



## North Yorkshire Pension Fund

# The Local Government Pension Scheme Guidance Notes for Employer Discretions Policy



**If you require this information in an alternative language or another format such as large type, audio cassette or Braille, please contact the Pensions Help & Information Line on 01609 536335**

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## Introduction

All employers who participate in the Local Government Pension Scheme (LGPS) are required to formulate a discretions policy in accordance with Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008, and Regulation 60 of the Local Government Pension Scheme Regulations 2013.

The policy must be published and kept under review. A copy of your published discretions policy must be sent to the North Yorkshire Pension Fund (the administering authority) and any amendments to the policy must be sent to the North Yorkshire Pension Fund (NYPF) within one month of the amendment.

## Discretions Policy

The LGPS (Amendment) Regulations 2018 introduced some new rules for scheme members who left before 31 March 2014 and Councillor Members. The change to the scheme rules means that they no longer need your consent (as their former employer) to take their pension benefits between the age of 55 and 60.

The NYPF has updated the discretions policy template in line with the above scheme changes.

There are many discretions in the current regulations as well as discretions that still exist from the previous regulations. Please see the <sup>1</sup>[NYPF website](#) for the full list of discretions. Although not all discretions require a written policy, you should determine which discretions will be useful to include in your policy document. Further guidance can be found in the <sup>2</sup>[LGPS guidance notes](#).

This guide provides information on the **mandatory** discretions on which you must have a written policy.

The discretions policy template contains all of the 'legacy' discretions for the scheme rules prior to 1 April 2014 as well as the current discretions from 1 April 2014. The discretions policy template is colour coded as follows:

**Mandatory:** the employer must formulate, publish and keep under review a policy on these discretions

**Recommended:** there is no requirement for employers to publish a written policy on these discretions. However, as these matters arise fairly frequently it may be appropriate, so that members can be clear on their employer's policy

**Less common:** there is no requirement for employers to publish a written policy on these discretions

**It is recommended that you revisit all of your discretions and combine them into a current discretions document**

## Mandatory Discretions

The following mandatory discretions are included in the discretions policy template and **must** be completed in accordance with the LGPS Regulations 2013:

- 16(2)(e) and 16(4)(d): Shared Cost Additional Pension - Pension awarded under Regulation 16 is reduced on redundancy / efficiency retirement and the full cost has to be paid to the Pension Fund while the member is still active.
- 30(6): Flexible retirement
- 30(8): Waiving actuarial reduction
- 31: Award additional pension - Pension bought by the employer under Regulation 31 isn't reduced when brought into payment when the member is retiring on redundancy / efficiency grounds, so incurs an additional strain cost.
- Regulation 31 can be exercised within 6 months of the employee leaving on redundancy or efficiency grounds.
- TPSch 2, para 2(2): 'Switch on' the 85 year rule and or waive actuarial reduction on compassionate grounds

<sup>1</sup> NYPF website at [www.nypf.org.uk](http://www.nypf.org.uk) > Employers Only > Literature > Discretions Policy Template

<sup>2</sup> LGPS Regulations and Guidance at [www.lgpsregs.org](http://www.lgpsregs.org) > LGPS administration resources > Guides and sample documents > Discretions > Technical guide – discretions policies

The following mandatory discretions are included in the discretions policy template and **must** be completed in accordance with the LGPS (Benefits, Membership and Contributions) Regulations 2007:

- 30(2): Grant early payment of deferred benefits
- 30(5): Waiving actuarial reduction on deferred benefits
- 30A(3): Grant early payment of suspended tier 3 ill health pension
- 30A(5): Waiving actuarial reduction on suspended tier 3 ill health pension

### The 85 Year Rule

Under the LGPS (Transitional Provisions and Savings) Regulations 2014 you **must** complete the discretions policy template to confirm whether you will 'switch' on the 85 year rule for a scheme member wishing to voluntarily draw (non-flexible retirement) benefits on or after 55 and before age 60. The earliest age that the 85 year rule applies is age 60 except under flexible retirement when the 85 year rule has to be applied from age 55 onwards. However, you can agree to switch on the 85 year rule from age 55 but would have to meet any strain on the Fund cost (as under the 2008 Scheme). If you do not switch on the 85 year rule, the scheme member would meet any strain on the Fund cost through an actuarial reduction applied to their pension.

