Administering Authority Discretionary policies under the Local Government Pension Scheme

RBKC Policy Statement

This policy statement applies to all RBKC employees, former employees or their dependants or individuals who have eligibility to join the pension scheme.

This policy document details the discretionary policy decisions applicable to:

• active scheme members from 1st April 2014 and members who ceased active membership from 1st April 2014;

• active scheme members from 1st April 2008 and members who ceased active membership on or after 1st April 2008 and before 1 April 2014, and;

• active scheme members from 1st April 1998 and members who ceased active membership on or after 1st April 1998 and before 1st April 2008.

When it determines (or reviews) a discretionary policy, RBKC must have regard to the extent to which the exercise of the discretions could lead to a serious loss in confidence in the public service.

Amongst RBKC's considerations when formulating or reviewing its policy, are the following:

• Cost - There is usually a cost associated with a discretionary power. Therefore, any exercise of a discretionary power must be affordable and not in any way lead to a loss of confidence in public services;

• The basis on which decisions are made under the discretionary policy - Policies should not be drafted in such a way that they restrict RBKC's ability to exercise the discretion where, on occasion, there is merit in exercising it;

• Equality - Any policy should avoid using criteria that discriminates either directly or indirectly i.e. for example, a policy which benefits one gender or an age group.

It is important to note that nothing in this statement creates any right for any person or an expectation that a discretion will or will not be exercised. The Policy can be amended at any time and whether a discretion is exercised is RBKC's decision alone.

Discretionary policies fall in broadly two categories – policies that RBKC is required to publish (mandatory) and ones that are not (non-mandatory). The mandatory policies are summarised in the tables below by reference to a member's date of leaving.

In addition, RBKC has set out its policy in respect of several non-mandatory discretions in the tables below. These are discretions that RBKC is asked to exercise on a frequent basis.

List of discretionary policies applicable from 1 April 2014 in relation to post-31 March 2014 active members (excluding councillor members) and post-31 March 2014 leavers (excluding councillor members)

Mandatory Policies

Discretion	Legislative provision	Summary of discretion	RBKC's policy
Abatement **ADMIN AUTHORITY**	Regulation 3(13) of the LGPS Transitional Regulations 2014 and Regulation 70(1) & 71(4)(c) of the LGPS Administration Regulations 2008	Whether to abate the pension of member who retires and is subsequently reemployed in local government	RBKC will not abate pensions on re-employment

Non-Mandatory Policies

Discretion	Legislative provision	Summary of discretion	RBKC's policy
Medical report for APC/SCAPC **ADMIN**	Regulation 16(10) of the LGPS Regulations 2013	Whether to require a satisfactory medical before agreeing to an application to pay an APC / SCAPC.	The Council will always require such a medical report from an applicant – obtained at the applicant's cost - before allowing regular additional contributions.
Transfers in from another registered pension scheme **ADMIN**	Regulation 100(7) of the LGPS Regulations 2013	Whether to allow transfer of pension rights into the Fund.	The Council's policy is to allow a transfer in, provided the transfer value meets the pension liabilities.
Late transfers in from another registered pension scheme **ADMIN**	Regulation 100(6) of the LGPS Regulations 2013	Whether to extend the normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS.	The Council's policy is that RBKC will only extend the 12-month deadline where one of these circumstances apply: a) the member asked for transfer investigations to be commenced within 12 months of joining the LGPS but a quotation of what the transfer value will purchase in the LGPS had not been provided to the member; b) where the available evidence indicates the member made an election within 12 months of joining the LGPS, but the election was not received by the Pension Fund administering authority; c) where the available evidence indicates the member had not been informed of the 12-month time limit. This will be a decision made by the Pensions Manager, but RBKC would not expect any extension to extend beyond 24 months from the date of joining.
Awarding death grant payments **ADMIN**	Regulation 40(2), Regulation 43(2) & Regulation 46(2) of the LGPS Regulations 2013.	Decide to whom death grant is paid.	RBKC's policy is that decisions about the payment of death grants will be considered and made by the Director of Human Resources.

