

Essex Pension Fund Board	EPB/28/14
Date: 17 September 2014	

Administering Authority Discretions

Report by the Head of the Essex Pension Fund

Enquiries to Jody Evans on 01245 431700

1. Purpose of the Report

- 1.1 To ask the Board to note the discretionary policies currently operated by Fund Officers in respect of certain administering authority discretions and which are shown in the attached draft revised Administering Authority Statement of Policy on Discretions in Relation to the Local Government Pension Scheme.
- 1.2 To note that individual discretions will be reviewed on a regular basis by officers and any material changes thought necessary will be brought to the Board for approval.
- 1.3 To ask the Board to approve the attached draft revised Statement of Policy.

2. Recommendations

- 2.1 It is recommended that the Board approves the policies shown in the attached draft revised Statement of Policy.

3. Background

- 3.1 The Pension Fund Board of Essex County Council, as the administering authority of the Essex Pension Fund, is required to make decisions on certain areas of flexibility (referred to as 'discretions') included within the Local Government Pension Scheme Regulations 2013 and related legislation.
- 3.2 A Statement of Policy was approved by the Board at its 15 December 2010 meeting and this Statement of Policy should be reviewed due to the new scheme regulations now being in place.
- 3.2 Many of the discretions relate to relatively straightforward areas of Administration, such as the frequency of contribution payments to the Fund by employers. However there are some more significant areas such as the process for determining who should receive payment of a death grant.
- 3.4 There is a statutory requirement to publish a written Statement of Policy in respect of certain of the discretions and it is best practice to include all relevant discretions in that written statement.
- 3.5 Any decision relating to the discretionary provisions will be subject to the policy which is current at the time of the relevant event. In the event of a conflict between the discretion as written in the policy and the governing regulations, the governing regulations will prevail.
- 3.6 The policy decisions apply to all categories of schemes members (e.g. active, deferred, pensioners, pension credit members and dependents) from its effective date until such point as the policy is reviewed.

4. Review of Statement of Policy

- 4.1 The introduction of the new scheme regulations effective from 1 April 2014 means that the policy should now be reviewed to take account of any changes.
- 4.2 It was reported to the July Board meeting that work by officers was ongoing and that a draft revised Statement of Policy would be brought to the Board for approval at its next meeting.
- 4.3 With the introduction of the new scheme, there are a few new discretions, some discretions no longer exist and a number have been reworded to fit the wording of the new scheme. However, there has been no material change to the way any of the discretions are exercised by officers.
- 4.4 The revised Statement of Policy has been reviewed by Essex Legal Services and by the Fund actuary.
- 4.5 Individual discretions will be reviewed on a regular basis by officers and any material changes thought necessary will be brought to the Board for approval.

4.6 In any event, it is considered best practice to fully review the Statement of Policy at least every three to four years.

5. Link to Essex Pension Fund Objectives

5.1 Approval of this Statement of Policy is consistent with the following objectives:

- Act with integrity and be accountable to our stakeholders for our decisions, ensuring they are robust and well based
- Deliver a high quality, friendly and informative service to all beneficiaries, potential beneficiaries and employers at the point of need
- Ensure benefits are paid to, and income collected from, the right people at the right time in the right amount

6. Risk Implications

6.1 The approval of this Statement of Policy will minimise the risk of inappropriate decisions being made or decisions being made without the relevant approval, which in turn will minimise the risk of any challenge by a stakeholder.

7. Communication Implications

7.1 Once approved, the Statement of Policy will be made available on the Essex Pension Fund website and it will be brought to the attention of Fund employers. No further communication will be necessary.

8. Finance and Resources Implications

8.1 There are not expected to be any further finance or resource implications as a result of this Statement of Policy being approved.

9. Background Papers

9.1 None

Essex Pension Fund

Administering Authority Statement of Policy on Discretions in Relation to the Local Government Pension Scheme

Effective [Date to be added once approved]

1. Introduction

This policy has been determined by the Pension Fund Board of Essex County Council as the administering authority of the Essex Pension Fund. It relates to discretions included within the Local Government Pension Scheme Regulations 2013 and related legislation (the governing regulations).

This policy was approved by the Essex Pension Fund Board at its meeting on XX/XX/2014. It sets out the criteria that will be considered when making a decision about the use of administering authority discretions and, where appropriate, the policy that will be applied. Any decision relating to these discretionary provisions will be subject to the policy which is current at the time of the relevant event. In the event of a conflict between the discretion as written in this policy and the governing regulations, the governing regulations will prevail.

These policy decisions apply to all categories of schemes members (e.g. active, deferred, pensioners, pension credit members and dependents) from its effective date until such point as the policy is reviewed. For those who left employment prior to the effective date of the policy, the discretions will apply with regard to the equivalent provisions in previous versions of governing legislation.

The Essex Pension Fund Board retains the right to review this policy at any point in time and will usually review it every three to four years as a minimum.

This policy does not give, nor shall it be deemed to give, any contractual rights to any person whatsoever, including members or former members of the Essex Pension Fund or employees or former employees of any of its employers or former employers.