### Flexible Retirement

In addition to completing the discretions policy template you must also formulate, publish and keep under review a **separate** policy on flexible retirement. When writing your flexible retirement policy you should make sure it fits with any other flexible working policies you may have. The LGPS Regulations 2013 state that the member must take a reduction in working hours or grade when taking flexible retirement.

For more guidance on what to consider within your flexible retirement policy, please see the <sup>3</sup>[LGE Circular 193](#) (pages 17 to 43).

### Other Mandatory Discretions

- **Local Government Pensions Scheme Regulations 1997**  
You **must** complete the discretions policy template in relation to scheme members who ceased active membership before 1.4.2008
- **Local Government Pensions Scheme Regulations 1995**  
You **must** complete the discretions policy template in relation to scheme members who ceased active membership before 1.4.1998
- **Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations**  
Under the Discretionary Compensation Regulations 2006 and 2000 you **must** complete the discretions policy template in relation to compensation. **These regulations exclude admission bodies. If you are an admission body you may use these regulations by analogy but will need to have a separate written policy on compensation that does not quote these regulations (i.e. do not complete the discretions policy template).**
- **Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011**  
Under the Injury Allowances Regulations you **must** complete the discretions policy template in respect of leavers, deaths and reductions in pay that occurred after 15 January 2012. **These regulations exclude admission bodies. If you are an admission body you may use these regulations by analogy but will need to have a separate written policy on compensation that does not quote these regulations (i.e. do not complete the discretions policy template).**

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<sup>3</sup> LGPS Regulations and Guidance at [www.lgpsregs.org](http://www.lgpsregs.org) >Bulletins, circulars ,minutes >LGPC Circulars > Bulletin and Circular archive > Circulars > 2007 > 193

## Policy Requirements

In formulating and reviewing your discretion policies you are required by the regulations to have regard to the extent to which the exercise of your discretionary powers unless properly limited, could lead to a serious loss of confidence in the public service, and be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

If you decide to amend any of your discretion policies, no change can come into effect until one month has passed since the date the amended policy was published.

You must:

- send a copy of your discretions policies to the NYPF and publish your policies within three months of becoming an employer within the LGPS
- keep your policies under review, and
- make such revisions as are appropriate following any change in your policies
- send a copy of your revised policies to the NYPF and publish your policies as revised within one month of making any amendments.

## Points for employers to consider when setting policies

Exercising the major discretions may result in a cost to the employer (commonly called 'pension strain'). You can request an estimate of the strain cost from the NYPF before making a decision about whether to apply a particular discretion or not. This is only an option if you have stated in your policy that you may allow discretion or make a decision on a case by case basis. You should be mindful of the 'Anti-discrimination laws' below when considering pension strain costs as part of your decision.

## Anti-discrimination laws

In drafting any policy, you should have regard to the age regulations. The policy should be free of age influence, or if you use any criteria that could be indirectly age discriminatory, you should be reasonably assured that the policy falls within the exceptions provided by the age regulations. If not, you would need to be able to defend any claim of age discrimination by satisfying a tribunal that your policy is objectively justified. In order to do so, you would have to demonstrate that the policy pursues a legitimate aim and that it is proportionate. In other words, it is an appropriate and necessary means of achieving that aim.

