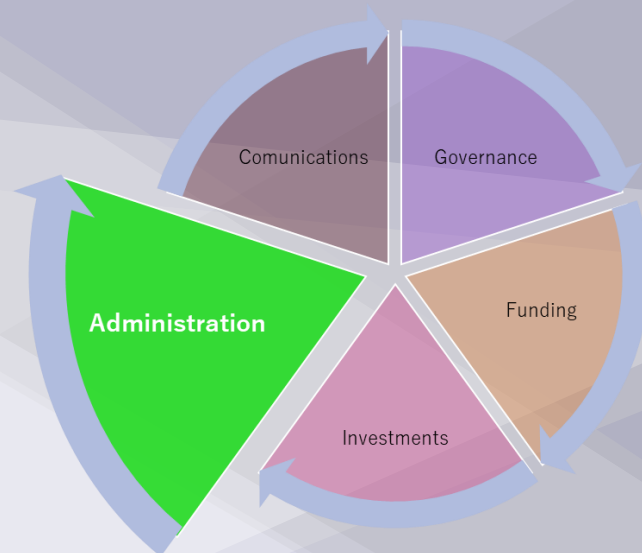


## Administering Authority Statement of Policy on Discretions in relation to the LGPS

December 2022



# Essex Pension Fund

## Administering Authority Discretions

### Introduction

This revised Policy has been determined by the Essex Pension Fund Strategy Board (PSB) of Essex County Council (ECC), as the Administering Authority of the Essex Pension Fund, following a full review.

It relates to Administering Authority Discretions included within the Local Government Pension Scheme (LGPS) Regulations 2013 and related legislation (the governing regulations).

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.

### To whom this Policy applies

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.

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 ECC'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.

# Essex Pension Fund

## Administering Authority Discretions

### Discretions from 01 April 2014 in relation to post 31 March 2014 Active Members (excluding Councillor Members) and post 31 March 204 leavers (excluding Councillor Members)

#### Being discretions under:

- the Local Government Pension Scheme Regulations 2013 [*SI 2013/2356*] [prefix **R**]
- the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [*SI 2014/525*] [prefix **TP**]
- the Local Government Pension Scheme (Administration) Regulations 2008 [*SI 2008/239*] [prefix **A**]
- the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) [*SI 2007/1166*] [prefix **B**]
- the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [*SI 2008/238*] [prefix **T**]
- the Local Government Pension Scheme Regulations 1997 (as amended) [*SI 1997/1612*] [prefix **L**]

Discretion	Regulation	Policy
Whether to agree to an admission agreement with a Care Trust, NHS Scheme employing authority or Care Quality Commission.	<b>R4(2)(b)</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.	<b>R3(1A), R3(5) &amp; RSch 2, Part 3, para 1</b>	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 it satisfying the requirements of the LGPS Regulations and the admission criteria contained in the Funding Strategy Statement.
Whether to agree that an admission agreement may take effect on a date before the date on which it is executed.	<b>RSch2, Part 3, para 14</b>	Whilst it is undesirable and should be avoided wherever possible, the EPF will allow an admission agreement to take effect on a date before the date on which it is executed where it is necessary to protect the pension rights of TUPE transferred staff.

# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
<p>Whether to terminate an admission agreement in the event of:</p> <ul style="list-style-type: none"> <li>• insolvency, winding up or liquidation of the body;</li> <li>• breach by that body of its obligations under the admission agreement;</li> <li>• failure by that body to pay over sums due to the Fund within a reasonable period of being requested to do so.</li> </ul>	<p><b>RSch 2, Part 3, para 9(d)</b></p>	<p>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.</p>
<p>Define what is meant by "employed in connection with".</p>	<p><b>RSch 2, Part 3, para 12(a)</b></p>	<p>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.</p>
<p>Whether to turn down a request to pay an APC/ SCAPC 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).</p>	<p><b>R16(1)</b></p>	<p>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.</p>
<p>Whether to require a satisfactory medical before agreeing to an application to pay an APC / SCAPC.</p>	<p><b>R16(10)</b></p>	<p>The EPF takes the view that if a member is fit to work then they are in reasonably good health and does not require the member to undertake a medical.</p>
<p>Whether to turn down an application to pay an APC / SCAPC if not satisfied that the member is in reasonably good health.</p>	<p><b>R16(10)</b></p>	

# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
Decide to whom any AVC/SCAVC monies (including life assurance monies) are to be paid on death of the member.	<b>R17(12)</b>	Officers will apply the same decision-making process as for the discretion 'Decide to whom death grant is paid'.
Pension account may be kept in such form as is considered appropriate.	<b>R22(3)(c)</b>	Pension account details will be kept on a secure computer system, UPM (Civica).
Where there are multiple ongoing employments, in the absence of an election from the member within 12 months of ceasing a concurrent employment, decide to which record the benefits from the ceased concurrent employment should be aggregated.	<b>TP10(9)</b>	Officers will normally aggregate benefits with the main (i.e. that with higher hours) ongoing employment.
<b>Mandatory written policy</b> Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement. (where Employer has become defunct)	<b>R30(8)</b>	This decision will be made in accordance with ECC's (as a fund employer) policy at the time the request is made.
<b>Mandatory written policy</b> Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31 March 2014 membership). (where Employer has become defunct)	<b>R30(8)</b>	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.	<b>R68(2)</b>	Employers are required to pay the strain within 30 days of the retirement date.

