

Kent Pension Fund

Statement of Administering Authority Discretions Policy

Approved: December 2022

Administering Authority statement of discretions policies

Introduction

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

The Fund updated the content of these policies in December 2022 in line with current legislation. These amended policies were approved at the Kent Pension Fund Committee meeting on 8 December 2022 and are effective from that date unless stated otherwise within this document.

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

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

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

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

Administering Authority Discretions under the Local Government Pension Scheme

Ref	Regulation Reference (see key at end)	Description of Discretion	Kent Pension Fund Policy
Key Strategies and Policies			
1	R13 - 55	Publish a Governance Policy stating how functions are delegated and whether the Administering Authority complies with guidance given by the Secretary of State	A copy of the current Governance Policy Statement can be found on the Pension Fund's website.
2	R13 - 58	Decide on the Funding Strategy for inclusion in funding strategy statement	Agreed in co-operation with actuary and in consultation with employers. A copy of the current Funding Strategy Statement can be found on the Pension Fund's website.
3	R13 - 61	Develop a Communication Policy setting out how the Administering Authority communicates with members, representatives of members, prospective members and employing authorities and the format, frequency and method of communications	A copy of the current Communications Policy Statement can be found on the Pension Fund's website.
4	R13 – 59(1) and (2)	Decide whether to have a written Pensions Administration Strategy and, if so, the matters it should include	A copy of the current Pensions Administration Strategy can be found on the Pension Fund's website.
5	R13 – 105(2)	Whether to delegate any Administering Authority functions under the Regulations	The Administering Authority does delegate certain functions to senior officers and to the Pension Fund Committee as appropriate. Details of these are set out in the Council's Constitution and in the Governance Policy Statement.
6	R13 – 106(3)	Whether to establish a joint local pensions board (if approval has been granted by the Secretary of State)	The Administering Authority did not establish a joint pension board.
7	R13 – 106(6)	Decide procedures applicable to the local pensions board	Procedures have been decided and are detailed in the Governance Policy Statement and the Board's Terms of Reference.

Ref	Regulation Reference (see key at end)	Description of Discretion	Kent Pension Fund Policy
8	R13 – 107(1)	Decide appointment procedures, terms of appointment, and membership of the local pensions board	The appointment procedures and terms have been decided and are detailed in the Governance Policy Statement and the Appointment and Termination process for Board members on the website. The membership of the local pension board is set out on the County Council’s website.
Disputes			
9	R13 – 74(1) A58 R97 - 100	Appoint a person for dealing with applications under Stage One of the dispute resolution procedures (IDRP) in relation to any disputes relating to the role as Administering Authority (includes in relation to councillor members)	The Assistant Director (Finance, Administration and Governance) West Yorkshire Pension Fund will act as the Stage One IDRP adjudicator for Administering Authority disputes.
10	R13 – 76(4) A60(8) R97 - 99	Decide the procedure to be followed by the Administering Authority when exercising its Stage Two IDRP functions (includes in relation to councillor members)	Stage 2 determinations are dealt with by the Head of Pensions and Treasury, after obtaining relevant advice and guidance.
11	R13 – 79(2) A63(2) R97 – 105(1)	Whether Administering Authority should appeal to the Secretary of State against an employer decision (or lack of a decision) (includes in relation to councillor members).	The Fund will appeal to the Secretary of State when there is sufficient evidence that an employer has made a decision or committed an act (or failed to act) that is both wrong in law and material, where we have been unable to persuade the employer to alter its actions (or inactions). Such matters will be decided by the Head of Pensions and Treasury.
Admission Agreements and Employer Management			
12	R13 – 3(5) and Sch 2, Part 3, Para 1	Whether to agree to an admission agreement with an external employer.	Agreement to admission as a scheme employer for an admission body will be decided by the Pension Fund Committee, after obtaining any relevant advice and guidance.
13	R13 – Sch2, Part 3, Para 14	Whether to backdate the effective date of an admission agreement with an external employer.	This will be decided by the Head of Pensions and Treasury, after obtaining any relevant advice and guidance.
14	R13 – 4(2)(b)	Whether to agree to an admission agreement with a Care Trust, NHS Scheme employing authority or Care Quality Commission	This will be decided by the Pension Fund Committee, after obtaining any relevant advice and guidance.