Care also needs to be taken to make sure that the criteria do not discriminate on other grounds, such as:

- Gender
- Race
- Disability
- Sexual orientation
- Religion, or
- Belief

## Further Information

If you need further advice about setting up an Employer's Discretion Policy, please contact the NYPF on 01609 536335 or [pensions@northyorks.gov.uk](mailto:pensions@northyorks.gov.uk)

<b>Discretions Policy for: &lt;insert employers name&gt;</b>	<b>Date:</b>
This policy confers no contractual rights. <Employer name> retains the right to change the policies at any time without prior notice or consultation. The policy in force at the time a relevant event occurs will be the one that is applied.	

Key	
	<b>Mandatory</b> - you must formulate, publish and keep under review a policy on these discretions
	<b>Recommended</b> - there is no requirement for you to publish a written policy on these discretions. However, as these matters arise fairly frequently it may be appropriate, so that members can be clear on your policy on these matters
	<b>Less Common</b> - there is no requirement for you to publish a written policy on these discretions

Discretions from 1.4.14. in relation to post 31.3.14. active members (excluding councillor members) and post 31.3.14. leavers (excluding councillor members)  
R = Local Government Pension Scheme (LGPS) Regulations 2013 (SI 2013/2356)  
TP = LGPS (Transitional Provisions, Savings and Amendments) Regulations 2014  
A = LGPS (Administration) Regulations 2008 (SI 2008/239)  
B = LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended) (SI 2007/1166)  
L = LGPS Regulations 1997 (as amended) (SI 1997/1612)

Membership	Area	Discretion	Regulation	Exercised by	Policy
A c t i v e  m e m b e r s	<b>Granting additional pension</b>	Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 p.a - figure at 1 April 2014. This is inflation proofed annually)	R31	Employer	
	<b>Shared cost Additional Pension Contributions (to buy additional pension)</b>	Whether, how much and in what circumstances to contribute to a shared cost Additional Pension Contributions (APC) scheme  A member can buy additional pension through an APC contract. The discretion is whether the employer will share the cost of the APC	R16(2)(e) & R16(4)(d)	Employer	
	<b>Flexible retirement</b>	Whether all or some benefits can be paid if an active member aged 55 or over and with at least 2 years qualifying service reduces their hours or grade (flexible retirement)  Whether to waive, in whole or in part, actuarial reduction to benefits paid on flexible retirement	R30(6) & TP11(2)	Employer	
			R30(8)	Employer (or Admin. Authority where Employer has become defunct)	
	<b>85 Year Rule</b>	Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of flexible retirement).	TPSch 2, para, 1(2) & 1(1)(c)	Employer (or Admin. Authority where Employer has become defunct)	
	<b>Waive Reduction</b>	Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1/4/14 and post 31/3/14 membership) a) on compassionate grounds (pre 1/4/14 membership) and in whole or in part on any grounds (post 31/3/14 membership) if the member was not in the Scheme before 1/10/06, b) on compassionate grounds (pre 1/4/14 membership) and in whole or in part on any grounds (post 31/3/14 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will not attain 60 between 1/4/16 and 31/3/20 inclusive c) on compassionate grounds (pre 1/4/16 membership) and in whole or in part on any grounds (post 31/3/16 membership) if the member was in the Scheme before 1/10/06 and will be 60 by 31/3/16 d) on compassionate grounds (pre 1/4/20 membership) and in whole or in part on any grounds (post 31/3/20 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will attain 60 between 1/4/16 and 31/3/20 inclusive	TP3(1), TPSch 2 para 2(1)	Employer (or Admin. Authority where Employer has become defunct)	
			R30(8)	Employer (or Admin. Authority where Employer has become defunct)	
	<b>Shared cost Additional Pension Contributions (to buy lost pension following a period of authorised unpaid absence)</b>	If a member has an <b>authorised unpaid</b> absence (not including illness or injury, relevant child-related leave or reserve forces service leave) and within 30 days of returning to work they elect to buy back the lost pension, the employer must share the cost (2/3rds)  The discretion is whether to extend the 30 day deadline for a member to elect for a shared cost APC	R16(16)	Employer	
	<b>Transferring in non LGPS pension rights</b>	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	R100(6)	Employer and Admin. Authority	