Discretion	Regulation	Policy
<p><b>Mandatory written policy</b> 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). (where Employer has become defunct)</p>	<p>TPSch 2, para 1(2) &amp; 1(1)(c)</p>	<p>This decision will be made in accordance with ECC’s (as a fund employer) policy at the time the request is made.</p>
<p><b>Mandatory written policy</b> Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1 April 2014 and post 31 March 2014 membership): a) on compassionate grounds (pre 1 April 2014 membership) and in whole or in part on any grounds (post 31 March 2014 membership) if the member was not in the Scheme before 1 October 2006, b) on compassionate grounds (pre 1 April 2014 membership) and in whole or in part on any grounds (post 31 March 2014 membership) if the member was in the Scheme before 1 October 2006, will not be 60 by 31 March 2016 and will not attain 60 between 1 April 2016 and 31 March 2020 inclusive, c) on compassionate grounds (pre 1 April 2016 membership) and in whole or in part on any grounds (post 31 March 2016 membership) if the member was in the Scheme before 1 October 2006 and will be 60 by 31 March 2016, d) on compassionate grounds (pre 1 April 2020 membership) and in whole or in part on any grounds (post 31 March 2020 membership) if the member was in the Scheme before 1 October 2006, will not be 60 by 31 March 2016 and will attain 60 between 1 April 2016 and 31 March 2020 inclusive. (where Employer has become defunct)</p>	<p>TP3(1), TPSch 2, para 2(1), B30(5) &amp; B30A(5)</p>	<p>This decision will be made in accordance with ECC’s (as a fund employer) policy at the time the request is made.</p>
<p>Whether to require any strain on Fund costs to be paid “up front” by employing authority if the employing authority “switches on” the 85 year rule for a member voluntarily retiring (other than flexible retirement) prior to age 60, or waives an actuarial reduction on compassionate grounds under TPsch 2, para 2(1).</p>	<p>TPSch 2, para 2(3)</p>	<p>Employers are required to pay the strain within 30 days of the retirement date.</p>



# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
<p><b>Mandatory written policy</b> 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). (where Employer has become defunct)</p>	<p><b>TP</b>Sch 2, para 1(2) &amp; 1(1)(c)</p>	<p>This decision will be made in accordance with ECC’s (as a fund employer) policy at the time the request is made.</p>
<p>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.</p>	<p><b>R</b>32(7)</p>	<p>Although this discretion is badly worded, EPF will work on the basis of the known intention. This discretion, therefore, allows the Fund some practical flexibility to avoid the requirement for members to give at least 3 months written notice of early retirement or elect for flexible retirement within one month of the reduction in hours or grade, which would often be impractical or impossible. EPF will not normally require members to give 3 months’ notice of early retirement or elect within 1 month for Flexible retirement.</p>
<p>Decide whether to trivially commute a member’s pension under section 166 of the Finance Act 2004 (includes pension credit members where the effective date of the Pension Sharing Order is after 31 March 2014 and the debited member had some post 31 March 2014 membership of the 2014 Scheme).</p>	<p><b>R</b>34(1)(a)</p>	<p>A member aged 55 or over (no age restriction for a member who meets the ill-health condition) with a very small pension entitlement can request that the fund pays them a lump sum instead of their 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 LG Admin Management Team, or Director for EPF in their absence, will decide when such an approach is to be taken on a case-by-case basis.</p>
<p>Decide whether to trivially commute a lump sum death benefit under section 168 of the Finance Act 2004.</p>	<p><b>R</b>34(1)(b)</p>	<p>A dependant of a deceased member with a very small dependants pension entitlement can request that the fund pays them a lump sum instead of their entitlement to a dependant’s pension. The EPF will agree to such a request where the dependant satisfies the HMRC criteria (which allows commutation in a small number of circumstances). Where no request is received from a dependant member, the EPF may still choose to pay a trivial commutation instead of an ongoing pension. The LG Admin Management Team, or Director for EPF in their absence, will decide when such an approach is to be taken on a case-by-case basis.</p>

Discretion	Regulation	Policy
<p>Decide whether to pay a commutation payment under regulations 6 (payment after relevant accretion), 11 (de minimis rule for pension schemes) or 12 (payments by larger pension schemes) of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (excludes survivor pensions and includes pension credit members where the effective date of the Pension Sharing Order is after 31 March 2014 and the debited member had some post 31 March 2014 membership of the 2014 Scheme).</p>	<p><b>R34(1)(c)</b></p>	<p>A member aged 55 or over (no age restriction for a member who meets the ill-health condition) with a very small pension entitlement can request that the fund pays them a lump sum instead of their 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 LG Admin Management Team, or Director for EPF in their absence, will decide when such an approach is to be taken on a case-by-case basis.</p>
<p>Approve medical advisors used by employers (for ill health benefits).</p>	<p><b>R36(3)</b></p>	<p>EPF policy is that the independent registered medical practitioner (IRMP) is automatically approved if they satisfy the requirements of the definition of an IRMP in Schedule 1 of the LGPS Regulations 2013. For clarity, EPF does not require employers to seek its prior approval for the use of an IRMP, employers simply need to ensure that the IRMP satisfies the requirements of the definition of an IRMP in Schedule 1 of the LGPS Regulations 2013.</p>
<p>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.</p>	<p><b>TP12(6)</b></p>	<p>This is believed to be a short-lived transitional discretion for ill-health cases which had been referred to an IRMP and a certificate signed before 1st April 2014 but where the individual does not cease until 1st April 2014 or later. The Fund would normally use a certificate produced under the 2008 scheme in those limited circumstances.</p>



# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
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 or for at least three years, whichever is the sooner. (where Employer has become defunct)	<b>R38(3)</b>	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 unlikely to be capable of undertaking gainful employment before normal pension age because of ill health. (where Employer has become defunct)	<b>R38(6)</b>	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.	<b>TP17(5) to (8), R40(2), R43(2) &amp; R46(2)</b>	The decision will be made by one or more EPF Admin Management Team members on a case by case basis, based on the information available. 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.	<b>R49(1)(c)</b>	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 LG Admin Management Team, or Director for EPF in their absence, will decide on a case by case basis.
Whether to set up a separate admission agreement fund.	<b>R54(1)</b>	The EPF has not established a separate admission agreement fund and instead notionally apportion assets within the main fund.