Nothing in this policy will cause Essex County Council's (as the administering authority of the Essex Pension Fund) capacity to exercise its discretionary powers to be unlawfully fettered or restricted in any way.

These discretions will be exercised 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.

Discretions from 1.4.14. in relation to post 31.3.14. active members (excluding councillor members) and post 31.3.14. leavers (excluding councillor members), being discretions under:

- the Local Government Pension Scheme Regulations 2013 [prefix R]
- the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [prefix TP]
- the Local Government Pension Scheme (Administration) Regulations 2008 [prefix A]
- the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) [prefix B]
- the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [prefix T]
- the Local Government Pension Scheme Regulations 1997 (as amended) [prefix L]

* These are matters about which the regulations require there must be a written policy.

Discretion	Regulation	Policy
Whether to agree to an admission agreement with a Care Trust, NHS Scheme employing authority or Care Quality Commission	R4(2)(b)	The Essex Pension Fund (EPF) is not obliged to enter into an admission agreement with a Care Trust or NHS Scheme employing authority or Care Quality Commission. The EPF will apply the normal admission criteria for a community admission body as detailed in the Fund's Funding Strategy Statement.
Whether to agree to an admission agreement with a body applying to be an admission body	R5(5) & RSch 2, Part 3, para 1	Generally, a transferee admission body must be admitted where it undertakes to meet the requirements of the LGPS Regulations. An admission body will be accepted for admission to the EPF subject to the admission criteria contained in the Funding Strategy Statement
Whether to terminate an admission agreement in the event of - insolvency, winding up or liquidation of the body - breach by that body of its obligations under the admission agreement - failure by that body to pay over sums due to the Fund within a reasonable period of being requested to do so	RSch 2, Part 3, para 9(d)	Each case will be treated on its merits and termination will generally be seen as a last resort. For transferee admission bodies, officers will consult with the letting authority, which ultimately guarantees the admission, and the Fund's actuary before considering termination. For community admission bodies, officers' primary consideration when considering such action will be to protect other Fund employers and maximize the

		amount of money paid to the Fund by the admission body.
Define what is meant by “employed in connection with”	RSch 2, Part 3, para 12(a)	An admission agreement with a transferee admission body must include a requirement that only employees of the body who are employed in connection with the provision of the service or assets referred to in that sub-paragraph may be members of the Scheme. The Fund’s policy is to have a default of at least 50% of their working time unless the transferor employer wishes to have a different definition, being that it is underwriting the admission.
Whether to turn down a request to pay additional pension contributions (APCs)/shared cost additional pension contributions (SCAPCs) over a period of time where it would be impractical to allow such a request (e.g. where the sum being paid is very small and could be paid as a single payment)	R16(1)	The Fund will not normally allow APCs/SCAPCs to be spread over a period of time where this will result in a monthly cost of less than £5
Whether to require a satisfactory medical before agreeing to an application to pay APCs/SCAPCs	R16(10)	The EPF does not require the member to undertake a medical
Whether to charge member for provision of estimate of additional pension that would be provided by the Scheme in return for transfer of in house additional voluntary contributions (AVCs)/shared cost additional voluntary contributions (SCAVCs) funds (where AVC/SCAVC arrangement was entered into before 1/4/14)	TP15(1)(d) & A28(2)	The EPF does not currently charge.
Decide to whom any AVC/SCAVC monies (including life assurance monies) are to be paid on death of the member	R17(12)	Officers will apply the same decision making process as for death grants
Pension account may be kept in such form as is considered appropriate	R22(3)(c)	Pension account details will be kept on a secure computer system, currently AXISe (Heywood) and soon to be UPM (Civica)
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 (where there is more than one ongoing employment)	TP10(9)	Officers will normally aggregate benefits with the main (i.e. that with higher hours) ongoing employment
Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement (where Employer has	R30(8)*	This decision will be made in accordance with ECC’s (as a fund employer) policy at the time the request is made

