

LONDON BOROUGH OF HACKNEY PENSION FUND

STATEMENT OF ADMINISTERING AUTHORITY DISCRETIONS POLICIES



Administering Authority statement of policy on discretions – effective 1 August 2018

Introduction

Hackney Council, as administering authority to the London Borough of Hackney 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. We will apply these policies to all members of the Pension Fund, regardless of who their employer is. Where relevant, these policies equally apply to members who left pensionable service prior to 1 April 2014 (albeit only in relation to discretions exercised since the effective date of these policies), to councillor members and to pension credit members.

We reviewed and updated the content of these policies in line with current legislation. These amended policies were approved at the Hackney Council Pension Committee on 23 July 2018 and are effective from 1 August 2018 unless stated otherwise within this statement.

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

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

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

We will review the policies within this statement as required in the light of future changes to the LGPS legislation or other relevant legislation. It will also be reviewed at least every three years.

Administering Authority Discretions under the Local Government Pension Scheme

[Key to changes – to be removed before final publication on Pension Fund website as well as final column]

- **New discretion/policy or an existing provision that was not previously included**
- **Change to existing policy – explained in final column]**

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Pension Fund Policy	Description of Change where applicable
	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 can be found on the Pension Fund's website.	
2	R13 - 58	Decide on the Funding Strategy for inclusion in funding strategy statement	Agreed in co-operation with actuary. A copy of the current Funding Strategy can be 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 can be found on the Pension Fund's website.	
4	R13 – 59(1) and (2)	Decide whether to have a written Pensions Administration Strategy and, if so, the matters it should include	A copy of the current Administration Strategy can be found on the Pension Fund's website.	

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Pension Fund Policy	Description of Change where applicable
Scheme Management				
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 Committee as appropriate. Details of these are set out in the Council's Constitution and summarised in the Governance Policy.	New
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	New
7	R13 – 106(6)	Decide procedures applicable to the local pensions board	Procedures have been decided, and are detailed in the local pension board's terms of reference	New
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 local pension board's terms of reference. The membership of the local pension board is set out on the Pension Fund's website.	New
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 Head of Pensions Administration will act as the Stage One IDRP assessor for Administering Authority disputes. Where the Head of Pensions Administration has previously been involved in the case, the Head of Pension Fund Investments will carry out this role.	Change in decision maker to ensure independence

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Pension Fund Policy	Description of Change where applicable
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 Group Director, Finance and Corporate Resources of the London Borough of Hackney, 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 Pension Fund Investment.	Change in decision maker
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.	Please see our separate Admissions Policy.	Minor change to add in another regulation reference
13	R13 – Sch2, Part 3, Para 14	Whether to backdate the effective date of an admission agreement with an external employer.	Please see our separate Admissions Policy.	New
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 subject to agreement by the Pension Committee.	

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Pension Fund Policy	Description of Change where applicable
15	R13 – Sch 2, Part 3, para 9(d)	Whether to terminate a transferee admission agreement in the event of <ul style="list-style-type: none"> 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 	Please see separate Admissions Policy.	
16	R13 – Sch 2, Part 3, para 12(a)	Employees of a contractor are only entitled to remain in the LGPS whilst they continue to be employed in connection with the original services that were transferred. This expression should be defined by the Administering Authority.	This is defined as meaning an employee will be expected to work at least 50% of their time on the services covered by the contract to remain in the LGPS.	
17	R13 - 54(1)	Whether to set up a separate admission agreement fund	Please see our separate Admissions Policy.	
18	R13 – 64(2A)	Whether to suspend, for up to 3 years, an employer's obligation to pay an exit payment where the employer is again likely to have active members within the specified period of suspension.	This will be decided by the Head of Pension Fund Investment taking into consideration the advice of the Fund Actuary.	New

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Pension Fund Policy	Description of Change where applicable
19	R13 – 64(2ZA)	Whether to agree to pay an exit credit which is payable to an exiting employer, beyond three 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.	This will be decided by the Head of Pension Fund Investment and the exiting employer.	New
20	R13 – 64(4)	Whether to obtain a revision of the rates and adjustments certificate if there are circumstances that make it likely that a Scheme Employer will be ceasing.	This will be decided by the Head of Pension Fund Investments in accordance with the Fund's Admission Policy taking into consideration the advice of the Fund Actuary	Change in decision maker
21	R13 - 65	Whether to obtain a new rates and adjustments certificate if the Secretary of State amends the Regulations as part of the "cost sharing" valuation	This will be decided by the Head of Pension Fund Investments taking into consideration the advice of the Fund Actuary.	Change in decision maker
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, flexible retirement, or the waiver (in whole or in part) of any actuarial reduction on voluntary or flexible retirement.	Where costs arise from an employer's decision to allow early retirement, these costs will be met by an internal recharge or invoice, as appropriate. The council and external employers (including schools) will be required to meet any strain cost payment within the financial year in which the early retirement, on any grounds, takes place.	