Discretion	Regulation	Policy
<p><b>Mandatory written policy</b>                      Governance Compliance Statement 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"> <li>• the frequency of any committee or sub-committee meetings,</li> <li>• the terms, structure and operational procedures appertaining to the delegation, and</li> <li>• whether representatives of employing authorities or members are included and, if so, whether they have voting rights.</li> </ul> <p>The policy must also state:</p> <ul style="list-style-type: none"> <li>• 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</li> <li>• the terms, structure and operational procedures appertaining to the local Pensions Board.</li> </ul>	<p style="text-align: center;"><b>R55</b></p>	<p>The Fund's Governance Policy and compliance statement is published in the Fund's Annual Report and Accounts.</p>
<p><b>Mandatory written policy</b>                      Decide on Funding Strategy for inclusion in funding strategy statement.</p> <p>Whether to have a written pensions administration strategy and, if so, the matters it should include.</p>	<p style="text-align: center;"><b>R58</b></p> <p style="text-align: center;"><b>R59(1) &amp; (2)</b></p>	<p>The EPF publishes, and keeps under review, a Funding Strategy Statement which is included in the Fund's Annual Report and Accounts.</p> <p>The EPF publishes, and keeps under review, an Administration Strategy.</p>

# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
<p><b>Mandatory written policy</b> 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.</p>	<p><b>R61</b></p>	<p>The EPF publishes, and keeps under review, a Communications Policy which is included in the fund's annual report and accounts.</p>
<p>Whether to extend the period beyond 3 months from the date an Employer ceases to be a Scheme Employer, by which to pay an exit credit.</p>	<p><b>R64(2ZA)</b></p>	<p>EPF will agree to extend the period in accordance with the provisions of the Funding Strategy Statement.</p>
<p>Whether to suspend (by way of issuing a suspension notice), 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.</p>	<p><b>R64(2A)</b></p>	<p>EPF will agree that a Town or Parish Council may defer a cessation valuation if the last member leaves the scheme but the Town or Parish Council is intending to offer the scheme to a new employee. This will be in agreement with EPF and any deficit payments, as calculated by the Actuary, due by the Town or Parish Council must continue to be paid during the suspension period. Any suspension period will be time-limited and at the discretion of the Fund</p>
<p>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.</p>	<p><b>R64(4)</b></p>	<p>The employer rate set by the EPF actuary at each valuation aims to avoid underfunding at exit. However, EPF may obtain a revised rate in the inter-valuation period following discussion with, or at the request of, the admission body and/or the fund's actuary. Further information is included in the Funding Strategy Statement.</p>
<p>Decide frequency of payments to be made over to Fund by employers and whether to make an admin charge.</p>	<p><b>R69(1)</b></p>	<p>Contributions should normally be paid monthly and must be received by the EPF within 19 days of the end of the month in which the amount was deducted from earnings</p>

# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
Decide form and frequency of information to accompany payments to the Fund.	<b>R69(4)</b>	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.	<b>R70 &amp; TP22(2)</b>	Any decision to issue such a notice will be taken in accordance with the Administration Strategy.
Whether to charge interest on payments by employers which are overdue.	<b>R71(1)</b>	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 IDRPs functions and decide the manner in which those functions are to be exercised.	<b>R76(4)</b>	EPF procedure is that ECC's Director, Legal and Assurance determines the stage 2 appeal on behalf of the administering authority in order that there is a level of independence from the EPF which could have made the decision which is the subject of the appeal.
Whether administering authority should appeal against employer decision (or lack of a decision).	<b>R79(2)</b>	This would be a last resort and any use of this discretion will be subject to agreement by the Chairman of the Essex Pension Fund Strategy Board.
Specify information to be supplied by employers to enable administering authority to discharge its functions.	<b>R80(1)(b) &amp; TP22(1)</b>	The EPF Administration Strategy outlines the information which employers must provide to the Fund and detailed guidance and spreadsheets are shared with employers regularly.

# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
<p>Whether to pay the whole or part of the amount that is due to the personal representatives (including anything due to the deceased member at the date of death) to:</p> <ul style="list-style-type: none"> <li>the personal representatives, or</li> <li>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.</li> </ul>	<p><b>R82(2)</b></p>	<p>The decision will be made by one or more EPF Admin Management Team members on a case by case basis based on the information available. Advice will be sought from Essex Legal Services as and when required.</p>
<p>Whether, where a person is incapable of managing their affairs, to pay the whole or part of that person's pension benefits to another person for their benefit.</p>	<p><b>R83</b></p>	<p>The decision will be made by the LG Admin Management Team, or Director for EPF in their absence, based on the information gathered. Advice will be sought from Essex Legal Services as and when required</p>
<p>Agree to bulk transfer payment.</p>	<p><b>R98(1)(b)</b></p>	<p>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 the Funding Strategy Statement</p>
<p>Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS.</p>	<p><b>R100(6)</b></p>	<p>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 only allow such transfers if the Scheme employer gives its written consent</p>
<p>Allow transfer of pension rights into the Fund.</p>	<p><b>R100(7)</b></p>	<p>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</p>



# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
<p>Where member to whom <b>B10</b> 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.</p>	<p><b>TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) &amp; B10(2)</b></p>	<p>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 LG Admin Management Team, or Director for EPF in their absence</p>
<p>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 April 2008).</p>	<p><b>TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) &amp; TSch 1 &amp; L23(9)</b></p>	<p>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 LG Admin Management Team, or Director for EPF in their absence</p>
<p>Decide to continue to treat a child (between age of 18 and 23) as being in continuous full-time education or vocational training notwithstanding a break.</p>	<p><b>RSch 1 &amp; TP17(9)(a)</b></p>	<p>If a child resumes full-time education or vocational training under age 23, EPF will reinstate the children's pension (until the sooner of age 23 or the date they cease education/training). For clarity, no children's pension will be due for the period of the break in education</p>
<p>Decide evidence required to determine financial dependence of cohabiting partner on scheme member or financial interdependence of cohabiting partner and scheme member.</p>	<p><b>RSch 1 &amp; TP17(9)(b)</b></p>	<p>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 LG Admin Management Team, or Director for EPF in their absence, will decide if there is sufficient evidence to establish entitlement on a case by case basis</p>

# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
<p><b>Mandatory written policy</b> Decide policy on abatement of pre 1 April 2014 element of pensions in payment following re-employment.</p>	<p><b>TP3(13) &amp; A70(1) &amp; A71(4)(c)</b></p>	<p>The EPF Board approved a revised abatement policy at its 30 September 2009 meeting to the effect that:</p> <ul style="list-style-type: none"> <li>the abatement of pensions on re-employment (including any currently unidentified cases) be ceased with effect from 1 October 2009.</li> <li>any pensions at that point that were abated because of re-employment were to be reinstated with effect from 1 October 2009.</li> </ul>
<p>Extend time period for capitalisation of added years contract.</p>	<p><b>TP15(1)(c) &amp; TSch1 &amp; L83(5)</b></p>	<p>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 LG Admin Management Team, or Director for EPF in their absence, on a case by case basis</p>
<p>Decide whether to delegate any administering authority functions under the Regulations.</p>	<p><b>R105(2)</b></p>	<p>The Administering Authority has delegated certain functions to the Essex Pension Fund Strategy Board (and Investment Steering Committee) and the Director for Essex Pension Fund. The Scheme of Delegations can be found within Essex County Council's Constitution and further more the Fund's Governance Policy and Compliance Statement.</p>
<p>Decide whether to establish a joint local pension board (if approval has been granted by the Secretary of State).</p>	<p><b>R106(3)</b></p>	<p>Not applicable as Secretary of State approval has not been sought or granted</p>
<p>Decide procedures applicable to the local pension board.</p>	<p><b>R106(6)</b></p>	<p>All procedures applicable to the Essex Pension Fund Advisory Board (Local Pensions Board) are contained within their Terms of Reference which can be found within Essex County Council's Constitution and the Fund's Governance Policy and Compliance Statement.</p>
<p>Decide appointment procedures, terms of appointment and membership of local pension board.</p>	<p><b>R107(1)</b></p>	<p>All appointment procedures, terms of appointment and membership of the Essex Pension Fund Advisory Board (Local Pensions Board) are contained within their Terms of Reference which can be found within Essex County Council's Constitution and the Fund's Governance Policy and Compliance Statement.</p>

### Discretions in relation to Scheme Members (excluding Councillor Members) who ceased active membership on or after 01 April 2008 and before 01 April 2014

#### Being discretions under:

- LGPS (Administration) Regulations 2008 [SI 2008/239] [prefix **A**]
- LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended) [SI 2007/1166] [prefix **B**]
- LGPS (Transitional Provisions) Regulations 2008 [SI 2008/238] [prefix **T**]
- LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] [prefix **TP**]
- LGPS Regulations 2013 [SI 2013/2356] [prefix **R**]
- LGPS 1997 (as amended) [1997/1612] [prefix **L**]

Discretion	Regulation	Policy
Extend time period for capitalisation of added years contract where the member leaves his employment by reason of redundancy.	<b>TR15(1)(c) &amp; TSch1 &amp; L83(5)</b>	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 LG Admin Management Team, or Director for EPF in their absence, on a case by case basis.
Outstanding employee contributions can be recovered as a simple debt or by deduction from benefits.	<b>A45(3)</b>	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 LG Admin Management Team, or Director for EPF in their absence.

# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
<p>Whether to pay the whole or part of the amount that is due to the personal representatives (including anything due to the deceased member at the date of death) to:</p> <ul style="list-style-type: none"> <li>personal representatives, or</li> <li>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.</li> </ul>	<p><b>A52(2)</b></p>	<p>The decision will be made by the LG Admin Management Team, or Director for EPF 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.</p>
<p>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).</p>	<p><b>A56(2)</b></p>	<p>EPF policy is that the independent registered medical practitioner (IRMP) is automatically approved if they satisfy the requirements of the definition of an IRMP in Schedule 1 of the LGPS Regulations 2013. For clarity, EPF does not require employers to seek its prior approval for the use of an IRMP, employers simply need to ensure that the IRMP satisfies the requirements of the definition of an IRMP in Schedule 1 of the LGPS Regulations 2013.</p>
<p>Decide procedure to be followed by administering authority when exercising its stage two IDRPs functions and decide the manner in which those functions are to be exercised.</p>	<p><b>TP23 &amp; R76(4)</b></p>	<p>EPF procedure is that ECC's Director, Legal and Assurance 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.</p>
<p>Whether administering authority should appeal against employer decision (or lack of a decision).</p>	<p><b>TP23 &amp; R79(2)</b></p>	<p>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</p>
<p>Specify information to be supplied by employers to enable administering authority to discharge its functions.</p>	<p><b>TP23, TP22(1) &amp; R80(1)(b)</b></p>	<p>The EPF Administration Strategy outlines the information which employers must provide to the Fund and detailed guidance and spreadsheets are shared with employers regularly</p>



# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
<p><b>Mandatory written policy</b> Decide policy on abatement of pensions following re-employment.</p>	<p><b>TP3(13), A70(1) &amp; A71(4)(c)</b></p>	<p>The EPF Board approved a revised abatement policy at its 30 September 2009 meeting to the effect that:</p> <ul style="list-style-type: none"> <li>the abatement of pensions on re-employment (including any currently unidentified cases) be ceased with effect from 1 October 2009.</li> <li>any pensions at that point that were abated because of re-employment were to be reinstated with effect from 1 October 2009</li> </ul>
<p>Where member to whom B10 applies (use of average of 3 years pay within the period of 13 years ending with the last day of active membership for final pay purposes) dies before making an election, whether to make that election on behalf of the deceased member.</p>	<p><b>B10(2)</b></p>	<p>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 LG Admin Management Team, or Director for EPF in their absence</p>
<p>Whether to pay the whole or part of a child's pension to another person for the benefit of that child.</p>	<p><b>B27(5)</b></p>	<p>Under HMRC rules, a pension from a defined benefit scheme can usually only be paid to a dependant of the person who died, e.g. a husband, wife, civil partner or child under 23. It can sometimes be paid to someone else if, as in the LGPS, the pension scheme's rules allow it - but it will be taxed at up to 55% as an unauthorised payment. Therefore, EPF will normally only pay the child's pension directly to the child and will only consider payment to another person in exceptional circumstances. A decision to pay to someone other than the child will be made by the LG Admin Management Team, or Director for EPF in their absence.</p>
<p>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.</p>	<p><b>A52A</b></p>	<p>The decision will be made by the LG Admin Management Team, or Director for EPF in their absence, based on the information gathered. Advice will be sought from Essex Legal Services as and when required</p>



# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
<p><b>Mandatory written policy</b> 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)</p>	<p><b>TPSch 2, para 1 (2) &amp; 1(1)(c)</b></p>	<p>This decision will be made in accordance with ECC’s (as a fund employer) policy at the time the request is made.</p>
<p><b>Mandatory written policy</b> Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 (member). (where Employer has become defunct)</p>	<p><b>B30(5), TPSch 2, para 2(1)</b></p>	<p>This decision will be made in accordance with ECC’s (as a fund employer) policy at the time the request is made.</p>
<p>Mandatory written policy Whether to “switch on” the 85 year rule for a pensioner member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60. (where Employer has become defunct)</p>	<p><b>TPSch 2, para 1 (2) &amp; 1(1)(c)</b></p>	<p>This decision will be made in accordance with ECC’s (as a fund employer) policy at the time the request is made.</p>
<p><b>Mandatory written policy</b> Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A (pensioner member with deferred benefits). (where Employer has become defunct)</p>	<p><b>B30A(5), TPSch 2, para 2(1)</b></p>	<p>This decision will be made in accordance with ECC’s (as a fund employer) policy at the time the request is made.</p>
<p>Whether to require any strain on Fund costs to be paid “up front” by employing authority if the employing authority “switches on” the 85 year rule for a member voluntarily retiring prior to age 60, or waives an actuarial reduction on compassionate grounds under TPSch 2, para 2(1).</p>	<p><b>TPSch 2, para 2 (3)</b></p>	<p>Where an employer allows an early retirement, for any reason other than ill health, that produces a strain cost, payment of the strain cost must be made in accordance with the Funding Strategy Statement in place at the date of retirement.</p>
<p>Decide whether deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria. (where Employer has become defunct)</p>	<p><b>B31(4)</b></p>	<p>This decision will be made in accordance with ECC’s (as a fund employer) policy at the time the request is made.</p>

# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment. (where Employer has become defunct)	<b>B31(7)</b>	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.	<b>B23(2), B32(2), B35(2), TSch1 &amp; L155(4)</b>	The decision will be made by the LG Admin Management Team for EPF, or Director for EPF 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 cohabiting partner on scheme member or financial interdependence of cohabiting partner and scheme member.	<b>RSch1 &amp; TP17(9)(b)</b>	There are 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 LG Admin Management Team for EPF, or Director for EPF in their absence, will decide if there is sufficient evidence to establish entitlement on a case by case basis
Decide to treat child (who has not reached the age of 23) as being in continuous education or vocational training despite a break.	<b>RSch 1 &amp; TP17(9)(a)</b>	If a child resumes full-time education or vocational training under age 23, EPF will reinstate the children's pension (until the sooner of age 23 or the date they cease education/training). For clarity, no children's pension will be due for the period of the break in education
Decide whether to trivially commute a member's pension under section 166 of the Finance Act 2004.	<b>B39(1)(a) &amp; T14(3)</b>	A member aged 55 or over (no age restriction for a member who meets the ill-health condition) with a very small pension entitlement can request that the fund pays them a lump sum instead of their 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 LG Admin Management Team for EPF, or Director for EPF in their absence, will decide when such an approach is to be taken on a case-by-case basis.

# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
<p>Decide whether to trivially commute a lump sum death benefit under section 168 of the Finance Act 2004.</p>	<p><b>R39(1)(b)</b></p>	<p>A dependant of a deceased member with a very small dependants pension entitlement can request that the fund pays them a lump sum instead of their entitlement to a dependant's pension. The EPF will agree to such a request where the dependant satisfies the HMRC criteria (which allows commutation in a small number of circumstances). Where no request is received from a dependant member, the EPF may still choose to pay a trivial commutation instead of an ongoing pension. The LG Admin Management Team for EPF, or Director for EPF in their absence, will decide when such an approach is to be taken on a case-by-case basis.</p>
<p>Decide whether to pay a commutation payment under regulations 6 (payment after relevant accretion), 11 (de minimis rule for pension schemes) or 12 (payments by larger pension schemes) of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (excludes survivor pensions and pension credit members).</p>	<p><b>R39(1)(c)</b></p>	<p>A member aged 55 or over (no age restriction for a member who meets the ill-health condition) with a very small pension entitlement can request that the fund pays them a lump sum instead of their 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 LG Admin Management Team for EPF, or Director for EPF in their absence, will decide when such an approach is to be taken on a case-by-case basis.</p>
<p>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.</p>	<p><b>B42(1)(c)</b></p>	<p>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 LG Admin Management Team for EPF, or Director for EPF in their absence, will decide on a case by case basis</p>
<p>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 April 2008).</p>	<p><b>TSch 1 &amp; L23(9)</b></p>	<p>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 LG Admin Management Team for EPF, or Director for EPF in their absence, on a case by case basis</p>

### Discretions under LGPS Regulations 1997 (as amended) policies

In relation to:

- Active Welsh councillor members; and
- Councillor members who ceased active membership on or after 1 April 1998; and
- Any other scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008.
- LGPS Regulations 1997 [SI 1997/1612]
- The Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [SI 2008/238] [prefix T]
- The Local Government Pension Scheme (Administration) Regulations 2008 [SI 2008/239] [prefix A]
- LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] [prefix TP]
- The Local Government Pension Scheme Regulations 2013 [SI 2013/2356] [prefix R]

Discretion	Regulation	Policy
Extend normal 12 month period following end of relevant reserve forces leave for a "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
Mandatory written policy Whether to "switch on" the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60 (where employer has become defunct). Note: TPSch 2, para 2(2) does not reference para 1(1)(f) so strictly speaking there is no requirement to publish a policy under this regulation or R60. However, we understand that this is simply a regulatory omission and the appropriate party should publish a policy accordingly.	TPSch 2, para 1(2) & 1(1)(f) & R60	This decision will be made in accordance with ECC's (as a fund employer) policy at the time the request is made.
Mandatory written policy Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early (where employer has become defunct).	31(5) & TPSch 2, para 2(1)	This decision will be made in accordance with ECC's (as a fund employer) policy at the time the request is made.



# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
Decide to whom death grant is paid.	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 LG Admin Management Team for EPF, or Director for EPF in their absence, based on the information gathered. Advice will be sought from Essex Legal Services as and when required
Decide to treat child (who has not reached the age of 23) as being in continuous education or vocational training despite a break.	TP17(9)(a) & RSch 1	If a child resumes full-time education or vocational training under age 23, EPF will reinstate the children's pension (until the sooner of age 23 or the date they cease education/training).
Apportionment of children's pension amongst eligible children.	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.	47(2)	Under HMRC rules, a pension from a defined benefit scheme can usually only be paid to a dependant of the person who died, e.g. a husband, wife, civil partner or child under 23. It can sometimes be paid to someone else if, as in the LGPS, the pension scheme's rules allow it - but it will be taxed at up to 55% as an unauthorised payment. Therefore, EPF will normally only pay the child's pension directly to the child and will only consider payment to another person in exceptional circumstances. A decision to pay to someone other than the child will be made by the LG Admin Management Team, or Director for EPF in their absence.



# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
Decide whether to trivially commute a member's pension under section 166 of the Finance Act 2004 (includes pre 1 April 2008 leavers or Pension Credit members where the effective date of the Pension Sharing Order was pre 1 April 2014 or where the effective date of the Pension Sharing Order is after 31 March 2014 but the debited member had no post 31 March 2014 membership of the 2014 Scheme).	49(1) & T14(3)	A member aged 55 or over (no age restriction for a member who meets the ill-health condition) with a very small pension entitlement can request that the fund pays them a lump sum instead of their 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 LG Admin Management Team for EPF, or Director for EPF in their absence, will decide when such an approach is to be taken on a case-by-case basis.
Decide whether to trivially commute a lump sum death benefit under section 168 of the Finance Act 2004.	49(1)	A dependant of a deceased member with a very small dependants pension entitlement can request that the fund pays them a lump sum instead of their entitlement to a dependant's pension. The EPF will agree to such a request where the dependant satisfies the HMRC criteria (which allows commutation in a small number of circumstances). Where no request is received from a dependant member, the EPF may still choose to pay a trivial commutation instead of an ongoing pension. The LG Admin Management Team for EPF, or Director for EPF in their absence, will decide when such an approach is to be taken on a case-by-case basis.
Decide whether to commute benefits due to exceptional ill-health (including Pension Credit members where the effective date of the Pension Sharing Order was pre 1 April 2014 or where the effective date of the Pension Sharing Order is after 31 March 2014 but the debited member had no post 31 March 2014 membership of the 2014 Scheme).	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 LG Admin Management Team for EPF, or Director for EPF in their absence, will consider the appropriateness of this in each case

# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
<p>Whether to require any strain on Fund costs to be paid “up front” by employing authority following early voluntary retirement of a councillor, or early payment of a deferred benefit on health grounds or from age 50 and prior to age 55 with employer consent.</p>	80(5)	<p>Where an employer allows an early retirement, for any reason, that produces a strain cost, payment of the strain cost must be made in accordance with the Funding Strategy Statement in place at the date of retirement.</p>
<p>Whether to require any strain on Fund costs to be paid “up front” by employing authority if the employing authority “switches on” the 85 year rule for a member voluntarily retiring on or after age 55 and prior to age 60, or waives an actuarial reduction on compassionate grounds under TPSch 2, para 2(1).</p>	TPSch 2, para 2(3)	<p>Where an employer allows an early retirement, for any reason other than ill health, that produces a strain cost, payment of the strain cost must be made in accordance with the Funding Strategy Statement in place at the date of retirement.</p>
<p>Outstanding employee contributions can be recovered as a simple debt or by deduction from benefits.</p>	89(3)	<p>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 LG Admin Management Team for EPF, or Director for EPF in their absence</p>
<p>Timing of pension increase payments by employers to fund.</p>	91(6)	<p>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</p>

# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
<p>Whether to pay the whole or part of the amount that is due to the personal representatives (including anything due to the deceased member at the date of death) to:</p> <ul style="list-style-type: none"> <li>◊ personal representatives, or</li> <li>◊ anyone appearing to be beneficially entitled to the estate</li> </ul> <p>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.</p>	<p>95</p>	<p>The decision will be made by the LG Admin Management Team for EPF, or Director for EPF in their absence, based on the information gathered. Advice will be sought from Essex Legal Services as and when required</p>
<p>Approve medical advisors used by employers.</p>	<p>97(10)</p>	<p>EPF policy is that the independent registered medical practitioner (IRMP) is automatically approved if they satisfy the requirements of the definition of an IRMP in Schedule 1 of the LGPS Regulations 2013. For clarity, EPF does not require employers to seek its prior approval for the use of an IRMP, employers simply need to ensure that the IRMP satisfies the requirements of the definition of an IRMP in Schedule 1 of the LGPS Regulations 2013.</p>
<p>Decide procedure to be followed by admin authority when exercising its stage two IDRPF functions and decide the manner in which those functions are to be exercised</p>	<p><b>TP23 &amp; R76</b> (4)</p>	<p>EPF procedure is that ECC's Director, Legal and Assurance determines the stage 2 appeal on behalf of the administering authority in order that there is a level of independence from the EPF which could have made the decision which is the subject of the appeal.</p>
<p>Whether administering authority should appeal against employer decision (or lack of a decision)</p>	<p><b>TP23 &amp; R79</b> (2)</p>	<p>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 Strategy Board</p>

# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
Specify information to be supplied by employers to enable administering authority to discharge its functions.	<b>TP23 &amp; TP22(1) &amp; R80(1)(b)</b>	The EPF Administration Strategy summarises employer responsibilities and the information they need to provide to the Fund. Detailed requirements are also shared with employers regularly.
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 scheme year.
Mandatory written policy Abatement of pensions following re-employment.	<b>TP3(13), A70(1) &amp; A71(4)(c)</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"> <li>the abatement of pensions on re-employment (including any currently unidentified cases) be ceased with effect from 1 October 2009.</li> <li>any pensions abated at that point because of re-employment were to be reinstated with effect from 1 October 2009</li> </ul>
Retention of Contributions Equivalent Premium (CEP) where member transfers out.	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.	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

### Discretions under LGPS Regulations 1995 (as amended) in relation to Scheme Members who ceased active membership before 01 April 1998

#### In relation to:

- LGPS Regulation 1995 [[SI 1995/1019](#)]
- The Local Government Pension Scheme (Transitional Provisions) Regulations 1997 [[SI 1997/1613](#)] [prefix **TL**]
- The Local Government Pension Scheme Regulations 1997 [[SI 1997/1612](#)] (as amended) [prefix **L**]
- The Local Government Pension Scheme (Administration) Regulations 2008 [[SI 2008/239](#)] [prefix **A**]
- **LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014** [[SI 2014/525](#)] [prefix **TP**]
- **The Local Government Pension Scheme Regulations 2013** [[SI 2013/2356](#)] [prefix **R**]

#### Discretion

Mandatory written policy  
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 D1(2)(c), there intention was that it should apply to this regulation (where the employer has become defunct).

#### Regulation

**TP3(5A)(vi), TL4, L106(1) & D11(2)(c)**

#### Policy

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.

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 LG Admin Management Team for EPF, or Director for EPF 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



# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
Whether to pay spouse's pensions for life (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 (who has not yet reached the age of 23) as being in continuous education or vocational training despite a break.	TP17(9)(a) & RSch 1	If a child resumes full-time education or vocational training under age 23, EPF will reinstate the children's pension (until the sooner of age 23 or the date they cease education/training).
Apportionment of children's pension amongst eligible children.	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.	G11(2)	A pension from a defined benefit scheme can usually only be paid to a dependant of the person who died, e.g. a husband, wife, civil partner or child under 23. It can be paid to someone else if the pension scheme's rules allow it, as the LGPS regulations do, but it will be taxed at up to 55% as an unauthorised payment. Therefore, EPF will not normally pay a child's pension to another person and will only do so in exceptional circumstances and any decision to do so will be made by the LG Admin Management Team for EPF, or Director for EPF in their
Mandatory written policy Abatement of pensions following re-employment.	TP3(13), A70(1) & A71(4)(c)	<p>The EPF Board approved a revised abatement policy at its 30 September 2009 meeting to the effect that:</p> <ul style="list-style-type: none"> <li>the abatement of pensions on re-employment (including any currently unidentified cases) be ceased with effect from 1 October 2009.</li> <li>any pensions abated at that point because of re-employment were to be reinstated with effect from 1 October 2009</li> </ul>

# Essex Pension Fund

## Administering Authority Discretions

Discretion	Regulation	Policy
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	<b>TP23 &amp; R76(4)</b>	EPF procedure is that ECC's Director, Legal and Assurance determines the stage 2 appeal on behalf of the administering authority in order that there is a level of independence from the EPF which could have made the decision which is the subject of the appeal.
Whether administering authority should appeal against employer decision (or lack of a decision)	<b>TP23 &amp; R79(2)</b>	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 Strategy Board
Specify information to be supplied by employers to enable administering authority to discharge its functions.	<b>TP23, TP22(1) &amp; R80(1)(b)</b>	The EPF Administration Strategy summarises employer responsibilities and the information they need to provide to the Fund. Detailed requirements are also shared with employers regularly.

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

In relation to:

- Regulations 2000 (as amended) [SI 2000/1410]

#### Discretion

Agree to pay annual compensation on behalf of employer and recharge payments to employer.

#### Regulation

31(2)

#### Policy

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

# Essex Pension Fund

## Administering Authority Discretions

### The Registered Pension Schemes (Modification of Scheme Rules)

In relation to:  
Regulations 2011 [SI 2011/1971]

Discretion	Regulation	Policy
To decide whether it is legally able to offer voluntary scheme pays (to determine legality see paragraph 223 onwards of the Annual Allowance guide published under the 'Guides and sample documents' page of <a href="http://www.lgpsregs.org">www.lgpsregs.org</a> ); and, if so, to decide the circumstances (if any) upon which it would do so.	2	The LGPC sought legal advice which confirmed administering authorities that are local authorities have a general power of competence under the Localism Act 2011 and would have the vires to agree to a voluntary scheme pays request. The Essex Pension Fund Strategy Board approved a recommendation at its 13 September 2017 meeting to the effect that EPF will accept voluntary scheme pays elections from members who have exceed their TAA, but not the standard AA, as long as their tax charge exceeds £2,000. This puts such members in the same position as a member who exceeds the standard AA and has a tax charge in excess of £2,000, who can elect for mandatory scheme pays.