become defunct)		
Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age (where Employer has become defunct)	R30(8)*	This decision will be made in accordance with ECC's (as a fund employer) policy at the time the request is made
Whether to require any strain on Fund costs to be paid "up front" by employing authority following payment of benefits under R30(6) (flexible retirement), R30(7) (redundancy / business efficiency), or the waiver (in whole or in part) under R30(8) of any actuarial reduction that would otherwise have been applied to benefits which a member voluntarily draws before normal pension age or to benefits drawn on flexible retirement	R68(2)	The employer will normally be given the choice of paying either by one lump sum, to be paid within 30 days of the retirement date, or in instalments over 3 years. However, where the contract under which an admission body entered the fund was due to expire in less than 3 years they would not be able to spread payments beyond the expected contract end date
Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60(where Employer has become defunct).	TPSch 2, paras 1(2) and 2(2)*	This decision will be made in accordance with ECC's (as a fund employer) policy at the time the request is made
Whether to waive any actuarial reduction on pre and/or post April 2014 benefits (where the member only has both pre 1/4/14 and post 31/3/14 membership) (where Employer has become defunct)	TP3(1), TPSch 2, paras 2(1) and 2(2), B30(5) and B30A(5)*	This decision will be made in accordance with ECC's (as a fund employer) policy at the time the request is made
Whether to require any strain on Fund costs to be paid "up front" by employing authority following flexible retirement under R30(6) or waiver of actuarial reduction under TPSch 2, para 2(1) or release of benefits before age 60 under B30 of B30A	TPSch 2, para 2(3)	The employer will normally be given the choice of paying either by one lump sum, to be paid within 30 days of the retirement date, or in instalments over 3 years. However, where the contract under which an admission body entered the fund was due to expire in less than 3 years they would not be able to spread payments beyond the expected contract end date
Whether to extend the time limits within which a member must give notice of the wish to draw benefits before normal pension age or upon flexible retirement	R32(7)	Although the wording of this regulation is not clear, we understand the intention is to allow the administering authority to not require the member to give at least three months' notice (or 1 month for Flexible retirement). This would allow a member to draw his benefits at age 55 instead of at age 55 and 3 months which would be the case if 3 months' notice were required. Discussions are taking place between DCLG and LGPC as to whether an amendment to the regulations is necessary to make the intention clear. In line with the understood intention, and in order that a member is able to draw his benefits at age 55, the

		Fund will not require members to give 3 months' notice (or 1 month for Flexible retirement).
Decide whether to commute small pension	R34(1)	A member aged 60 or over and with a very small pension entitlement can request that the fund pays him a lump sum instead of his entitlement to a pension. The EPF will agree to such a request where the member satisfies the HMRC criteria (which allows commutation in a small number of circumstances). Where no request is received from a scheme member, the EPF may still choose to pay a trivial commutation instead of an ongoing pension. The Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, will decide when such an approach is to be taken on a case by case basis.
Approve medical advisors used by employers (for ill health benefits)	R36(3)	EPF policy is that the independent registered medical practitioner (IRMP) must satisfy the definition of an IRMP in Schedule 1 of the LGPS Regulations 2013. EPF liaises with employers regarding the necessary qualifications required of medical advisor and employers are expected to ensure that the medical advisor they use is suitably qualified.
Whether to use a certificate produced by an IRMP under the 2008 Scheme for the purposes of making an ill health determination under the 2014 Scheme. (where Employer has become defunct)	TP12(6)	This is in effect a short-lived discretion for ill-health cases which had been referred to an IRMP and a certificate signed before 1 st April 2014 but where the individual does not cease until 1 st April 2014 or later. In these circumstances, the Fund will normally use a certificate produced under the 2008 scheme.
Decide whether deferred beneficiary meets criteria of being permanently incapable of former job because of ill health and is unlikely to be capable of undertaking gainful employment before normal pension age (where Employer has become defunct)	R38(3)	The same policy and decision making process as is used by ECC (as a Fund employer) will be used in these cases.
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 (where Employer has become defunct)	R38(6)	This decision will be made in accordance with ECC's (as a fund employer) policy at the time the request is made
Decide to whom death grant is paid	TP17(5) to (8) & R40(2), R43(2) & R46(2)	The decision will be made by one or more EPF Management Team members on a case by case basis based on the information gathered. Advice will be sought from Essex Legal Services as and when required.

Decide, in the absence of an election from the member, which benefit is to be paid where the member would be entitled to a benefit under 2 or more regulations in respect of the same period of Scheme membership	R49(1)(c)	This regulation restricts a member to entitlement under only one regulation where they might otherwise appear to be entitled to benefits under two or more regulations. The EPF would decide on the basis of which regulation would appear at the time to give the member and their known beneficiaries the best benefits financially taking their individual circumstances into consideration. The Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, will decide on a case by case basis
Whether to set up a separate admission agreement fund	R54(1)	The EPF has not established a separate admission agreement fund. The EPF notionally apportions assets within the main fund.
<p>Governance policy must state whether the admin authority delegates their function or part of their function in relation to maintaining a pension fund to a committee, a sub-committee or an officer of the admin authority and, if they do so delegate, state</p> <ul style="list-style-type: none"> - the frequency of any committee or sub-committee meetings - the terms, structure and operational procedures appertaining to the delegation - whether representatives of employing authorities or members are included and, if so, whether they have voting rights <p>The policy must also state</p> <ul style="list-style-type: none"> - the extent to which a delegation, or the absence of a delegation, complies with Sec of State guidance and, to the extent it does not so comply, state the reasons for not complying, and - the terms, structure and operational procedures appertaining to the local Pensions Board 	R55*	The Fund's Governance Policy and compliance statement is published in the Fund's Annual Report and Accounts
Decide on Funding Strategy for inclusion in funding strategy statement	R58*	The EPF publishes, and keeps under review, a Funding Strategy Statement which is included in the Fund's Annual Report and Accounts.
Whether to have a written pensions administration strategy and, if so, the matters it should include	R59(1) & (2)	The EPF publishes, and keeps under review, an Administration Strategy.

