Westmorland & Furness Council

Cumbria Pension Fund

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DISCRETIONS POLICY

Introduction:

The following policy outlines Westmorland and Furness Council's ("the Council") discretions as the Administering Authority of the Cumbria LGPS (the "Fund") afforded to it under the LGPS Regulations. In all cases, the discretion outlines the normal approach the Council will use but the Council reserves the right to waiver from a discretion stated in extraordinary circumstances.

Regulatory references

The discretions held within this policy originate from various versions of the LGPS Regulations as shown in the list below. In the interests of brevity, a one or two letter prefix related to each set of Regulations has been used for each regulatory reference within the discretions policy. The prefix used are shown in square brackets.

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

- The Local Government Pension Scheme Regulations 1995 (as amended) [prefix G]

Regulation Reference	Brief Description	The Fund's Discretion
R3(5) & RSch 2, Part 3, para 1	**Active membership** Whether to agree to an admission agreement with a body applying to be an admission body.	Depending on circumstances, and only in accordance with the published Fund Admissions Policy. This will be subject to the relevant body meeting the criteria set out in R3(5) & RSch 2, Part 3. Where an admission body of the description in paragraph 1(d) of RSch 2, Part 3 undertakes to meet the requirements of the Regulations, the Administering Authority must admit the eligible employees of that body to the Fund.
R4(2)(b)	**Restriction on eligibility for active membership** Whether to agree to an admission agreement with a Care Trust, NHS Scheme employing authority or Care Quality Commission.	Depending on circumstances, and only in accordance with the published Fund Admissions Policy. This will be subject to the relevant authority meeting the criteria set out in R4(2) & RSch 2, Part 3, para 1.
RSch2, Part 3, para 14	**Admission bodies** Whether to agree that an admission agreement may take effect on a date before the date on which it is executed.	To exercise this discretion where there have been delays in finalising an admission agreement.
RSch 2, Part 3, para 9(d)	Whether to terminate a transferee admission agreement in the event of: - insolvency, winding up or liquidation of the body;	In the first instance, the terms of the relevant Admission Agreement will apply.

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	- 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.	If the terms of the Admission Agreement are breached the Administering Authority will first try to resolve the breach where possible through reasonable means. Where the terms of the relevant Admission Agreement leave the decision open to the Administering Authority, the Administering Authority will terminate the admission agreement in accordance with the Termination Policy. However, in exceptional circumstances this may be varied.
RSch 2, Part 3, para 12(a)	Define what is meant by "employed in connection with".	After taking guidance from the transferor scheme employer, and in accordance with the Fund Admission Policy. However, in normal circumstances a member should spend at least 50% of their time on the relevant contract to remain eligible to be an active member in the LGPS.
R16(1)	**Additional pension contributions** 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).	The Administering Authority will turn down a request where the monthly payment is below £20, or in the absence of a satisfactory medical report.

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R16(10)	Whether to require a satisfactory medical before agreeing to an application to pay an Additional Pension Contribution (APC) or Shared Cost APC and whether to turn down an application to pay an APC / SCAPC if not satisfied that the member is in reasonably good health.	An application from an employee wishing to spread the cost will only be accepted if accompanied by a medical report provided by a registered medical practitioner stating that the employee is in reasonably good health. The employee must meet the cost of obtaining such a report. For the avoidance of doubt, all APCs for "lost pension" do not require a medical certificate.
TP15(1)(d) A28(2)	**Additional voluntary contributions** Whether to charge the member for provision of an estimate of additional pension that would be provided by the Fund in return for transfer of in-house AVC/SCAVC funds (where AVC/SCAVC arrangement was entered into before 1/4/14).	Members may request a quote for free that is valid for three months. In the exceptional case that the Administering Authority is asked to do another, it reserves the right to make a charge.
R17(12)	**Additional voluntary contributions** Decide to whom any AVC/SCAVC monies (including life assurance monies) are to be paid on death of the member.	To generally pay in accordance with expression of wish or a will but to retain absolute discretion in all cases where there are exceptional circumstances. Cases under £50,000 are determined by the Senior Manager – Cumbria Pension Fund. Cases over £50,000 determined by the S151 officer in consultation with the Chair and Vice Chair of the Pensions Committee.