Ref	Regulation Reference (see key at end)	Description of Discretion	Kent Pension Fund Policy
15	R13 – Sch 2, Part 3, para 9(d)	<p>Whether to terminate a transferee admission agreement in the event of</p> <ul style="list-style-type: none"> • 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 	<p>This will be decided by the Head of Pensions and Treasury, after obtaining any relevant advice and guidance.</p>
16	R13 – Sch 2, Part 3, para 12(a)	<p>Employees of a contractor are only entitled to remain in the LGPS whilst they continue to be "employed in connection with" the original services that were transferred. This expression should be defined by the Administering Authority.</p>	<p>This is defined as meaning an employee will be expected to work at least 75% of their time on the services covered by the contract to remain in the LGPS.</p>
17	R13 - 54(1)	<p>Whether to set up a separate admission agreement fund</p>	<p>The Administering Authority does not operate a separate admission agreement fund.</p>
18	R13 – 64(2A)	<p>Whether to suspend, for up to 3 years, an employer's obligation to pay an exit payment where the employer is again likely to have active members within the specified period of suspension.</p>	<p>This will be decided by the Head of Pensions and Treasury, taking into consideration the advice of the Fund Actuary.</p>
19	R13 – 64 (2ZAB)	<p>To determine the amount of any exit credit that may be payable to an exiting employer, taking into account the factors set out in the regulations</p>	<p>This will be decided by the Head of Pensions and Treasury, taking into consideration the advice of the Fund Actuary – please see the Funding Strategy Statement and Exit Credit policy for more detail.</p>
20	R13 – 64(2ZA)	<p>Whether to agree to pay an exit credit which is payable to an exiting employer, beyond six months of the date on which that employer ceases to be a Scheme employer. This would be an extension of the usual timescale and would only be permitted if agreement is also received from the exiting employer.</p>	<p>This will be decided by the Head of Pensions and Treasury and the exiting employer.</p>

Ref	Regulation Reference (see key at end)	Description of Discretion	Kent Pension Fund Policy
21	R13 – 64(4)	Whether to obtain a revision of the rates and adjustments certificate if there are circumstances that make it likely that a Scheme Employer will become an exiting employer.	This will be decided by the Head of Pensions and Treasury – please see the Funding Strategy Statement for more detail.
22	R13 – 68(2) TP14 – Sch 2, Para 2(3) R97 – 80(5)	Whether to require any strain on Fund costs to be paid “up front” by an employer following redundancy / business efficiency retirement, flexible retirement, or the waiver (in whole or in part) of any actuarial reduction on voluntary or flexible retirement.	Employers are invoiced upfront for all strain costs, upon crystallisation of the benefits, except in certain circumstances as set out in the Funding Strategy Statement where payment over 3 years is permitted.
23	R13 – 80(1)(b) TP14 – 22(1) A64(1)(b)	What information should be supplied by employers to enable Administering Authority to discharge its functions	Details are available in the Pension Administration Strategy, which can be found on the Pension Fund's website.
24	R13 – 69(1)	Decide frequency of payment of contributions to the Fund by employers and whether to make an administration charge for late receipt.	Details are available in the Pension Administration Strategy, which can be found on the Pension Fund's website.
25	R13 – 69(4)	Decide the format and frequency of information from employers to accompany payments of contributions to the Fund	Details are available in the Pension Administration Strategy, which can be found on the Pension Fund's website.
26	R13 – 70 TP14 – 22(2)	Whether to issue an employer with a notice to recover additional costs incurred as a result of the employer’s level of performance	Details are available in the Pension Administration Strategy, which can be found on the Pension Fund's website.
27	R13 – 71(1)	Whether to charge interest on overdue payments by employers	Interest may be charged on any amount overdue by more than one month at one percentage point above base rate on a day to day basis from the due date to the date of payment and compounded with three-monthly rests.
28	R13 – 36(3) A56(2) R97 – 97(10)	The Administering Authority is required to approve medical advisors used by employers (for the determination of ill health benefits) (including in relation to councillor members).	Independent Registered Medical Practitioners used by employers will be accepted as long as the appropriate declaration is signed on the ill-health retirement certificate.