Communication policy must set out the policy on provision of information and publicity to, and communicating with, members, representatives of members, prospective members and Scheme employers; the format, frequency and method of communications; and the promotion of the Scheme to prospective members and their employers.	R61*	The EPF publishes, and keeps under review, a Communications Policy Statement which is included in the fund's annual report and accounts.
Whether to obtain revision of employer's contribution rate if there are circumstances which make it likely a Scheme employer will become an exiting employer	R64(4)	The employer rate set by the fund's actuary at each valuation aims to avoid underfunding at exit. However the EPF may obtain a revised rate in the intervaluation period following discussion with, or at the request of, the admission body and/or the fund's actuary. Further information is included in the EPF Funding Strategy Statement.
Decide whether to obtain a new rates and adjustments certificate if the Secretary of State amends the Benefits Regulations as part of the "cost sharing" under R63	R65	EPF officers will consult with the Fund's actuary and before deciding whether to obtain a new rates and adjustments certificate.
Decide frequency of payments to be made over to Fund by employers and whether to make an admin charge.	R69(1)	Contributions should normally be paid monthly and must be received by the EPF within 19 days of the end of the month in respect of which they have been deducted
Decide form and frequency of information to accompany payments to the Fund	R69(4)	Each employing authority is to provide a monthly summary of employee and employer contributions, this will highlight changes to membership (e.g. new scheme members, changes in part-time hours, leavers and retirements) as and when these changes occur
Whether to issue employer with notice to recover additional costs incurred as a result of the employer's level of performance	R70 & TP22(2)	Any decision to issue such a notice will be taken in accordance with the EPF's Administration Strategy
Whether to charge interest on payments by employers which are overdue	R71(1)	Interest will be applied to non-payment of contributions more than 30 days overdue and the interest will be invoiced with the late payment charges on a quarterly basis. Interest will continue to accrue on non-payments until paid and invoiced quarterly.
Decide procedure to be followed by admin authority when exercising its stage two IDRP functions and decide the manner in which those functions are to be exercised	R76(4)	EPF procedure is that the Director for Essex Legal Services determines the stage 2 appeal on behalf of the administering authority in order that there is a level of independence from the EPF which may have made the decision which is the subject of the appeal.

Whether admin. authority should appeal against employer decision (or lack of a decision)	R79(2)	This would be a last resort and has not yet been exercised by the EPF. Any use of this discretion will be subject to agreement by the Chairman of the Essex Pension Fund Board.
Specify information to be supplied by employers to enable admin. authority to discharge its functions	R80(1)(b) & TP22(1)	The EPF produces an Employer Guide which is given to all Fund employers and details the information which employers must provide to the Fund
Whether to pay death grant due to personal representatives or anyone appearing to be beneficially entitled to the estate without need for grant of probate / letters of administration where payment is less than amount specified in s6 of the Administration of Estates (Small Payments) Act 1965	R82(2)	The decision will be made by one or more EPF Management Team members on a case by case basis based on the information gathered. Advice will be sought from Essex Legal Services as and when required.
Whether, where a person (other than an eligible child) is incapable of managing their affairs, to pay the whole or part of that person's pension benefits to another person for their benefit.	R83	The decision will be made by the Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, based on the information gathered. Advice will be sought from Essex Legal Services as and when required.
Date to which benefits shown on annual benefit statement are calculated	R89(5)	The EPF shows benefits accrued at 31 March as this is the end of the contribution year and the date for which employers provide pensionable pay and end of year data.
Agree to bulk transfer payment	R98(1)(b)	Where 2 or more members join another approved scheme the fund may agree to pay a 'bulk transfer' instead of individual transfers. The fund does not have to agree and certain conditions must be met before agreeing. The principles of the approach the EPF takes and the approval procedures around bulk transfers are outlined in its Funding Strategy Statement.
Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	R100(6)	A request to transfer in previous pension rights must be made within of 12 months of joining (or such longer period as the Scheme employer and administering authority may allow). The EPF will allow such transfers subject to the agreement of the Scheme employer.
Allow transfer of pension rights into the Fund	R100(7)	This discretion gives the right for the administering authority to refuse to accept a transfer value from another pension arrangement. The EPF will accept all transfers-in where the member has an entitlement to make an election.
Where member to whom B10 applies (use of average of 3 years pay for final pay purposes) dies before making an election,	TP3(6), TP4(6)(c), TP8(4), TP10(2)(a),	Where a member has suffered a reduction or restriction in pay within 10 years prior to leaving he may elect for his final pay to