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R22(3)(c)	**Pension accounts** Pension accounts may be kept in such form as is considered appropriate.	The Administering Authority will maintain a separate pension account in accordance with its approved Administration Policy. The account will be maintained within the Fund's electronic pension administration system.
R30(8)*	**Retirement Benefits** Where the former Scheme employer has ceased to be a Scheme employer – Administering Authority to decide whether to waive, in whole or in part, actuarial reductions on benefits drawn before Normal Pension Age under Regulation 30(5) or flexible retirement.	The Administering Authority will refer requests to be considered by the S151 officer and assessed on their merits taking into account such factors as costs.
R32(7)	**Commencement of pensions** 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.	The Administering Authority will not extend the time limit unless there are exceptional circumstances.
R34(1)(a) B39 T14(3) L49, L50, L156, L157	**Commutation and small pensions** 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 PSO is after 31 March 2014 and the debited member had some post 31 March 2014 membership).	Do this at the member's request where the capital value of their LGPS and all other scheme's/fund's do not exceed HMRC's limits and all benefits from these funds are commuted within a period of 12 months. Members are required to provide information on all their pension rights held in a HMRC tax-approved pension arrangement in order for the Fund to determine whether the benefits can be commuted.

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		Members are required to declare that all information provided is correct and accurate and that if they are making a false statement, they will be liable for any tax charged by HMRC.
R34(1)(b)	Decide whether to trivially commute a survivor's pension under section 168 of the Finance Act 2004.	The Fund will exercise this discretion at the survivor's request.
R34(1)(c)	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.	To commute payment where requested by the member and in accordance with the guidance of the Government Actuary.
R36(3) A56(2) L97(10)	**Role of the Independent Registered Medical Practitioner (IRMP)** Approve medical advisors used by employers (for ill health benefits).	This decision is delegated to the scheme employer. The Administering Authority requires each employer to provide details of the IRMPs they wish to use for ill health purposes and evidence of their medical qualifications.
R38(3)	**Early payment of retirement pension on ill health grounds: deferred and deferred pensioner members** Where the former Scheme employer has ceased to be a Scheme employer – Administering Authority to decide whether deferred beneficiary meets criteria of being permanently incapable of former job because of	The Administering Authority will take the advice of the Fund IRMP before any decision is made.

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	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.	
R38(6)	Where the former Scheme employer has ceased to be a Scheme employer – Administering Authority to 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.	The Administering Authority will take the advice of the Fund IRMP before any decision is made.
R40(2),R43(2) & R46(2) TP17(5) to (8) B23(2) & B32(2) & B35(2) & TSch1 L155(4) & L38(1) & L155(4) & E8	**Death Grants** Decide to whom death grant is paid.	To generally pay in accordance with expression of wish or will but to retain absolute discretion in all cases where there are exceptional circumstances. Cases under £50,000 are determined by the Senior Manager – Cumbria Pension Fund with cases over £50,000 determined by the S151 Officer in consultation with the Chair and Vice Chair of the Pensions Committee.
R49(1)(c) B42(1)(c)	**No double entitlement** 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.	The Fund will always pay the highest available benefit to a member of the Fund.

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R54(1)	**Admission agreement funds** Whether to set up a separate Admission agreement fund.	The Administering Authority will not set up a separate admission agreement fund unless there were exceptional circumstances requiring this.
R55*	**Governance compliance statement** Administering Authority must have in place a written Governance Compliance Statement (including the terms, structure and operational procedures appertaining to the Local Pensions Board.	The Governance Policy Statement for the Fund is included as Part 2 of the Fund Policy Document.
R58*	**Funding strategy statement** Decide on funding strategy for inclusion in Funding Strategy Statement.	The Funding Strategy Statement is included as Part 6 of the Fund Policy Document.
R59(1) & (2)	**Pensions administration strategy** Whether to have a written Pensions Administration Strategy Statement.	The Administration & Communications Policy is included as Part 3 of the Fund Policy Document.
R61*	**Communication policy statement** Communication policy must set out policy on communicating with members, representatives of members, prospective members and employing authorities and format, frequency and method of communications.	The Administration & Communications Policy is included as Part 3 of the Fund Policy Document.