Ref	Regulation Reference (see key at end)	Description of Discretion	Kent Pension Fund Policy
Payments relating to Death			
29	R13 – 82(2) A52(2) R97 - 95	A death grant due to a scheme member's estate can be paid to the personal representative(s), or anyone appearing to be, without the need for grant of probate / letters of administration if the death grant is less than the amount specified in any order under Section 6 of the Administration of the Estates (Small Payments) Act 1965 (£5,000 at the time of the making of this policy). This also relates to councillor members.	<p>Having obtained details of relevant documentation, potential beneficiaries and circumstances, the Pensions Administration Manager will determine on behalf of the Fund and at the Fund's absolute discretion, to whom payment of the death grant is to be made.</p> <p>The Fund will not normally insist on production of grant of probate / letters of administration where the sum due is less than £5,000 and will usually make payment on completion of an indemnity form, subject to circumstances.</p>
30	R13 – 17(12), 40(2), 43(2) & 46(2) TP14 – 17(5) to (8) B23(2), 32(2) & 35(2) T08Sch1 R97 - 38(1) & 155(4) R95 - E8	The Administering Authority may, at its absolute discretion, pay any death grant due (including AVCs, SCAVCs and life assurance relating to AVCs) to or for the benefit of the member's nominee, personal representatives or any person appearing to the authority to have been a relative or dependent of the member. This also relates to councillor members.	Having obtained details of relevant documentation, potential beneficiaries and circumstances, the Pensions Administration Manager will determine on behalf of the fund and at the Fund's absolute discretion, to whom payment of the death grant is to be made.
31	R13 – Sch 1 TP14 – 17(9)(b) B25	The Administering Authority must decide the evidence required to determine financial dependence of a cohabiting partner on a scheme member or financial interdependence between the cohabiting partner and the scheme member.	The appropriate parties will be provided with the details of the evidence required to determine financial dependence or interdependence. Where required, the final decision will be made by the Pensions Administration Manager.
32	TP14 – 3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b) B10(2)	Where a member to whom regulation B10 applies (use of average of three years pay for final pay purposes) dies before making an election, whether to make that election on behalf of the deceased member.	The Administering Authority, where it has been made aware that regulation B10 applies, would make the election on behalf of the member to ensure that the highest benefits are paid.

Ref	Regulation Reference (see key at end)	Description of Discretion	Kent Pension Fund Policy
33	TP14 – 3(6), 4(6)(c), 8(4), 10(2)(a) & 17(2)(b) T08 - Sch 1 R97 - 23(9)	Whether to make an election on behalf of a deceased member who had a certificate of protection of pension benefits so their benefits may be calculated using the best pay figure.	The Administering Authority, where it has been made aware that a certificate of protection applies, would make the election on behalf of the member to ensure that the highest benefits are paid.
34	R13 – Sch 1 "Eligible Child" TP17(9)	Whether to treat a child as being in continuous education or vocational training, despite a break (including a child of a councillor member) so that the child's pension resumes after the break.	The Fund will cease the pension upon the child initially ceasing education. Should the child return to education following a break and subsequently take further breaks then the Pensions Administration Manager, having obtained details of the relevant circumstances, will determine on behalf of the Fund, whether to re-instate the child's pension.
35	R97 - 47(1) R95 – G11(1)	How to apportion children's pension amongst eligible children (applies to children of leavers between 1 st April 1998 and 31 st March 2008 and children of councillor members)	Where there is more than one eligible child, the Fund will normally divide the child's pension equally between the eligible children, with delegated authority given to the Pensions Administration Manager to determine what is appropriate.
36	B27(5) R97 – 47(2) R95 – G11(2)	Whether to pay the whole or part of a child's pension to another person for the benefit of the child (includes children of councillor members). This applies to pre 1 st April 2014 leavers only.	Where a child is below the age of 18, the Fund will normally pay his/her pension to the person who has the care of the child, to be applied for the benefit of that child. This will be decided on a case by case basis by the Pensions Administration Manager.
37	R95 - F7	Whether to suspend spouses' pensions during remarriage or cohabitation.	The Fund will not suspend survivors' pensions during any period of remarriage or cohabitation.
<i>Transferring or Linking Benefits</i>			
38	R13 – 98(1)(b)	Whether to agree to the payment of a bulk transfer	Bulk transfer terms will be negotiated and agreed on a case by case basis in consultation with the Fund Actuary and the Scheme employer.

