The most advantageous figure will be automatically applied by the Fund.</p>
26	<p>1997 Reg 22(7)</p>	<p>Whether to select an alternative final pay period for deceased non-councillor member (applies to leavers between 31st March 1998 and 1st April 2008).</p>	<p>The most advantageous figure will be automatically applied by the Fund.</p>
27	<p>2013 Sch 1 "Eligible Child"</p> <p>2014 (Transitional Provisions) Reg 17(9)</p>	<p>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.</p>	<p>The Fund will normally accept short breaks including term holidays and also gap years, as being interruptions in education or training and will restart a suspended child's pension at the end of such a break or gap, providing sufficient evidence is received to support it.</p>
28	<p>1997 Reg 47(1)</p> <p>1995 Reg G11(1)</p>	<p>How to apportion children's pension amongst eligible children (children of councillor members and children of leavers between 31st March 1998 and 1st April 2008).</p>	<p>Where there is more than one eligible child, the Fund will normally divide a children's pension equally between the eligible children.</p>
29	<p>2007 (Benefits) Reg 27(5)</p> <p>1997 Reg 47(2)</p> <p>1995 Reg G11(2)</p>	<p>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 1st April 2014 leavers only.</p>	<p>Where a child is under 16, Fund Officers 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.</p> <p>Where a child is 16 or over, Fund Officers will normally pay his/her pension to the child.</p>

30	1995 Reg F7	Whether or not to suspend a spouses' pensions during remarriage or cohabitation	The Fund will not suspend spouse's pension due to remarriage or cohabitation and, therefore, they will be paid for life.
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## Transferring or Linking of Pension Benefits

Ref	LGPS Regulation	Discretion	Leicestershire Pension Fund Policy
31	2013 Reg 98(1)(b)	Whether to agree to the payment of a bulk transfer.	<p>Bulk transfer terms will be negotiated and agreed on a case by case basis in consultation with the Fund actuary, the scheme employer, the new scheme and the administering authority.</p> <p>Currently section 3.10 of the Funding Strategy Statement states that the Fund will not grant added benefits to members bringing in entitlements from another Fund unless the asset transfer is sufficient to meet the added liabilities.</p>
32	2013 Reg 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-LGPS or personal pension plan.	<p>The Fund will only allow transfers from Public Sector Transfer Schemes*, provided that the application is made within 12 months of joining the scheme.</p> <p>The 12-month time limit may be extended by agreement with the Pension Manager and the employer.</p>
33	2013 Reg 100(7)	Whether to allow transfers of pension rights into the Fund.	<p>*The Public Sector Transfer Club is a network of public sector pension scheme generally providing membership credits of similar lengths when a member transfer between them.</p>
34	2014 (Transitional Provisions) Reg 15(1)(d)  2008 (Admin) Reg 28(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 1st April 2014).	<p>Scheme members may request one estimate in any 12-month period that is provided free of charge. If a further quote is requested by the scheme member in the same 12-month period, the Fund reserves the right to impose an administration charge on the member.</p>
35	2014 (Transitional Provisions) Reg 10(9)	Decide, in the absence of an election from the member within 12 months of ceasing a concurrent employment, which ongoing employment benefits from the concurrent employment which has ceased should be aggregated	<p>The most advantageous figure will be automatically applied by the Fund.</p>

		(where there is more than one ongoing employment).	
36	1997 Reg 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 1.4.08. leavers).	The CEP amount will be retained by the Fund.

## Miscellaneous Provisions

Ref	LGPS Regulation	Discretion	Leicestershire Pension Fund Policy
37	2013 Reg 89(5)  1997 Reg 106A(5)	The date to which benefits shown on member's Annual Benefit Statements are calculated.	All annual benefit statements will be calculated as at 31 March preceding their distribution.
38	2014 (Transitional Provisions) Reg 3(13)  2008 (Admin) Reg 70(1), 71(4)(c)  2008 (Transitional Provisions) Reg 12  1997 Reg 109, 110(4)(b)	Abatement of pensions on re-employment (applies to pre 1 April 2014 retirees only including councillor members).	Leicestershire Pension Fund does not abate pre 1 April 2014 pensions in payment based on earnings, following re-employment.
39	2013 Reg 22(3)(c)	The member's pension account may be kept in such form as is considered appropriate.	Member's pension accounts are maintained on the Fund's pension administration system.
40	2013 Reg 83  2008 (Admin) Reg 52A	An Administering Authority may determine how and to whom benefits may be paid if the recipient (other than an eligible child) is incapable of managing their affairs by reason of mental disorder or otherwise.	The Fund will usually request Power of Attorney to pay benefits to the person having care of the pensioner, or such other person as they may determine where the pensioner is incapable of managing his or her affairs. In exceptional circumstances The Pensions Manager may allow payment without Power of Attorney.
41	2013 Reg 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	To be determined by the Pensions Manager on a case by case basis.
42	2013 Reg 16(10)	Whether to require a satisfactory medical before agreeing to an application to pay an APC or SCAPC	The Fund will require a satisfactory medical for an APC if the scheme member is buying extra on a monthly basis. The member pays any cost for obtaining a medical. If it's being bought by lump sum a medical is not required.  A SCAPC does not require a medical as the member is buying lost pension,