Regulation Reference	Brief Description	The Fund's Discretion
R64(2A)	**Special circumstances where revised actuarial valuations and certificates must be obtained** 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.	The Administering Authority will consider applications for a suspension notice on a case by case basis. Decision to issue a suspension notice to be granted by the S151 Officer having taken advice from the Fund Actuary.
R64(2ZAB)	Determination of the amount of an exit credit, which may be zero, taking into account the factors specified in R64(2ZC)	The Deputy S151 Officer - Pensions will approve the payment of exit credits having taken advice from the Fund Actuary.
R64(2ZAB)	Whether to extend the period beyond 6 months from the exit date of the Scheme employer, by which to pay an exit credit.	The Administering Authority will consider applications to extend the timeframe for paying an exit credit on a case by case basis. The decision to provide a payment extension will be granted by the S151 Officer having taken advice from the Fund Actuary.
R64(4)	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.	The Administering Authority will consider revisions of an employer's contribution rate if: - there has been a significant change to the employer's membership which will have a material impact on their liabilities; or - there has been a significant change in the employer's covenant
R64(7A)	Decision to enter into a Deferred Debt Agreement.	The Administering Authority will consider applications to enter into a deferred debt agreement on a case by

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		case basis. The decision to enter into a Deferred Debt Agreement will be granted by the S151 Officer having taken advice from the Fund Actuary.
R64A	**Revision of Rates and Adjustments Certificate: Scheme employer contributions** Whether to obtain revision of employer's contribution rate in other circumstances.	The Administering Authority will consider revisions of an employer's contribution rate if: - there has been a significant change to the employer's membership which will have a material impact on their liabilities; or - there has been a significant change in the employer's covenant
R64B	**Revision of actuarial certificates: exit payments** Whether to agree to spreading of an exit payment and obtain a revision to the Rates and Adjustments Certificate. Under Regulation 62 (actuarial valuations of pension funds) to show the proportion of the exit payment to be paid by the exiting Scheme employer in each year after the exit date over such period as the Administering Authority considers reasonable.	The Administering Authority will consider applications to spread exit payments on a case by case basis. The decision to permit the spreading of exit payments and the duration over which the exit payment should be paid to the Fund will be granted by the S151 Officer having taken advice from the Fund Actuary.
R68(2) L80(5)	**Employer's further payments** Whether to require any strain on Fund costs to be paid "up front" by the employing authority following redundancy, flexible retirement, or the waiver (in whole or in part) of any actuarial reduction on flexible	The strain on Fund costs to be paid up front following redundancy, flexible retirement, or waiver of any actuarial reduction on flexible retirement or otherwise unless the Fund Actuary advises otherwise.

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	retirement or any actuarial reduction that would otherwise have been applied to benefits when a member voluntarily draws before normal pension age.	
R69(1) L12(5) L81(1)	**Payment by Scheme employers to Administering authorities** Decide frequency of payments to be made over to the Fund by employers and whether to make an admin charge.	The due date for employer contributions is the 19th of the month following the month to which they relate. Where invoices are issued for any payments the due date is one month from date of invoice. Administration charges are covered by the employer contribution rates.
R69(4) L81(5)	Decide form and frequency of information to accompany payments to the Fund.	Detailed remittance advice required for all payments to the Fund. Payments relating to contributions must provide pensionable pay, employer contributions, employee contributions and any additional contributions. This must be provided on a monthly basis and in appropriate electronic format as agreed by the Administering Authority.
R70 TP22(2)	**Additional costs arising from Scheme employer's level of performance** Whether to issue employers with notice to recover additional costs incurred as a result of the employer's level of performance.	The Administering Authority will issue such a notice when an employer's level of performance gives rise to additional costs.