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Pension Fund Policy	Description of Change where applicable
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	The Third Party Administrator will determine the format and frequency of information. Details are available in the Pension Administration Strategy (PAS) and Employers' Guide, a copy of 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 included in the Pension Administration Strategy (PAS), a copy of 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	The Third Party Administrator will determine the format and this frequency of information. Further information is available in the Pension Administration Strategy (PAS) and Employers' Guide, a copy of 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 included in the Pension Administration Strategy (PAS), a copy of which can be found on the Pension Fund's website.	
27	R13 – 71(1)	Whether to charge interest on payments by employers overdue	Details are available in the Pension Administration Strategy (PAS), a copy of which can be found on the Pension Fund's website	

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Pension Fund Policy	Description of Change where applicable
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.	The Head of Pensions Administration will determine whether an employer can use an alternative Occupational Health Provider to the Council's own provider	Change in decision maker
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.	The Fund will normally pay the death grant without production of grant of probate / letters of administration in such cases, subject to the agreement of the Head of Pensions Administration.	Change in decision maker

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Pension Fund Policy	Description of Change where applicable
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.	Delegated powers to decide who is to receive payment of death grants have been given to any two of the following – <ul style="list-style-type: none"> • Group Director, Finance and Corporate Resources • Head of Pensions Administration • Head of HR & Organisational Development • Director, Financial Management A quorum of two of the officers is required for a decision to be made.	Change in decision maker
31	R13 – Sch 1 TP14 – 17(9)(b) B25	The Administering Authority must decide the evidence required to determine financial dependence of a co-habitee on a scheme member or financial interdependence between the co-habitee and the scheme member	We will provide the appropriate parties with the details of the evidence required to determine financial dependence or interdependence, and the final decision about any cases will be made by the Head of Pensions Administration based on the evidence provided.	Change in decision maker
32	TP14 – 3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b) B10(2)	Where member to whom B10 applies (use of average of 3 years pay for final pay purposes) dies before making an election, the Administering Authority can decide whether to make that election on behalf of the deceased member	This discretion will automatically be applied if it would result in higher benefits being paid.	

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Pension Fund Policy	Description of Change where applicable
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	This discretion will automatically be used if it would result in higher benefits being paid.	
34	R97 - 22(7)	Whether to select an alternative final pay period for deceased non-councillor member (applies to leavers between 31st March 1998 and 1st April 2008)	This discretion will automatically be used if it would result in higher benefits being paid.	
35	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.	We will normally accept short breaks including term holidays, and also gap years, as being interruptions in education/training and will restart a suspended child's pension at the end of such a break or gap, providing confirmation from the relevant body is received that education/training has resumed. The Head of Pensions Administration will decide each case on its own merits.	Change in decision maker
36	R97 - 47(1) R95 – G11(1)	How to apportion children's pension amongst eligible children (children of councillor members and children of leavers between 31 st March 1998 and 1 st April 2008)	Where there is more than one eligible child, the Fund will normally divide a children's pension equally between the eligible children, with delegated authority given to the Head of Pensions Administration to determine what is appropriate.	Change in decision maker

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Pension Fund Policy	Description of Change where applicable
37	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 17, we will normally pay his/her pension to the person who has the care of the child, to be applied for the benefit of that child. This will be decided on a case by case basis by the Head of Pensions Administration.	Change in decision maker
38	R95 - F7	Whether or not to suspend of spouses' pensions during remarriage or cohabitation	We will not suspend spouse's pensions and therefore they will be paid for life.	
Transferring or Linking Benefits				
39	R13 – 98(1)(b)	Whether to agree to the payment of a bulk transfer	Please see our separate Admissions Policy which also covers bulk transfer payments.	
40	R13 – 100(6)	The Administering Authority (with the agreement of the employer) may extend the 12 month time limit for a scheme member to elect to transfer in benefits from a non-local government pension scheme or personal pension plan.	We expect scheme members to request all transfers within 12 months, and will only extend the 12-month time limit in exceptional circumstances where the scheme member can demonstrate the reason for their late request was outside of their control. The Head of Pensions Administration will determine any such requests in consultation with the employer.	Change in decision maker
41	R13 – 100(7)	Whether to allow transfers of pension rights into the Fund	We will accept all transfer values (subject to meeting the appropriate timescales).	