	Regulation 17(5) to (8) of the LGPS Transitional Regulations 2014		
Child's pensions ADMIN	RSch 1 of the LGPS Regulations 2013 & TP17(9)(a) of the LGPS Transitional Regulations 2014	Whether to treat a child (who has not reached the age of 23) as being in continuous full-time education or vocational training despite a break.	RBKC's policy is that breaks of a gap year are treated as interruptions in education and the Fund will suspend the pension (breaks within an academic year are ignored). We may then restart the suspended pension at the end of such a break/gap, provided it was 12 months or less, taking into account the circumstances of each individual case. This will be a decision made by the Pensions Manager.
Member trivial commutation ADMIN	Regulation 34(1)(a) of the LGPS Regulations 2013.	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).	RBKC will allow trivial commutation of crystallised benefits with one month of the crystallisation date. The Council's policy is not to allow trivial commutation for benefits previously crystallised, except in exceptional circumstances. This will be a decision made by the Pensions Manager.
Dependant trivial commutation ADMIN	Regulation 34(1)(b) of the LGPS Regulations 2013.	Decide whether to trivially commute a lump sum death benefit under section 168 of the Finance Act 2004.	RBKC will allow only dependant trivial commutation at the commencement of the long-term pension. The Council's policy is not to allow trivial commutation for benefits previously crystallised, except in exceptional circumstances. This will be a decision made by the Pensions Manager.
Commutation ADMIN	Regulation 34(1)(c) of the LGPS Regulations 2013.	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)	RBKC will allow trivial commutation of crystallised benefits with one month of the crystallisation date. The Council's policy is not to allow trivial commutation for benefits previously crystallised, except in exceptional circumstances. This

		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).	will be a decision made by the Pensions Manager.
Annual Allowance **ADMIN**	Regulation 2 of the Registered Pension Schemes (Modification of Scheme Rules) Regulations 2011	To decide whether to offer voluntary scheme pays facility to embers who have an annual allowance tax charge	RBKC's may accept elections for scheme pays tax charges of less than £2000, taking into account the circumstances of each individual case. The decision will be made by the Pensions Manager.
Admission agreements **ADMIN**	Regulation 3(1A), Regulation 3(5) & RSch 2, Part 3, para 1 of the LGPS Regulations 2013	Whether to agree to an admission agreement with a body applying to be an admission body.	RBKC will enter into an "Admission Agreement" where this is considered appropriate. Any such case will be considered and decided by the Pensions Committee.

List of discretionary policies in relation to scheme members (excluding councillor members) who ceased active membership on or after 1 April 2008 and before 1 April 2014

<u>Mandatory Policies</u>

Discretion	**Legislative provision**	**Summary of discretion**	**RBKC's policy**
Abatement **ADMIN**	Regulation 3(13) of the LGPS Transitional Regulations 2014 and Regulation 70(1) & 71(4)(c) of the LGPS Administration Regulations 2008	Whether to abate the pension of member who retires and is subsequently reemployed in local government	RBKC will not abate basic LGPS pensions on re-employment

Non-Mandatory Policies

Discretion	Legislative provision	Summary of discretion	RBKC's policy
Awarding death grant payments **ADMIN**	Regulation 40(2), Regulation 43(2) & Regulation 46(2) of the LGPS Regulations 2013. Regulation 17(5) to (8) of the LGPS Transitional Regulations 2014	Decide to whom death grant is paid.	RBKC's policy is that decisions about the payment of death grants will be considered and made by the Director of Human Resources.
Child's pensions **ADMIN**	RSch 1 of the LGPS Regulations 2013 & TP17(9)(a) of the LGPS Transitional Regulations 2014	Whether to treat a child (who has not reached the age of 23) as being in continuous full-time education or vocational training despite a break.	RBKC's policy is that breaks of a gap year are treated as interruptions in education and the Fund will suspend the pension (breaks within an academic year are ignored). We may then restart the suspended pension at the end of such a break/gap, provided it was 12 months or less, taking into account the circumstances of each individual case. This will be a decision made by the Pensions Manager.
Member trivial commutation **ADMIN**	Regulation 39(1)(a) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 & Regulation 14(3) of the LGPS (Transitional Provisions) Regulations 2008.	Decide whether to trivially commute a member's pension under section 166 of the Finance Act 2004	RBKC will allow trivial commutation of crystallised benefits with one month of the crystallisation date. The Council's policy is not to allow trivial commutation for benefits previously crystallised, except in exceptional circumstances. This will be a decision made by the Pensions Manager.
Dependant trivial commutation	Regulation 34(1)(b) of the LGPS (Benefits, Membership and Contributions)	Decide whether to trivially commute a lump sum death benefit under section 168 of the Finance Act 2004.	RBKC will allow only dependant trivial commutation at the commencement of the long-term pension.