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R71(1) L82(1)	**Interest on late payments by Scheme employers** Whether to charge interest on payments by employers overdue by more than 1 month.	The interest charge will be calculated in accordance with statutory requirements at 1% above base rate compounded quarterly.
R76(4) A60(8) L99	**Reference of adjudications to Administering Authority** Decide procedure to be followed by Administering Authority when exercising its stage two IDRP functions and decide the manner in which those functions are to be exercised.	The Administering Authority's IDRP procedure is separately documented.
R79(2) A63(2) L105(1)	**Appeals by Administering Authorities** Whether the Administering Authority should appeal against employer decision (or lack of a decision).	The Administering Authority will decide this depending on the particular circumstances of a complaint.
R80(1)(b) TP22(1) A64(1)(b)	**Exchange of information** Specify information to be supplied by employers to enable Administering Authority to discharge its functions.	Employers to supply information in accordance with the approved Administration Policy.
R82(2) A52(2) L95	**Payments due in respect of deceased persons** Can make payments due to personal representatives or anyone appearing to be beneficially entitled to the estate without need for grant of probate/letters of administration where the grant amount does not	To generally pay to the personal representatives but to retain absolute discretion to make a payment to a person or persons appearing to the Administering Authority to be beneficially entitled to the estate in any cases where there are exceptional circumstances.

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	exceed the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) Act 1965 and applying in relation to that person's death (currently £5,000).	Cases under £50,000 are determined by the Senior Manager – Cumbria Pension Fund with cases over £50,000 determined by the S151 officer in consultation with the Chair and Vice Chair of the Pension Committee. This discretion is only in relation to amounts payable to the personal representatives – death grants are outside of the estate.
R83 A52A	**Payments for persons incapable of managing their affairs** 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 or to apply the benefits in such manner as the Administering Authority may determine, for the benefit of the person entitled, or any beneficiaries of the person entitled.	In the case of an adult incapable of managing their affairs the Administering Authority would normally require power of attorney, but where this is not provided each case will be individually determined. In cases relating to children incapable of managing their affairs the Administering Authority would ordinarily pay child pension benefits into a child's own bank account or to a joint account with the nominees being the child and another appointed person. Where payment is proposed to be made solely to another person for the benefit of that child, then each case will be individually determined. In both situations described determinations will be made by the S151 officer in consultation with the Chair and Vice Chair of the Pensions Committee.
R87	**Tax**	The Administering Authority will deduct tax and pay this to HMRC.

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	The Administering Authority may deduct from any payment of benefits under the LGPS any tax to which they may become chargeable under the Finance Act 2004.	
R98(1)(b)	**Bulk transfers** Agree to bulk transfer payment	The Administering Authority will agree to bulk transfer payments on the advice of the Fund actuary and, where necessary, with employer consultation, where the Administering Authority believes the amount transferred represents a fair valuation of benefits.
R100(6)	**Inward transfers of pension rights** Extend normal time limit for acceptance of an inward transfer value beyond 12 months of becoming an active member of the LGPS.	The Administering Authority will not extend the normal time limit unless there are exceptional circumstances and the Scheme employer also agrees to the extension of the normal time limit.
R100(7)	Allow transfer of pension rights into The Fund.	The Administering Authority will accept all non-club transfers following advice from the Fund actuary unless it is agreed otherwise in the terms of an employer's admission agreement or in a separate, formal written agreement between the Administering Authority and employer (and its guarantor, if deemed necessary by the Administering Authority).
R105(2)	**Delegation** Decide to delegate any function under the 2013 Regulations, including this power to delegate.	Details are contained within the Administration Strategy set out in the Scheme policy document

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R106(3)	**Local Pension Boards: Establishment** Where the administration and management of a Fund is wholly or mainly shared by two or more Administering authorities, decide whether to establish a joint Local Pensions Board (if approval has been granted by the Secretary of State).	Not applicable
R106(6)	Decide procedures applicable to the Local Pension Board including the establishment of sub-committees, formation of joint committees and payment of expenses.	The procedures are set out in the Terms of Reference for the Fund's Local Pension Board
R107(1)	**Local Pension Boards: Membership** Decide appointment procedures, terms of appointment and membership of the Local Pension Board.	The procedures are set out in the Terms of Reference for the Fund's Local Pension Board.
RSch 1 TP17(9)(b) B25	**Cohabiting partner definition** Decide evidence required to determine financial dependence of cohabiting partner on scheme member or financial interdependence of cohabiting partner and scheme member.	Require evidence of cohabitation and financial interdependence in accordance with the criteria set. The evidence to determine financial dependence or interdependence will be assessed and agreed on a case by case basis and may include but not be restricted to items such as evidence of a joint bank account, shared utility bills, joint mortgage arrangements, insurance policies, joint loans etc.