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Pension Fund Policy	Description of Change where applicable
42	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)	<p>Scheme members may request one quote per financial year that is provided free of charge. In the exceptional case that a further quote is requested by the same member, we reserve the right to impose an administration charge on the scheme member equivalent to the charge for additional retirement quotes as per the Pension Administration Strategy in force at the time of the request, a copy of which can be found on the Pension Fund's website.</p> <p>The decision as to whether to impose this charge will be made on a case by case basis by the Head of Pensions Administration.</p>	Change in decision maker
43	TP14 – 10(9)	Where a deferred member also has ongoing multiple concurrent employments, the member may be able to choose which employment the deferred benefits are aggregated with. We can decide this where the member does not make their own election within 12 months.	The Third Party Administrator will decide this based on what appears to be the most beneficial approach at the point 12 months after the person became a deferred member for that employment.	
44	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 CEP amount will be retained by the Fund and used towards providing the balance of benefits due to the scheme member.	
Other Miscellaneous Discretions				

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Pension Fund Policy	Description of Change where applicable
45	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 the 31st March preceding their distribution.	Discretion only now applies to deferred benefit statements
46	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)	Retirement benefits are not abated and any that are subject to abatement as at 1 October 2014 will cease to be abated from that date.	
47	R13 – 22(3)(c)	The pension account may be kept in such form as is considered appropriate	The Third Party Administrator will determine the form a pension account should be kept in.	
48	R13 – 83 A52A	An Administering Authority may determine how and to whom benefits may be paid if the recipient is incapable of managing their affairs by reason of mental disorder or otherwise	In these circumstances we may decide to pay some or all of the benefit to someone else to be applied for the benefit of the scheme member. The Head of Pensions Administration will decide these matters on a case by case basis.	Change in decision maker
49	R13 – 16(1)	Whether to turn down a request to pay an APC/SCAPC by regular contributions over a period of time where it would be impractical to allow such a request, for example, due to the pension being bought resulting in very small payments	We will not decline a request unless an employer asks us to and, if an employer does so, the Head of Pensions Administration will decide whether to decline the request	Change in decision maker

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Pension Fund Policy	Description of Change where applicable
50	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 undergo a medical examination and to be found to be in reasonable health prior to being permitted to commence payment of additional contributions.	Added clarification of discretion, and change in Hackney's policy to only require a medical examination in certain situations
51	R13 – 32(7)	A scheme member wishing to receive benefits other than at normal pension age, or on flexible retirement, must elect to do so within certain time limits. The Administering Authority may extend these time limits.	We expect any elections to be made within the time limits in the regulations. However, the time limit may be extended by the Head of Pensions Administration in exceptional circumstances.	Change in decision maker
52	TP14 – 15(1)(c) T08 - Sch1 & R97 - 83(5)	Whether to extend the time period for a scheme member electing to capitalise remaining contributions to an added years contract in cases of redundancy	We will normally apply the prescribed 3 month time limit, however the Head of Pensions Administration may extend this in exceptional circumstances.	Change in decision maker
53	R13 – 34(1) B39 T08 - 14(3) R97 – 49 & 156	The Administering Authority may commute small pensions into a lump sum where they are below nationally prescribed limits.	We will pay a lump sum in lieu of a pension which falls below the nationally defined limits unless the member elects to continue to receive the pension as an ongoing payment.	
54	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 Head of Pensions Administration.	Change in decision maker

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Pension Fund Policy	Description of Change where applicable
55	R97 - 147	Whether to permit a Pension Credit to remain in the Fund or require a transfer out	The Third Party Administrator will deal with these cases in accordance with the Pension Credit member's wishes.	
56	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)	In these circumstances, we will pay a lump sum in lieu of a pension unless the member elects for it not to be paid.	
57	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)	Any such payments must be made monthly.	
Discretions relating to employers which no longer exist				
58	R13 – 38(3) & 38(6) B31(4) and 31(7)	A former employer must decide whether a deferred member meets the criteria for permanent ill health. This also applies to a scheme member who was formerly in receipt of Tier 3 ill-health benefits. The Administering Authority may decide this if that employer no longer exists.	We will follow the policy of the employer immediately before it ceased to be a Scheme employer where possible. If this is not known, we will follow the policy of Hackney Council as the main employer in the Fund.	
59	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.	We will follow the policy of the employer immediately before it ceased to be a Scheme employer where possible. If this is not known, we will follow the policy of Hackney Council as the main employer in the Fund.	

Ref	Regulation Reference (see key at end)	Description of Discretion	London Borough of Hackney Pension Fund Policy	Description of Change where applicable
60	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.	We will follow the policy of the employer immediately before it ceased to be a Scheme employer where possible. If not, we will follow the policy of Hackney Council as the main employer in the Fund.	
61	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.	We will follow the policy of the employer immediately before it ceased to be a Scheme employer where possible. If this is not known, we will follow the policy of Hackney Council as the main employer in the Fund.	
62	R13 – 30(8)	An employer can choose to waive, in whole or in part, any early retirement reduction that might otherwise apply to a scheme member's benefits on voluntary retirement. These provisions only apply to scheme members who have reached age 55. The Administering Authority may decide this if that employer no longer exists.	We will follow the policy of the employer immediately before it ceased to be a Scheme employer where possible. If this is not known, we will follow the policy of Hackney Council as the main employer in the Fund.	

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

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