### Section 11 - Formulating and publishing a mandatory policy

Regulations under which the mandatory policy is defined:	Employer mandatory policies (or administering authority where employer has become defunct)	Administering authority mandatory policies
<p>The 2014 Scheme Regulations – R60 &amp; TPSch2, para 2(2) (Section 1 of this guide)</p>	<p>Under these regulations, the employer must formulate, publish and keep under review a statement of their policy. A copy of the policy must be sent to the relevant administering authority. If the employer decides to amend the policy, they must send a copy to the relevant administering authority within one month of the date of the decision to amend the policy. In formulating and reviewing its policy an employer is required by the Regulations to have regard to the extent to which the exercise of their discretionary powers could lead to a serious loss of confidence in the public service.</p>	<p>Under these regulations the administering authority must formulate, publish and keep under review a:</p> <ul style="list-style-type: none"> <li>◇ <b>Governance Compliance Statement (R55)</b> having consulted such persons as it considers appropriate. The statement should include as to whether or not the Authority delegates any of its functions to a committee, sub-committee or an officer of an authority. Where this is the case, the statement should include the terms, structure and operational procedures of the delegation, frequency of any committee or sub-committee meetings, whether the committee or sub-committee includes representative of Scheme employers or members and whether those members have voting rights. The statement must also include the extent to which a delegation, or the absence of a delegation, complies with guidance given by the Secretary of State and, to the extent that it does not so comply, the reasons for not complying and details of the terms, structure and operational procedures relating to the local pension board established under regulation 106 (local pension boards: establishment).</li> <li>◇ <b>Funding Strategy Statement (R58) (by 31 March 2015)</b> having consulted such persons as it considers appropriate and having had regard to the CIPFA guidance published in October 2012 (and any later versions of such guidance) called “Preparing and Maintaining a Funding Strategy Statement in the LGPS” and the current version of the investment strategy under regulation 7 (Investment Strategy Statement) of the LGPS (Management and Investment of Funds) Regulations 2016.</li> </ul>



# Essex Pension Fund

## Administering Authority Discretions

Regulations under which the mandatory policy is defined:	Employer mandatory policies (or administering authority where employer has become defunct)	Administering authority mandatory policies
		<ul style="list-style-type: none"><li data-bbox="240 427 624 1153">◇ <b>Communications policy (R61)</b> setting out its policy concerning communications with members, representatives of members, prospective members and Scheme employers. The statement must set out the policy on the provision of information and publicity about the Scheme to members, representatives of members and Scheme employers, the format, frequency and method of distributing such information or publicity and the promotion of the Scheme to prospective members and their employers.</li><li data-bbox="624 427 1418 1153">◇ <b>Abatement policy (TP3(13), A70(1) &amp; A71(4)(c))</b> setting out its policy concerning the final salary element of a member's pension following their re-employment. In formulating and reviewing its policy an administering authority is required by the Regulations to have regard to the level of potential financial gain at which it wishes abatement to apply, to the administrative costs which are likely to be incurred as a result of abatement in the different circumstances in which it may occur, and the extent to which the exercise of their discretionary powers could lead to a serious loss of confidence in the public service.</li></ul> <p data-bbox="1123 427 1418 1153">The administering authority must make such revisions as are appropriate following a material change to the information contained within the statement/policy and publish the revised statement accordingly. Where the revision concerns the abatement policy these must be published within one month of the date of determination.</p>

Regulations under which the mandatory policy is defined:

Employer mandatory policies (or administering authority where employer has become defunct)

Administering authority mandatory policies

The 2008 Scheme Regulations - **A66**  
(Section 2 of this guide)

**LGPS Regulations 1997 – regulation 106** (Section 3 of this guide)

**LGPS Regulations 1995 -regulation 106** of the LGPS Regulations 1997 by virtue of regulation 4 of the LGPS (Transitional Provisions) Regulations 1997 - (Section 4 of this guide)

Abatement policy (**TP3(13)**, **A70(1)**, **A71(4)(c)** & **T12**) Under these regulations the administering authority must formulate, publish and keep under review a statement of their policy following a member's re-employment. If the administering authority decides to amend the policy, they must publish the amended policy within one month of the date of the determination. In formulating and reviewing its policy an administering authority is required by the Regulations to have regard to the level of potential financial gain at which it wishes abatement to apply, to the administrative costs which are likely to be incurred as a result of abatement in the different circumstances in which it may occur, and the extent to which the exercise of their discretionary powers could lead to a serious loss of confidence in the public service.

# Essex Pension Fund

## Administering Authority Discretions

Regulations under which the mandatory policy is defined:	Employer mandatory policies (or administering authority where employer has become defunct)	Administering authority mandatory policies
<p>Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended) – Regulation 7 (Section 5 of this guide)</p>	<p>Under these regulations, each employing 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 the discretions listed in sections 5, 6 and 7 of this guide. If the employer decides to amend the policy, no change can come into effect until one month has passed since the date the amended policy statement was published. In formulating and reviewing its policy an employer is required by the Regulations to have regard to the extent to which the exercise of their discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service, and be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.</p>	<p>None</p>
<p>The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended) – Regulation 26 (Section 6 of this guide)</p>	<p>The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 – Regulation 14 (Section 7 of this guide)</p>	

# Essex Pension Fund

## Administering Authority Discretions

Regulations under which the mandatory policy is defined:	Employer mandatory policies (or administering authority where employer has become defunct)	Administering authority mandatory policies
The Local Government (Discretionary Payments) Regulations 1996 (as amended) (Section 8 of this guide)	None	None
<a href="#">The Local Government (Wales) Measure 2011</a> (Section 9 of this guide)		
The Registered Pension Schemes (Modification of Scheme Rules) Regulations 2011 (Section 10 of this guide)		

# Essex Pension Fund

## Administering Authority Discretions

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### Approval, Review and Consultation

This revised Policy was approved by the PSB at its meeting on 07 December 2022. It will be formally reviewed and updated at least every three years or sooner if significant changes are made to the Regulations and merit reconsideration.

### Further Information

If you require further information about anything in or related to this Communications Policy, please contact:

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