whether to make that election on behalf of the deceased member	TP17(2)(b) & B10(2)	be based on the average of any 3 consecutive years in the last 13 ending with 31st March. This discretion allows the fund to make that election on behalf of a deceased member. In these circumstances, the EPF will elect for the final pay period that provides the most financially advantageous benefits. This will be determined by the Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence.
Make election on behalf of deceased member with a certificate of protection of pension benefits i.e. determine best pay figure to use in the benefit calculations (pay cuts / restrictions occurring pre 1.4.08.)	TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) & TSch 1 & L23(9)	A certificate of protection of pension benefits allows the member to select either the best of last 5 years pay or the average of a best consecutive 3 year period in the last 13 years if this is higher than the final year. This discretion allows the administering authority to choose the best period in respect of a deceased member. In these circumstances, the EPF will elect for the final pay period that provides the most financially advantageous benefits. This will be determined by the Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence.
Decide to treat child as being in continuous education or vocational training despite a break	RSch 1 & TP17(9)	It is understood that the intention of this discretion is to allow the administering authority to disregard a 'gap year' where an eligible child takes a break from studies before starting university. The EPF operates a policy whereby it will disregard one 'gap year'
Decide evidence required to determine financial dependence of cohabiting partner on scheme member or financial interdependence of cohabiting partner and scheme member	RSch 1 & TP17(9)(b)	There is no criteria laid down in the regulations as to the evidence required and it is left to the administering authority to decide what evidence it requires. Evidence could include bank statements, title deeds, mortgage statements, utility bills, council tax bills, joint loan agreements, and electoral roll details. The Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, will decide if there is sufficient evidence to establish entitlement on a case by case basis
Decide policy on abatement of pre 1 April 2014 element of pensions in payment following re-employment	TP3(13) & A70(1)* & A71(4)(c)	The EPF Board approved a revised abatement policy at its 30 September 2009 meeting to the effect that : <ul style="list-style-type: none"> • the abatement of pensions on re-employment (including any currently unidentified cases) be ceased with effect from 1 October 2009.

		<ul style="list-style-type: none"> any pensions at that point that were abated because of re-employment were to be reinstated with effect from 1 October 2009.
Extend time period for capitalisation of added years contract	TP15(1)(c) & TSch1 & L83(5)	Requests to do this are quite rare but EPF would not normally be prepared to extend the time period. Such requests will be determined by the Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, on a case by case basis.

Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1.4.08. and before 1.4.14., being discretions under:

- the Local Government Pension Scheme (Administration) Regulations 2008 [prefix A]
- the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) [prefix B]
- the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [prefix T]
- the Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014 [prefix TP]
- the Local Government Pension Scheme Regulations 2013 [prefix R]
- the Local Government Pension Scheme Regulations 1997 (as amended) [prefix L]

* These are matters about which the regulations require there must be a written policy.

Discretion	Regulation	Policy
Whether to charge member for provision of estimate of additional pension that would be provided by the Scheme in return for transfer of in house AVC/SCAVC funds	A28(2)	The EPF does not currently charge.
Extend time period for capitalisation of added years contract	TSch1 & L83(5)	Requests to do this are quite rare but EPF would not normally be prepared to extend the time period. Such requests will be determined by the Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, on a case by case basis.
Outstanding employee contributions can be recovered as a simple debt or by deduction from benefits	A45(3)	Outstanding contributions would normally be recovered as a simple debt but consideration would be given to deduction from benefits in exceptional circumstances. The approach to be taken will be determined by the Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence.
Can pay death grant due to personal representatives or anyone appearing to be beneficially entitled to the estate without need for grant of probate / letters of administration	A52(2)	The decision will be made by Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, on a case by case basis based on the information gathered. Advice will be sought from Essex Legal Services as and when required.

Approve medical advisors used by employers (for early payment, on grounds of ill health, of a deferred benefit or a suspended Tier 3 ill health pension)	A56(2)	EPF policy is simply that the independent registered medical practitioner (IRMP) must satisfy the definition of an IRMP in Schedule 1 of the LGPS Regulations 2013. EPF liaises with employers regarding the necessary qualifications required of medical advisor and employers are expected to ensure that the medical advisor they use is suitably qualified.
Decide procedure to be followed by admin authority when exercising its stage two IDRPs functions and decide the manner in which those functions are to be exercised	A60(8)	EPF procedure is that the Director for Essex Legal Services determines the stage 2 appeal on behalf of the administering authority in order that there is a level of independence from the EPF which may have made the decision which is the subject of the appeal.
Whether admin. authority should appeal against employer decision (or lack of a decision)	A63(2)	This would be a last resort and has not yet been exercised by the EPF. Any use of this discretion will be subject to agreement by the Chairman of the Pension Fund Board.
Specify information to be supplied by employers to enable admin. authority to discharge its functions	A64(1)(b)	The EPF produces an Employer Guide which is given to all Fund employers and details the information which employers must provide to the Fund
Decide policy on abatement of pensions following re-employment	TP3(13) & A70(1)* & A71(4)(c) & T12	The EPF Board approved a revised abatement policy at its 30 September 2009 meeting to the effect that : <ul style="list-style-type: none"> • the abatement of pensions on re-employment (including any currently unidentified cases) be ceased with effect from 1 October 2009. • any pensions at that point that were abated because of re-employment were to be reinstated with effect from 1 October 2009.
Where member to whom B10 applies (use of average of 3 years pay for final pay purposes) dies before making an election, whether to make that election on behalf of the deceased member	B10(2)	Where a member has suffered a reduction or restriction in pay within 10 years prior to leaving he may elect for his final pay to be based on the average of any 3 consecutive years in the last 13 ending with 31st March. This discretion allows the fund to make that election on behalf of a deceased member. In these circumstances, the EPF will elect for the final pay period that provides the most financially advantageous benefits. This will be determined by the Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence.
Whether to pay the whole or part of a child's pension to another	B27(5)	The EPF policy is to normally pay the child's pension to a parent or