Ref	Regulation Reference (see key at end)	Description of Discretion	Kent Pension Fund Policy
39	R13 – 100(6)	The Administering Authority (with the agreement of the employer) may extend the 12 month time limit for a scheme member to elect to transfer in benefits from a non-local government pension scheme or personal pension plan.	A request to transfer in previous pension rights must be made within of 12 months of joining (or such longer period as the employer and Administering Authority may allow). The Fund will allow such transfers subject to the agreement of the Scheme employer
40	R13 – 100(7)	Whether to allow transfers of pension rights into the Fund	The Fund will allow transfers in as agreed by the employer and Administering Authority, see ref 39 above.
41	TP14 – 15(1)(d) & A28(2)	Whether to charge a scheme member for the provision of an estimate of the additional pension that would be provided in the Fund in return for a transfer in of in house AVC/SCAVC funds (only applies where the arrangement was entered into before 1 st April 2014)	Scheme members may request one quote per financial year that is provided free of charge. In the exceptional case that a further quote is requested by the same member, the Fund reserves the right to impose an administration charge on the scheme member. The decision as to whether to impose a charge will be made on a case by case basis by the Pensions Administration Manager.
42	TP14 – 10(9)	Where a deferred member also has ongoing multiple concurrent employments, the member may be able to choose which employment the deferred benefits are aggregated with. The Fund can decide this where the member does not make their own election within 12 months.	Where the member does not make a decision, the Fund will aggregate benefits in the way that appears most beneficial to the member, which is usually aggregating to the highest paid post or main employment.
43	R97 - 118	Whether the Fund will retain the Contributions Equivalent Premium (CEP) where a scheme member transfers out to a contracted in pension scheme (for councillor members and pre 1.4.08. leavers)	The Fund will retain the CEP in these circumstances.
<i>Other Miscellaneous Discretions</i>			
44	R97 – 106A(5)	The date to which benefits shown on deferred Annual Benefit Statements are calculated	All annual benefit statements will be calculated as at 31st March preceding their distribution.

Ref	Regulation Reference (see key at end)	Description of Discretion	Kent Pension Fund Policy
45	TP14 – 3(13) A70(1) & A71(4(c)) T08 – 12 R97 – 109 & 110(4)(b)	Abatement of pensions on re-employment (applies to pre 1 April 2014 retirees only including councillor members)	The Fund will not abate pensions on re-employment.
46	R13 – 22(3)(c)	The pension account may be kept in such form as is considered appropriate	Pension accounts will be kept in the format specified by the Fund’s pensions administration software provider.
47	R13 – 83 A52A	An Administering Authority may determine how and to whom benefits may be paid if the recipient is incapable of managing their affairs by reason of mental disorder or otherwise	In these circumstances the Fund may decide to pay some or all of the benefit to someone else to be applied for the benefit of the scheme member. The Pensions Administration Manager will decide these matters on a case by case basis.
48	R13 – 16(1)	Whether to turn down a request to pay an APC/SCAPC by regular contributions over a period of time where it would be impractical to allow such a request, for example, due to the pension being bought resulting in very small payments	The Fund will delegate the decision to agree the request to the employer.
49	R13 – 16(10)	Whether to require a satisfactory medical before agreeing to an application to pay an APC or SCAPC, and whether to turn down the application if not satisfied that the member is in reasonably good health.	Any scheme member wishing to purchase additional pension via an APC/SCAPC by paying regular contributions will be required to provide a medical declaration completed by their GP.
50	R13 – 32(7)	A scheme member wishing to receive benefits other than at normal pension age, or on flexible retirement, must elect to do so within certain time limits. The Administering Authority may extend these time limits.	The Administering Authority will extend these time limits.
51	TP14 – 15(1)(c) T08 - Sch1 & R97 - 83(5)	Whether to extend the time period for a scheme member electing to capitalise remaining contributions to an added years contract in cases of redundancy	The Fund expects any elections to be made within the time limits in the regulations. However, the time limit may be extended by the Pensions Administration Manager depending on the circumstances of the case.