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<b>Transferring in LGPS pension rights (only for pre 1.4.14 re-joiners)</b>	Whether to extend the 12 month option period for aggregation of deferred benefits  <b>Care: This must match your existing discretion under the 2008 Scheme.</b>	A16(4)(b)(ii)	Employer	
<b>Transferring in LGPS pension rights (only for post 1.4.14 re-joiners)</b>	Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with a new employment	R22(8)(b)	Employer	The Council will only extend the 12 month period for aggregation in exceptional circumstances
	Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with an ongoing concurrent employment	R22(7)(b)	Employer	The Council will only extend the 12 month period for aggregation in exceptional circumstances
<b>Transferring in LGPS pension rights (ie. final salary benefits which will buy CARE pension only for post 1.4.14 re-joiners)</b>	Whether to extend the 12 month option period for a member (who did not become a member of the 2014 Scheme by virtue of TP5 (1)) to elect that pre 1 April 2014 deferred benefit should be aggregated with a new employment	TP10 (6)	Employer	
<b>Employee contribution rate</b>	Employers to assess the relevant contribution band to determine the rate of employee contribution.  Banded contribution rates for employees are based on actual pensionable pay received and not whole time equivalent salary. Employers to allocate appropriate band at each 1 April and determine other circumstances in which the banding will be reviewed.	R9(1) & R9(3)	Employer	
<b>Assumed Pensionable Pay (APP)</b>	In determining APP, whether a lump sum payment made in the previous 12 months is a "regular lump sum"	R21(5)	Employer	
	Where in the employer's opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments if appropriate) in the 3 months (or 12 weeks if not paid monthly) before the start of APP, is materially lower than the level of pensionable pay the member would have normally received	R21(5A) & R21(5B)	Employer	
	The discretion is whether to substitute a higher level of pensionable pay by taking into account the pensionable pay received by the member in the previous 12 months			
<b>Late conversion of AVCs to service</b>	Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership (where AVC arrangement was entered into before 13/11/01)	TP15(2A)(b) & L66(8) & former L66(9)(b)	Employer	
<b>Shared cost AVCs</b>	Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements	R17(1) & definition of SCAVC in RSch 1	Employer	
<b>Refund of contributions - member left due to an offence/grave misconduct</b>	No right to return of contributions where a member left their employment due to offence of a fraudulent character or grave misconduct in connection with that employment unless employer directs a total or partial refund is to be made	R19(2)	Employer	
<b>Pensionable payments</b>	<b>Specify in an employee's contract</b> what other payments or benefits, other than those specified in R20(1)(a) and not otherwise precluded by R20(2), are to be pensionable	R20(1)(b)	Employer	
<b>T3 ill health review</b>	Determine whether person in receipt of Tier 3 ill health pension has started gainful employment	R37(3) & (4)	Employer	
<b>T3 ill health review overpayments</b>	Whether to recover any overpaid Tier 3 pension following commencement of gainful employment	R37(3)	Employer	
<b>Deferred member - ill health</b>	Decide whether deferred beneficiary meets criteria of being permanently incapable of former job because of ill health and is unlikely to be capable of undertaking gainful employment before normal pension age or for at least three years, whichever is the sooner	R38(3)	Employer (or Admin. Authority where Employer has become defunct)	
<b>T3 ill health recommencement</b>	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	R38(6)	Employer (or Admin. Authority where Employer has become defunct)	
<b>Forfeiture certificate</b>	Whether to apply to Secretary of State for a forfeiture certificate where member is convicted of a relevant offence (a relevant offence is an offence committed in connection with an employment in which the person convicted is a member, and because of which the member left the employment)	R91(1) & (8)	Employer	
	Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited (other than rights to GMP – but see R95 below)	R91(4)	Employer	
	Where forfeiture certificate is issued, whether to direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits	R92(1) & (2)	Employer	