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RSch 1 TP17(9)	**Eligible child definition** Decide to treat a child (who has not reached the age of 23) as being in continuous education or vocational training despite a break.	The Administering Authority will treat a child as being in continuous education or training in all cases where the child is under age 18. Where the child is aged between 18 and 23, it ignores all breaks up to 6 months and will ignore longer breaks in exceptional circumstances.
TP10(9)	**Interfund adjustments** Decide, in the absence of an election from the member within 12 months of ceasing a concurrent employment, which ongoing employment benefits from the concurrent employment which has ceased should be aggregated (where there is more than one ongoing employment).	In the absence of an election from the member, the Administering Authority will make the final decision.
TP18 & Sch 2, para 1(2)	**85 year rule** Where the former Scheme employer has ceased to be a Scheme employer, the Administering Authority has to decide whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.	The Administering Authority will only exercise this discretion in exceptional circumstances and will refer requests to be considered by the S151 officer and assessed on their merits, taking into account such factors as cost.
TP3(1), TPSch 2 para 2(1) B30(5), B30A(5)	**Waiver of actuarial reduction** Where the former Scheme employer has ceased to be a Scheme employer, the Administering Authority to decide whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal	The Administering Authority will only exercise this discretion in exceptional circumstances and will refer requests to be considered by S151 officer and assessed on their merits, taking into account such factors as cost.

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	pension age other than on the grounds of flexible retirement (where the member has both pre and post 1 April 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; or 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; or 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; or d) on compassionate grounds (pre 1 April 2020 membership) and in whole or in part on any grounds (post March 2020 membership) if the member was in the Scheme before 1 October 2006, will not be 60 by 31 March 2016 and will	

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	attain 60 between 1 April 2016 and 31 March 2020 inclusive.	
TPSch 2, para 2(3)	**Employer's further payments** Whether to require any strain on Fund costs to be paid "up front" by Scheme employer if the Scheme employer "switches on" the 85 year rule for a member voluntarily retiring (other than flexible retirement) prior to age 60, or waives an actuarial reduction under TPSch 2, para 2(1) or releases benefits before age 60 under B30(1) or B30A.	The strain on Fund costs to be paid up front following waiver of any actuarial reductions exercised by the employer, unless the Fund Actuary advises otherwise.
TP15(1)(c), TSch1 & L83(5)	**Additional contributions** Extend the time period for capitalisation of added years contract.	The Administering Authority will not extend the time period.
TP3(13) A70(1) & 71(4)(c) T12 & 109 L110(4)(b)	**Abatement** Decide policy on abatement of pensions following re-employment.	The Administering Authority will not abate pensions following re-employment.
L12(5)	**Members' contributions** Frequency of payment of councillors' contributions.	Determined that councillors are not eligible for membership of the LGPS.
L47(2)	Pay child's pension to another person for the benefit of the child.	The Administering Authority would ordinarily pay child pension benefits into a child's own bank account or to

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		a joint account with the nominees being the child and another appointed person. Where payment is proposed to be made solely to another person for the benefit of that child, then each case will be individually determined by the S151 officer in consultation with the Chair and Vice Chair of the Pensions Committee.
L147	**Discharge of liability for pension credit rights** Discharge Pension Credit liability (in respect of Pension Sharing Orders for councillors and pre 1/4/08 Pension Sharing Orders for non-councillor members).	The Administering Authority will discharge pension credit liabilities by conferring appropriate rights under the LGPS on the ex-spouse or ex-civil partner. Alternatively, the ex-spouse or ex-civil partner may request a transfer of those rights to a HMRC tax-approved pension arrangement.
TSch 1 L23(9)	**Permanent reductions in pay** 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 01/04/08).	Always pay the highest benefit to or on behalf of a member of the Fund.
G(F7)	**Remarriage and cohabitation** Whether to pay spouse's pensions for life for pre 1.4.98 retirees / pre 1.4.98 deferreds who die on or after 1.4.98 (rather than easing during any period of remarriage or cohabitation).	The Administering Authority will pay a spouse's pension for life.

Regulation Reference	Brief Description	The Fund's Discretion
A45(3) & L89(3)	**Recovery of outstanding contributions** Outstanding employee contributions can be recovered as a simple debt or by deduction from Benefits.	The Administering Authority will adopt this discretion.

Approved by Pensions Committee 23 March 2026.