ADMIN	Regulations 2007.		The Council's policy is not to allow trivial commutation for benefits previously crystallised, except in exceptional circumstances. This will be a decision made by the Pensions Manager.
Commutation **ADMIN**	Regulation 34(1)(c) of the LGPS (Benefits, Membership and Contributions) Regulations 2007.	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)	RBKC will allow trivial commutation of crystallised benefits with one month of the crystallisation date. The Council's policy is not to allow trivial commutation for benefits previously crystallised, except in exceptional circumstances. This will be a decision made by the Pensions Manager.

List of discretionary policies in relation to scheme members (including councillor members) who ceased active membership on or after 1 April 1998 and before 1 April 2008

Mandatory Policies

Discretion	**Legislative provision**	**Summary of discretion**	**RBKC's policy**
Abatement **ADMIN**	Regulation 3(13) of the LGPS Transitional Regulations 2014 and Regulation 70(1) & 71(4)(c) of the LGPS Administration Regulations 2008	Whether to abate the pension of member who retires and is subsequently reemployed in local government	RBKC will not abate basic LGPS pensions on re-employment

Non-Mandatory Policies

Discretion	Legislative provision	Summary of discretion	RBKC's policy
Awarding death grant payments ADMIN	Regulation 38(1) & Regulation 155(4) of the LGPS Regulations 1997.	Decide to whom death grant is paid.	RBKC's policy is that decisions about the payment of death grants will be considered and made by the Director of Human Resources.
Child's pensions ADMIN	RSch 1 of the LGPS Regulations 2013 & TP17(9)(a) of the LGPS Transitional Regulations 2014	Whether to treat a child (who has not reached the age of 23) as being in continuous full-time education or vocational training despite a break.	RBKC's policy is that breaks of a gap year are treated as interruptions in education and the Fund will suspend the pension (breaks within an academic year are ignored). We may then restart the suspended pension at the end of such a break/gap, provided it was 12 months or less, taking into account the circumstances of each individual case. This will be a decision made by the Pensions Manager.
Member trivial commutation ADMIN	Regulation 49(1)(a) of the LGPS Regulations 1997 & Regulation 14(3) of the LGPS (Transitional Provisions) Regulations 2008.	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).	RBKC will allow trivial commutation of crystallised benefits with one month of the crystallisation date. The Council's policy is not to allow trivial commutation for benefits previously crystallised, except in exceptional circumstances. This will be a decision made by the Pensions Manager.
Dependant trivial commutation ADMIN	Regulation 49(1) of the LGPS Regulations 1997.	Decide whether to trivially commute a lump sum death benefit under section 168 of the Finance Act 2004.	RBKC will allow only dependant trivial commutation at the commencement of the long-term pension. The Council's policy is not to allow trivial commutation for benefits previously crystallised, except in exceptional circumstances. This will be a decision made by the Pensions Manager.

Commutation **ADMIN**	Regulations 50 & 157 the LGPS (Benefits, Membership and Contributions) Regulations 1997.	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 -1 March 2014 membership of the 2014 Scheme).	RBKC will allow trivial commutation of crystallised benefits with one month of the crystallisation date. The Council's policy is not to allow trivial commutation for benefits previously crystallised, except in exceptional circumstances. This will be a decision made by the Pensions Manager.