person for the benefit of that child		legal Guardian if the child has not attained the age of 18. The Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, will determine who payment will be sent to if it is not to a parent or legal Guardian on a case by case basis
Whether, where a person (other than an eligible child) is incapable of managing their affairs, to pay the whole or part of that person's pension benefits to another person for their benefit.	A52A	The decision will be made by Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, based on the information gathered. Advice will be sought from Essex Legal Services as and when required.
Whether to grant application for early payment of deferred benefits on or after age 55 and before age 60 (where Employer has become defunct)	B30(2)*	This decision will be made in accordance with ECC's (as a fund employer) policy at the time the request is made.
Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 (where Employer has become defunct)	B30(5)*	This decision will be made in accordance with ECC's (as a fund employer) policy at the time the request is made.
Whether to grant an application for early payment of a suspended tier 3 ill health pension on or after age 55 and before age 60 (where Employer has become defunct)	B30A(3)*	This decision will be made in accordance with ECC's (as a fund employer) policy at the time the request is made.
Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A (where Employer has become defunct)	B30A(5)*	This decision will be made in accordance with ECC's (as a fund employer) policy at the time the request is made.
Decide whether deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria (where Employer has become defunct)	B31(4)	This decision will be made in accordance with ECC's (as a fund employer) policy at the time the request is made.
Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment (where Employer has become defunct)	B31(7)	This decision will be made in accordance with ECC's (as a fund employer) policy at the time the request is made.
Decide to whom death grant is paid	B23(2) & B32(2) & B35(2) & TSch1 & L155(4)	The decision will be made by Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, based on the information gathered on a case by case basis. Advice will be sought from Essex Legal Services as and when required.
Decide evidence required to determine financial dependence of co-habitee on scheme member or financial interdependence of co-habitee and scheme member	B25	There is no criteria laid down in the regulations as to the evidence required and it is left to the administering authority to decide what evidence it requires. Evidence could include bank statements, title deeds, mortgage statements, utility bills, council tax bills, joint loan agreements and electoral roll details. The Head of the Essex

		Pension Fund, or Director for Essex Pension Fund in their absence, will decide if there is sufficient evidence to establish entitlement on a case by case basis.
Decide to treat child as being in continuous education or vocational training despite a break	RSch 1 & TP 17(9)	It is understood that the intention of this discretion is to allow the administering authority to disregard a 'gap year' where an eligible child takes a break from studies before starting university. The EPF operates a policy whereby it will disregard one 'gap year'.
Decide whether to commute small pension	B39 & T14(3)	A member aged 60 or over and with a very small pension entitlement can request that the fund pays him/her a lump sum instead of his entitlement to a pension. The EPF will agree to such a request where the member satisfies the very strict HMRC criteria. Where no request is received from a scheme member, the EPF may still choose to pay a trivial commutation instead of an ongoing pension. The Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, will decide when such an approach is to be taken on a case by case basis.
Decide, in the absence of an election from the member, which benefit is to be paid where the member would be entitled to a benefit under 2 or more regulations in respect of the same period of Scheme membership	B42(1)(c)	This regulation restricts a member to entitlement under only one regulation where they might otherwise appear to be entitled to benefits under two or more regulations. The EPF would decide on the basis of which regulation would appear at the time to give the member and their known beneficiaries the best benefits financially taking their individual circumstances into consideration. The Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, will decide on a case by case basis.
Make election on behalf of deceased member with a certificate of protection of pension benefits i.e. determine best pay figure to use in the benefit calculations (pay cuts / restrictions)	TSch 1 & L23(9)	A certificate of protection of pension benefits allows the member to select either the best of last 5 years pay or the average of a best consecutive 3 year period in the last 13 years if this is higher than the final year. This discretion allows the administering authority to choose the best period in respect of a deceased member. In these circumstances, the EPF will elect for the final pay period that provides the most financially advantageous benefits. This will be determined by the Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, on a case by case basis.

Discretions under the Local Government Pension Scheme Regulations 1997 (as amended) in relation to:

- a) active councillor members, and
- b) councillor members who ceased active membership on or after 1.4.98., and
- c) any other scheme members who ceased active membership on or after 1.4.98. and before 1.4.08.

* These are matters about which the regulations require there must be a written policy.