<b>r s</b>	<b>Recovery of monetary obligation</b>	Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than benefits from transferred in pension rights or APCs or AVCs or, subject to R95 below, in respect of any GMP) where the obligation was incurred as a result of a grave misconduct or a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which <u>the person has left employment</u>	R93(2)	Employer	
	<b>GMP forfeiture</b>	Whether, if the member has committed treason or been imprisoned for at least 10 years for one or more offences under the Official Secrets Acts, forfeiture under R91 or recovery of a monetary obligation under R93 should deprive the member or the member's surviving spouse or civil partner of any GMP entitlement	R95	Employer	
	<b>Bulk transfer</b>	Agree to bulk transfer payment  Whether to agree to bulk transfer payment where two or more members' active membership ends on their joining a registered non local government pension scheme	R98(1)(b)	Employer / Admin. Authority / trustees of new scheme	
	<b>Final pay period (fees)</b>	Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending 31st March in the 10 years prior to leaving	TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) & B11(2)	Employer	
	<b>Designation bodies only</b>	To whom to offer membership of the LGPS (designation bodies)	R2(1B)(a) & RSch 2, Part 2	Employer	

Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1.4.08 and before 1.4.14

A = LGPS (Administration) Regulations 2008

B = LGPS (Benefits, Memberships and Contributions) Regulations 2007

T = LGPS (Transitional Provisions) Regulations 2008 (SI 2008/238)

Membership	Area	Discretion	Regulation	Exercised by	Policy
	<b>Waive reduction</b>	Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 (member)	B30(5)	Employer (or Admin. Authority where Employer has become defunct)	
	<b>Waive reduction</b>	Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A (pensioner member with deferred benefits, i.e. a suspended tier 3 ill health pensioner)	B30A(5)	Employer (or Admin. Authority where Employer has become defunct)	
	<b>Late conversion of AVCs to service</b>	Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership (where AVC arrangement was entered into before 13/11/01)	TSch1 & L66(8) & former L66(9)(b)	Employer	
	<b>Refund of contributions - member left due to an offence/grave misconduct</b>	No right to return of contributions where member left employment due to offence of a fraudulent character or grave misconduct in connection with that employment, unless employer directs a total or partial refund is to be made	A47(2)	Employer	
	<b>Forfeiture certificate</b>	Whether to apply to Secretary of State for a forfeiture certificate where member is convicted of a relevant offence (a relevant offence is an offence committed in connection with an employment in which the person convicted is a member, and because of which the member left th employment)	A72(1) & (6)	Employer	
		Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited	A72(3)	Employer	
		Where forfeiture certificate is issued, whether to direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits	A73(1) & (2)	Employer	
	<b>Recovery of monetary obligation</b>	Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights or AVCs/SCAVCs) where the obligation was incurred as a result of a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left employment	A74(2)	Employer	
		Whether to recover from Fund any financial loss caused by fraudulent offence or grave misconduct of employee (who has left employment because of that fraudulent offence or grave misconduct), or amount of refund if less	A76(2) & (3)	Employer	
	<b>Deferred member - ill health</b>	Decide whether deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria	B31(4)	Employer (or Admin. Authority where Employer has become defunct)	
	<b>T3 ill health recommencement</b>	Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment	B31(7)	Employer (or Admin. Authority where Employer has become defunct)	



Discretions in relation to:

- a) councillor members who ceased active membership on or after 1.4.98., and
- b) any other scheme members who ceased active membership on or after 1.4.98. and before 1.4.08

L = LGPS Regulations 1997 (as amended) (SI 1997/1612)

R = LGPS Regulations 2013(SI 2013/2356)

TP = LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 (SI 2014/525)