Ref	Regulation Reference (see key at end)	Description of Discretion	Kent Pension Fund Policy
52	R13 – 34(1) B39 T08 - 14(3) R97 – 49 & 156	The Administering Authority may commute small pensions into a lump sum where they are below nationally prescribed limits.	The Administering Authority will only allow commutation on request for crystallised benefits and survivor benefits.
53	R13 – 49(1)(c) B42(1)(c)	Decide, in the absence of an election from the scheme member, which benefit is to be paid where the member would be entitled to a benefit under two or more regulations in respect of the same period of Scheme membership	These will be decided on a case by case basis by the Pensions Administration Manager and the decision will usually be to award the highest benefit.
54	R97 - 147	Whether to permit a Pension Credit to remain in the Fund or require a transfer out	Pension Credit benefits will remain in the Fund unless an election to transfer-out is received from the Pension Credit member.
55	R97 - 50 and 157	Whether to commute benefits due to exceptional ill-health (applies to councillor members and pre 1 st April 2008 leavers only)	The Fund will provide a member with the option to commute to a lump sum payment in lieu of a pension where evidence of exceptional ill-health is received, and the Fund has been informed by the employer that the member has been made aware of the exceptional ill- health criteria.
56	R97 - 91(6)	The Administering Authority may determine the timing of pension increase payments by employers to Fund (applies to pre 1 st April 2008 leavers only)	Pension increase payments made on behalf of the employers will be recharged on a quarterly basis.
<i>Discretions relating to employers which no longer exist</i>			
57	R13 – 38(3) & 38(6) B31(4) and 31(7)	A former employer must decide whether a deferred member meets the criteria for permanent ill health. This also applies to a scheme member who was formerly in receipt of Tier 3 ill-health benefits. The Administering Authority may decide this if that employer no longer exists.	The Administering Authority will make a decision based on the medical evidence. The decision will be made by the Head of Pensions and Treasury.

Ref	Regulation Reference (see key at end)	Description of Discretion	Kent Pension Fund Policy
58	TP14 – Sch 2, Paras 1(2) and 2(2)	An employer can choose to allow rule of 85 protections to apply to a scheme member’s benefits on voluntary retirement. In doing this some or all of the early retirement reduction would not apply. This provision can only apply to scheme members who have reached age 55. The Administering Authority may decide this if that employer no longer exists.	The Fund will not normally allow the rule of 85 protections to apply on voluntary retirement. The Head of Pensions and Treasury will decide these matters on a case by case basis.
59	TP14 – 3(1), Sch 2, Paras 2(1) and 2(2) B30(5) and 30A(5)	An employer can choose whether to waive on compassionate grounds any reduction to benefits that might otherwise apply. This can also apply to former Tier 3 Ill-Health members. The Administering Authority may decide this if that employer no longer exists.	Where the employer no longer exists, the decision whether to waive actuarial reductions on compassionate grounds will be made by the Head of Pensions and Treasury and each case will be considered on its merits.
60	R13 – 30(8)	An employer can choose to waive, in whole or in part, any reduction that might otherwise apply to that scheme member’s benefits on flexible retirement. The Administering Authority may decide this if that employer no longer exists.	The Fund will not normally waive any actuarial reductions in flexible retirement cases. The Head of Pensions and Treasury will decide these matters on a case by case basis.
61	R13 – 30(8)	An employer can choose to waive, in whole or in part, any early retirement reduction that might otherwise apply to a scheme member’s benefits on voluntary retirement. These provisions only apply to scheme members who have reached age 55. The Administering Authority may decide this if that employer no longer exists.	The Fund will not normally waive any actuarial reductions in retirement cases. The Head of Pensions and Treasury will decide these matters on a case by case basis.

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

Ref	Regulation Reference	Description of Discretion	Kent Pension Fund Policy
62	31(2)	Where an employer terminates employment early, the Administering Authority may agree to pay compensation on behalf of employer from the Fund and recharge payments to employer	The Administering Authority will pay compensation on behalf of the employer from the Fund and recharge payments to the employer.

*Key to Regulation References:

- R13 – The Local Government Pension Scheme Regulations 2013
- TP14 – The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014
- A – The Local Government Pension Scheme (Administration) Regulations 2008
- B – The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007
- T08 – The Local Government Pension Scheme (Transitional Provisions) Regulations 2008
- R97 – The Local Government Pension Scheme Regulations 1997
- R95 - The Local Government Pension Scheme Regulations 1995

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