List of discretionary policies in relation to scheme members who ceased active membership before 1 April 1998

<u>Mandatory Policies</u>

Discretion	**Legislative provision**	**Summary of discretion**	**RBKC's policy**
Abatement **ADMIN**	Regulation 3(13) of the LGPS Transitional Regulations 2014 and Regulation 70(1) & 71(4)(c) of the LGPS Administration Regulations 2008	Whether to abate the pension of member who retires and is subsequently reemployed in local government	RBKC will not abate basic LGPS pensions on re-employment

Non-Mandatory Policies

Discretion	Legislative provision	Summary of discretion	RBKC's policy
Awarding death grant payments **ADMIN**	Regulation E8 of the LGPS Regulations 1995.	Decide to whom death grant is paid.	RBKC's policy is that decisions about the payment of death grants will be considered and made by the Director of Human Resources.
Child's pensions **ADMIN**	RSch 1 of the LGPS Regulations 2013 & TP17(9)(a) of the LGPS Transitional Regulations 2014	Whether to treat a child (who has not reached the age of 23) as being in continuous full-time education or vocational training despite a break.	RBKC's policy is that breaks of a gap year are treated as interruptions in education and the Fund will suspend the pension (breaks within an academic year are ignored). We may then restart the suspended pension at the end of such a break/gap, provided it was 12 months or less, taking into account the circumstances of each individual case. This will be a decision made by the Pensions Manager.
Spouse's pension **ADMIN**	Regulation F7 of the LGPS Regulations 1995.	Whether to pay spouse's pensions for life (rather than ceasing during any period of remarriage or co-habitation).	RBKC's policy is that all spouse's pensions and annual compensation will continue to be paid on cohabitation or remarriage.

Notes on Death Grant decisions

RBKC exercises its duties as an administering authority and has guidelines for paying deaths grants, which are outlined below. Every member of RBKC can complete an expression of wish form to let us know who they would like us to pay any death grant due to. We call this making a nomination.

(a) We will normally pay the death grant to the people or organisations that the member has nominated. However, where a significant event has taken place since the member made their nomination, such as a marriage, divorce or separation, then we will take this into account and may decide to set the nomination aside.

(b) We will normally pay the death grant to a spouse, civil or dependent cohabiting partner if the member has not made a nomination. However, we may decide to pay or divide the death grant between other family members if the member was separated from their spouse or partner at the time of their death or if the member has children from a previous relationship.

(c) We will normally pay the death grant in equal shares to any known children if the member has not made a nomination and if we are not paying a surviving spouse, civil registered partner or dependent cohabiting partner. We may include stepchildren and any children that the member accepted as children of the family.

(d) We will normally pay the members parents or siblings if the member has not made a nomination and if we are not paying a spouse, partner or children for whatever reason. When deciding who to pay, we will normally follow the standard rules used to determine who inherits when someone dies without a will, known as intestacy rules.

(e) We will normally pay the personal representative(s) dealing with the estate in that capacity if the member has not made a nomination and if there are no immediate relatives to pay or if we have chosen not to pay to them for some reason.

(f) However, the Director of HR may decide to distribute the death grant differently if:

- (1) there is evidence that the nomination may not have represented the member's wishes immediately before death; or
- (2) the nominee is no longer alive or cannot be traced, or no personal representative can be identified; or
- (3) representations have been received from or on behalf of potential beneficiaries requesting a different treatment; or
- (4) there is another reason that would make following the normal guidelines impossible or inappropriate.

If so, the Director may invite claimants to put forward proposals as to how we might distribute the death grant in a way that would satisfy all parties involved.

Please note that, in the absence of a death grant nomination, we may consider reimbursing reasonable funeral costs from the death grant if the estate cannot meet these costs. We will ask for evidence of the payment before doing so. We will not normally reimburse more than the amount outlined as the average cost of a funeral in London. This is currently stated as £5,449 and we will keep under annual review. Source: SunLife Cost of Dying Report 2025.