Discretion	Regulation	Policy
Frequency of payment of councillors' contributions	12(5)	The payment of councillors' contributions will mirror the cycle of their pay dates as contributions will be deducted directly from pay.
Extend normal 12 month period following end of relevant reserve forces leave for "Cancelling notice" to be submitted by a councillor member requesting that the service should not be treated as relevant reserve forces service	17(4),(7),(8), & 89(4) & Sch 1	Seldom, if ever, used discretion and accordingly the approach will be agreed by the Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, if an individual case arises.
Select appropriate final pay period for deceased non-councillor member (leavers post 31.3.98. / pre 1.4.08.)	22(7)	This discretion allows the administering authority to choose the most beneficial final pay period on behalf of a deceased non-councillor member. In these circumstances, the EPF will elect for the final pay period that provides the most financially advantageous benefits.
Make election on behalf of deceased non-councillor member with a certificate of protection of pension benefits i.e. determine best pay figure to use in the benefit calculations (pay cuts / restrictions occurring pre 1.4.08.)	23(9)	This discretion allows the administering authority to choose the most beneficial final pay period on behalf of a deceased non-councillor member. In these circumstances, the EPF will elect for the final pay period that provides the most financially advantageous benefits.
Decide to whom death grant is paid in respect of councillor members and post 31.3.98. / pre 1.4.08. leavers	38(1) & 155(4)	The administering authority at their absolute discretion may make payments in respect of the death grant to or for the benefit of the member's nominee or personal representatives, or any person appearing to the authority to have been his relative or dependant at any time. The decision will be made by the Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, based on the information gathered. Advice will be sought from Essex Legal Services as and when required.
Decide to treat child as being in continuous education or vocational training despite a break (children of councillor	Reg 17(9) of the LGPS (Transitional	It is understood that the intention of this discretion is to allow the administering authority to disregard a 'gap year' where an eligible

members and children of post 31.3.98. / pre 1.4.08. leavers)	Provisions and Savings) Regs 2014 and definition in Sch 1 of the LGPS Regulations 2013	child takes a break from his studies before starting university. The EPF operates a policy whereby it will disregard one 'gap year'.
Apportionment of children's pension amongst eligible children (children of councillor members and children of post 31.3.98. / pre 1.4.08. leavers)	47(1)	If a children's pension is payable for more than one eligible child, the administering authority may apportion it amongst the children as they think fit. The EPF will apportion it equally amongst eligible children.
Pay child's pension to another person for the benefit of the child (children of councillor members and children of post 31.3.98. / pre 1.4.08. leavers)	47(2)	The EPF policy is to pay the child's pension to a parent or legal Guardian if the child has not reached the age of 18. The Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, will determine who payment will be sent to if it is not to a parent or legal Guardian.
Agree to commutation of small pension (pre 1.4.08. leavers or pre 1.4.08. Pension Credit members)	49 & 156	A member aged 60 or over and with a very small pension entitlement can request that the fund pays him a lump sum instead of his entitlement to a pension. The EPF will agree to such a request where the member satisfies the very strict HMRC criteria. . Where no request is received from a scheme member, the EPF may still choose to pay a trivial commutation lump sum instead of an ongoing pension. The Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, will decide when such an approach is to be taken.
Commute benefits due to exceptional ill-health (councillor members, pre 1.4.08. leavers and pre 1.4.08. Pension Credit members)	50 and 157	If life expectancy at retirement is certified as less than one year the administering authority may pay a lump sum in lieu of pension entitlement. The EPF will normally offer this as an option to the member but the Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, will consider the appropriateness of this in each case.
Whether acceptance of AVC election is subject to a minimum payment (councillors only)	60(5)	The administering authority can specify a minimum payment towards AVCs. The EPF does not require any such minimum.
Whether to require any strain on Fund costs to be paid "up front" by employing authority following early voluntary retirement of a councillor (i.e. after age 50/55 and before age 60), or early payment of a deferred benefit on health grounds or from age 50	80(5)	The employer will normally be given the choice of paying either by one lump sum, to be paid within 30 days of the retirement date, or in instalments over 3 years. However, where the contract under which an admission body entered the fund was due to expire in less than 3

with employer consent (pre 1.4.08. leavers) – (see Note below)		years they would not be able to spread payments beyond the expected contract end date
Frequency of employer's payments to the fund (in respect of councillor members).	81(1)	Contributions will be received by the EPF within 19 days of the end of the month in respect of which they have been deducted
Form and frequency of information to accompany payments to the Fund (in respect of councillor members)	81(5)	Each employing authority is to provide a monthly summary of employee and employer contributions in respect of councillor members.
Interest on payments by employers overdue by more than 1 month (in respect of councillor members)	82(1)	Interest will be applied to non-payment of contributions more than 30 days overdue and the interest will be invoiced with the late payment charges on a quarterly basis. Interest will continue to accrue on non-payments until paid and invoiced quarterly.
Outstanding employee contributions can be recovered as a simple debt or by deduction from benefits (councillors and pre 1.4.08. leavers)	89(3)	Outstanding contributions would normally be recovered as a simple debt but consideration would be given to deduction from benefits in exceptional circumstances. The approach to be taken will be determined by the Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence.
Timing of pension increase payments by employers to fund (pre 1.4.08. leavers)	91(6)	The Environment Agency must reimburse the administering authority the cost of any increase payable under the 1971 Act or the 1974 Act in respect of former Water Company members. This discretion allows the administering authority to determine the intervals for payment. The Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, will determine the intervals for these payments.
Pay death grant due to personal representatives without need for grant of probate / letters of administration (death of councillor or pre 1.4.08. leaver)	95	The decision will be made by the Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, based on the information gathered. Advice will be sought from Essex Legal Services as and when required.
Approve medical advisors used by employers (re ill health benefits for councillors and re pre 1.4.08. preserved benefits payable on health grounds)	97(10)	EPF policy is simply that the independent registered medical practitioner (IRMP) must satisfy the definition of an IRMP in Schedule 1 of the LGPS Regulations 2013. EPF liaises with employers regarding the necessary qualifications required of medical advisor and employers are expected to ensure that the medical advisor they use is suitably qualified.