			rather than choosing to but extra pension.
43	2013 Reg 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.	To be determined by the Pensions Manager on a case by case basis.
44	2014 (Transitional Provisions) Reg 15(1)(c)  2008 (Transitional Provisions) Sch 1  1997 Reg 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.	A member may make an election to make a lump sum payment, if they stop paying added years contributions before their Normal Retirement Date on leaving their employment by reason of redundancy.  An election must be made within 3 months of the date of redundancy and may only be extended in exceptional circumstances by agreement of the Pensions Manager.
45	2013 Reg 34(1)  2007 (Benefits) Reg 39  2008 (Transitional Provisions) Reg 14(3)  1997 Regs 49, 156	The Administering Authority may commute small pensions, including survivor's pensions, into a lump sum where they are below limits set by HMRC.	The Fund will offer payment of a lump sum in lieu of a pension which is below limits set by HMRC.
46	2013 Reg 49(1)(c)  2007 (Benefits) Reg 42(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.	The most advantageous figure will be automatically applied by the Fund
47	1997 Reg 147	Whether to permit a Pension Credit to remain in the Fund or require a transfer out.	The Fund will permit a Pension Credit to remain in the Fund or a transfer out.
48	1997 Regs 50, 157	Whether to commute benefits due to exceptional ill-health (applies to councillor members and pre 1st April 2008 leavers only).	The Fund will provide a member with the option to commute to a lump sum payment in lieu of a pension where the member has a serious life limiting condition.



### Discretions relating to employers which no longer exist

Ref	LGPS Regulation	Discretion	Leicestershire Pension Fund Policy
49	2013 Reg 30(8)	Decide whether to waive, in whole or in part, the actuarial reduction on pension benefits paid on flexible retirement.	The Fund, acting as employer for historic employers that no longer exist, will not waive the actuarial reduction in respect of applications for flexible retirement.
50	2013 Regs 30(8), 31(5)  2014 (Transitional Provisions) Reg 3(1), Sch 2 Para 2(1)  2007 (Benefits) Reg 30(5), 30A(5)  1997 Reg 31(5)	Decide whether to waive, in whole or in part, the actuarial reduction on benefits which a member voluntarily draws before normal pension age, including on compassionate grounds.	The Fund, acting as employer for historic employers that no longer exist, will not normally exercise this discretion but may consider it under exceptional circumstances on a case by case basis, taking into account the individual or business case and foreseeable costs to the Fund.
51	2013 Reg 60  2014 (Transitional Provisions) Sch 2 Paras 1(2), 1(1)(c), 1(1)(f)	Decide whether, to “switch on” the 85-year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of Flexible Retirement).	The Fund, acting as employer for historic employers that no longer exist, will not normally exercise this discretion but may consider it under exceptional circumstances on a case by case basis, taking into account the individual or business case and foreseeable costs to the Fund.
52	2014 (Transitional Provisions) Reg 12(6)	Whether to use a certificate produced by an Independent Registered Medical Practitioner (IRMP) under the 2008 scheme for the purposes of making an ill health determination under the 2014 scheme.	The Fund, acting as employer for historic employers that no longer exist, will ask the IRMP to complete the correct certificate.
53	2013 Reg 38(3)	Decide whether a deferred beneficiary meets the criteria of being permanently incapable of their former job because of ill health and is unlikely to be capable of undertaking gainful employment before normal pension age or for at least three years, whichever is the sooner.	The Fund, acting as employer for historic employers that no longer exist, will make a determination taking into account the IRMP’s recommendation and any further relevant information.



54	2013 Reg 38(6)	Decide whether a suspended ill health tier 3 member is unlikely to be capable of undertaking gainful employment before normal pension age because of ill health.	The Fund, acting as employer for historic employers that no longer exist, will make a determination taking into account the IRMP's recommendation and any further relevant information.
55	2007 (Benefits) Reg 31(4)	Decide whether a deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria.	The Fund, acting as employer for historic employers that no longer exist, will make a determination taking into account the IRMP's recommendation and any further relevant information.
56	2007 (Benefits) Reg 31(7)	Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment.	The Fund, acting as employer for historic employers that no longer exist, will make a determination taking into account the IRMP's recommendation and any further relevant information.
57	2014 (Transitional Provisions) Reg 3(5A)(vi)  1997 (Transitional Provisions) Reg 4  1997 Reg 106(1)  1995 Reg D11(2)(c)	Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds. Although the common provisions of the 1997 Transitional Provisions regulations do not specify regulation D11(2)(c) from the 1995 regulations, their intention was that it should apply to this regulation.  Note – D11(2)(c) from the LGPS 1995 regulations enables an employing authority to award early payment of deferred benefits on compassionate grounds to a member aged 50+	The Fund, acting as employer for historic employers that no longer exist, will consider each case on case by case basis. The earliest payment may be granted is age 55.

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