Membership	Discretion	Regulation	Exercised by	Policy	
Councillors and leavers between 1.4.98 and 31 March 2008	<b>Employer consent retirement</b>	Grant application for early payment of deferred benefits on or after age 50 and before age 55	L31(2)	Employer	
	<b>Waive reduction</b>	Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early	L31(5) & TPSch 2, para 2(1)	Employer	
	<b>Employer consent at NRD for optant out</b>	Optants out only to get benefits paid from NRD if employer agrees	L31(7A)	Employer	
	<b>85 Year Rule</b>	Whether to "switch on" the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60	TPSch 2, para 1(2) & 1(1)(f) & R60	Employer (or Admin. Authority where Employer has become defunct)	
	<b>No double entitlement</b>	Decide, in the absence of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership  (i.e where a member is entitled to a the 'normal' payment of a preserved benefit and an ill health benefit from preserved status, they are not entitled to both payments. In the absence of an election from the member, the employer can decide which benefit can be paid)	L34 (1)(b)	Employer	
	<b>Refund of contributions - member left due to an offence/grave misconduct</b>	No right to return of contributions where a member left their employment due to offence of a fraudulent character or grave misconduct in connection with that employment, unless employer directs a total or partial refund is to be made	L88(2)	Employer	
	<b>Forfeiture certificate</b>	Forfeiture of pension rights on issue of Secretary of State's certificate following a relevant offence (a relevant offence is an offence committed in connection with an employment in which the person convicted is a member, and because of which the member left the employment)	L111(2) & (5)	Employer	
		Where forfeiture certificate is issued, direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits	L112(1)	Employer	
<b>Recovery of monetary obligation</b>	Recovery from Fund of monetary obligation owed by former employee or, if less, the value of the member's benefits (other than transferred in pension rights)	L113(2)	Employer		
	Recovery from Fund of financial loss caused by employee, or amount of refund if less	L115(2) & (3)	Employer		

Discretions in relation to scheme members who ceased active membership before 1.4.98

LGPS Regulations 1995 (as amended) (SI 1995/1019)

TL = LGPS (Transitional Provisions) Regulations 1997 (SI 1997/1613)

Membership	Area	Discretion	Regulation	Exercised by	Policy
Leavers before 1.4.1998	<b>Employer consent retirement</b>	Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds	TL4 & L106(1) & D11(2)(c)	Employer	
	<b>No double entitlement</b>	Decide, in the absence of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership  (i.e where a member is entitled to a the 'normal' payment of a preserved benefit and an ill health benefit from preserved status, they are not entitled to both payments. In the absence of an election from the member, the employer can decide which benefit can be paid)	D10	Employer	

Discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended) (SI 2006/2914)

Under the Discretionary Compensation Regulations, each authority (other than an admitted body - but see comment in this cell) is required to formulate and keep under review a policy which applies in respect of exercising their discretion in relation to:

Regulation	Area	Discretion	Regulation	Exercised by	Policy
Early Termination & Compensation	<b>Redundancy Pay on actual weeks pay</b>	To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks pay limit	5	Employer	
	<b>Lump sum compensation</b>	To award lump sum compensation of up to 104 weeks pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment	6	Employer	

Discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended) (SI 2000/1410)

These regulations still apply to any compensatory added years previously awarded by a scheme employer before 1 April 2007. Scheme employers (other than an admitted body - but see comment in this cell) who made awards of compensatory added years are required to have a published policy, which is kept under review, on the following:

Regulation	Area	Discretion	Regulation	Exercised by	Policy
Compensatory Added Years before 1 April 2007	Abatement during re-employment	Whether and to what extent to reduce or suspend the member's annual compensatory added years (CAY) payment during any period of re-employment in local government	17	Employer	
	Reduction following cessation of re-employment	How to reduce the member's annual CAY payment following the cessation of a period of re-employment in local government	19	Employer	
	Apportionment of survivor benefit	How to apportion any surviving spouse's or civil partner's annual CAY payment where the deceased person is survived by more than one spouse or civil partner	21(4)	Employer	
	Effects of remarriage, new civil partnership or co-habitation on survivor's compensation payments	Whether, in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal pension suspension rules should be disapplied i.e. whether the spouse's or civil partner's annual CAY payments should continue to be paid	21(7)	Employer	
			21(5)	Employer	
	Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partner's annual CAY payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or co-habitation lasts, should be disapplied i.e. whether the spouses' or civil partners' annual CAY payments should continue to be paid to both of them	21(7)	Employer		

Discretions under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011(SI 2011/2954)

Under the Injury Allowances Regulations, each scheme employer (other than an admitted body - but see comment in this cell) must have a published policy, which is kept under review, that it will apply under the Injury Allowances Regulation in respect of leavers, deaths and reductions in pay that occurred after 15 January 2012

Regulation	Area	Discretion	Regulation	Exercised by	Policy
Injury Allowances in respect of leavers, deaths and reductions in pay that occurred after 15 January 2012	Injury Allowances	Whether to grant an injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job	3(1)	Employer	
		Amount of injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job	3(4) and 8	Employer	
		Determine whether person continues to be entitled to an injury allowance awarded under regulation 3(1) (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job)	3(2)	Employer	
		Whether to grant an injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job	4(1)	Employer	
		Amount of injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job	4(3) and 8	Employer	
		Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity)	4(2)	Employer	
		Whether to suspend or discontinue injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity) if person secures paid employment for not less than 30 hours per week for a period of not less than 12 months.	4(5)	Employer	
		Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a regulation 3 payment (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job) was being made at date of cessation of employment but regulation 4 (loss of employment through permanent incapacity) does not apply	6(1)	Employer	
		Determine amount of any injury allowance to be paid under regulation 6(1) (payment of injury allowance following cessation of employment)	6(1)	Employer	
Determine whether and when to cease payment of an injury allowance payable under regulation 6(1) (payment of injury allowance following cessation of employment)	6(2)	Employer			

Injury Allowance	Whether to grant an injury allowance to the spouse, civil partner, co-habiting partner or dependent of an employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job	7(1)	Employer	
	Determine amount of any injury allowance to be paid to the spouse, civil partner or co-habiting partner under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job)	7(2) and 8	Employer	
	Determine whether and when to cease payment of an injury allowance payable under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job)	7(3)	Employer	

Discretions under the Local Government (Discretionary Payments) Regulations 1996 (as amended) (SI 1996/1680)

Which relate to injury allowances, apply only in respect of leavers, deaths and reductions in pay that occurred before 16 January 2012; and which relate to gratuities, apply only in respect of leavers and deaths that occurred before 16 January 2012.

Regulation	Area	Discretion	Regulation	Exercised by	Policy
Injury Allowances in respect of leavers, deaths and reductions in pay & gratuities in respect of leavers and deaths that occurred before 16 January 2012	Injury Allowances	Suspend or discontinue injury allowance if person becomes capable of working again	34(4)	Employer	
		Amount and duration of a dependant's, spouse's or civil partner's injury allowance following death of employee after sustaining an injury or contracting a disease as a result of anything required to do in carrying out duties of job	37(3), 37(6) and 38	Employer	
		Reinstate spouse's or civil partner's injury allowance following earlier cessation due to cohabitation, remarriage or registration of a new civil partnership	37(4)	Employer	
		Amount of gratuity payable to surviving dependant, spouse or civil partner where amount of annuity payments fall short of their capital value at date of award	41(4)	Employer	
		Amount of gratuity payable to surviving dependant, spouse or civil partner where amount of redundancy annuity payments fall short of their capital value at date of award.	42(4)	Employer	
		Amount of gratuity payable to any other surviving dependant, spouse or civil partner where amount of annuity payments paid under 42(4) fall short of their capital value at	42(7)	Employer	