Decide procedure to be followed by admin authority when exercising its IDRPs functions and decide the manner in which those functions are to be exercised (councillors and pre 1.4.08. leavers)	99	EPF procedure is that the Director for Essex Legal Services hears the stage 2 appeal on behalf of the administering authority in order that there is a level of independence from Pensions Services which may have made the decision which is the subject of the appeal.
Appeal against employer decision, or lack of a decision (councillors and pre 1.4.08. leavers)	105(1)	This would be a last resort and has not yet been exercised by the EPF. Any use of this discretion will be subject to agreement by the Chairman of the Pension Fund Board.
Date to which benefits shown on annual deferred benefit statement are calculated	106A(5)	The EPF shows benefits accrued at 31 March as this is the end of the contribution year and the date at which employers provide pensionable pay data.
Abatement of pensions following re-employment (councillors and pre 1.4.08. leavers)	109* & 110(4)(b)	The EPF Board approved a revised abatement policy at its 30 September 2009 meeting to the effect that : <ul style="list-style-type: none"> • the abatement of pensions on re-employment (including any currently unidentified cases) be ceased with effect from 1 October 2009. • any pensions abated at that point because of re-employment were to be reinstated with effect from 1 October 2009.
Retention of CEP where member transfers out (councillors and pre 1.4.08. leavers)	118	EPF will pay premium to Department for Work and Pensions rather than retain CEP so that no liability remains in the fund.
Discharge Pension Credit liability (in respect of Pension Sharing Orders for councillors and pre 1.4.08. Pension Sharing Orders for non-councillor members)	147	The EPF will follow the national LGPS guidance issued by LGE resulting from the work of the Pension Sharing on Divorce Working Party when discharging its Pension Credit liability.

Note: benefits paid on or after age 50 and before age 55 are subject to an unauthorised payments charge and, where applicable, an unauthorised payments surcharge under the Finance Act 2006. Also, any part of the benefits which had accrued after 5 April 2006 would generate a scheme sanction charge.

Discretions under the Local Government Pension Scheme Regulations 1995 (as amended) in relation to scheme members who ceased active membership before 1.4.98.

Discretion	Regulation	Policy
Decide to whom death grant is paid in respect of pre 1.4.98. retirees / pre 1.4.98. deferreds	E8	The administering authority at their absolute discretion may make payments in respect of the death grant to or for the benefit of the member's nominee or personal representatives, or any person appearing to the authority to have been his relative or dependant at any time. The decision will be made by the Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, on a case by case based on the information gathered. Advice will be sought from Essex Legal Services as and when required.
Whether to pay spouse's pensions for life for pre 1.4.98 retirees / pe 1.4.98 deferreds who die on or after 1.4.98. (rather than ceasing during any period of remarriage or co-habitation)	F7	For consistency with changes in the LGPS Regulations as they apply to survivors pensions on remarriage or cohabitation the EPF will not suspend spouse's pensions payable under the former 1995 regulations upon remarriage or cohabitation.
Decide to treat child as being in continuous education or vocational training despite a break (children of pre 1.4.98. retirees / pre 1.4.98. deferreds)	Reg 17(9) of the LGPS (Transitional Provisions and Savings) Regs 2014 and definition in Sch 1 of the LGPS Regulations 2013	It is understood that the intention of this discretion is to allow the administering authority to disregard a 'gap year' where an eligible child takes a break from his studies before starting university. The EPF operates a policy whereby it will disregard one 'gap year'.
Apportionment of children's pension amongst eligible children (children of pre 1.4.98. retirees / pre 1.4.98. deferreds)	G11(1)	If a children's pension is payable for more than one eligible child, the administering authority may apportion it amongst the children as they think fit. The EPF will apportion it equally amongst eligible children.
Pay child's pension to another person for the benefit of the child (children of pre 1.4.98. retirees / pre 1.4.98. deferreds)	G11(2)	The EPF policy is to pay the child's pension to a parent or legal Guardian if the child has not reached the age of 18. The Head of the Essex Pension Fund, or Director for Essex Pension Fund in their absence, will determine who payment will be sent to if it is not to a parent or legal Guardian.

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

Under Regulation 26 of the Discretionary Compensation Regulations, each authority (other than an Admitted Body) is required to formulate and keep under review a policy which applies in respect of exercising their discretion in relation to:

Discretion	Regulation	Policy
Agree to pay annual compensation on behalf of employer and recharge payments to employer	31(2)	The EPF has historically agreed to pay such benefits and recharge the employer and will continue to do so although there is no Statutory obligation to do so. The Fund should recover any additional costs it incurs in providing this service from the employer concerned in order to prevent any cross subsidy by other employers in the Fund