

**Report of Head of Resources****Review of Local Government Pension Scheme discretions****1 Purpose of report**

To review the council's approach to discretions available to it as a designated employer within the Local Government Pension Scheme (LGPS).

**2 Executive summary**

Many of the council's employees and members belong to the LGPS, which is a statutory-based pension scheme. The scheme contains a number of discretions which are available to the council as a scheme employer and in some cases the council is required to formulate and publish its policy as to how it will exercise those discretions. The appendix to this report has been colour coded to demonstrate whether a discretion is compulsory, recommended or less common. Whilst we are not required to include recommended and less common discretions, guidance has been provided by the pensions administrator suggesting these are included for ease of reference.

**3 Appendices**

The appendix to this report sets out the discretions on which the council, as the employer, can make a policy decision. The new discretions are identified as "new for BCW policy"; others are existing approved discretions.

**4 Proposed action:**

**The committee is invited to RESOLVE to approve the pension discretions set out in the appendix to this report.**

**5 Background**

5.1 The LGPS has been in place for many years. The last review of the scheme was introduced on 1 April 2008, and discretions were last considered as a whole by the Resources Committee on 11 July 2012.

**6 Discussion**

6.1 The LGPS incorporates a number of discretions which the council must determine or choose to exercise. The Council is required to publish, and review, its policy in relation to those discretions.

6.2 The changes being recommended to the discretions are not fundamental, but seek to provide clarity on the following issues for which a policy is required:

- Granting additional pension (R31)
- Shared cost Additional Pensions Contributions (AcPCs) (R16(2)e) and (R16(4)(d))
- Flexible retirement (R30(6), TP11(2) and R30(8))

- 85 year rule (TPSch2 paragraphs 1(1c), 1(2) and 2(2))
- Waive reductions (TP3(1), TPSch2 paragraphs 2(1) and 2(2), B30(5) and B30A(5))

6.3 Other changes recommended for inclusion in the policy include:

- Shared cost Additional Voluntary Contributions (AVCs) (R17(1) and RSch1, RP15(1)(d) and A25(3))
- Transferring in non LGPS pension rights (R100(6))
- Joining LGPS membership (R22(8)(b) and R22(7)(b))
- Employee contribution rate (R9(1) and R9(3))

6.4 Other minor changes to the discretions are in respect of job titles which have changed since 2012.

## 7 Legal powers

The following legislation (as amended): The Local Government Superannuation Act 1972; The Local Government Pension Scheme Regulations 1997; The Local Government Pension Scheme (Transitional Provisions) Regulations 2008; The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007; The Local Government Pension Scheme (Administration) Regulations 2008; The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014; The Local Government Pension Scheme Regulations 2013.

## 8 Financial and value for money implications

Any action by the council which is outside the standard LGPS provisions (ie. whereby an employee can elect to retire at 60) will incur a cost. Pension discretions are in existence and members may consider whether to apply them in individual cases, but it is essential that the costs associated with the application of those provisions is clear before a decision is made. This report seeks to ensure that members do not expose themselves to a financial risk by making a commitment to approval of discretions without a clear business case and understanding of the payback period.

## 9 Risk analysis

<b>Nature of risk</b>	<b>Consequences if realised</b>	<b>Likelihood of occurrence</b>	<b>Control measures</b>
Lack of clarity about cost of application of pension discretions	Overspend of revenue budgets	High	Clear business case with cost implications and budget source identified before decision is made
Lack of guidance about whether discretions are likely to be applied	Frustration on the part of scheme members	High	Clarity regarding circumstances under which discretions will be applied

**10 Implications for resources**

This has no direct impact on resources, apart from a requirement to provide a worked up business case in respect of some discretions. More clarity should have a positive impact on scheme members.

**11 Implications for stronger and safer communities**

There is no direct implication for stronger or safer communities.

**12 Implications for equalities**

This report seeks to clarify rather than change any of the pension discretions.

**13 Author and contact officer**

Bridget Lawrence, Head of Resources.

**14 Consultees**

Senior Management Team  
Accounts Officer (Payroll)  
Principal Organisational Development Manager  
Human Resources  
Branch Secretary, UNISON


**15 Background papers**

There are no unpublished background papers to this report.

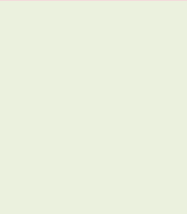


## Complete listing of the LGPS Discretions that may be exercised by the Borough Council of Wellingborough

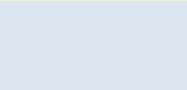
Discretions have been colour coded -



**Compulsory** - we must formulate, publish and keep under review a policy on these discretions



**Recommended** - there is no requirement for us to publish a written policy on these discretions, however as these matters arise fairly frequently.



**Less Common** - there is no requirement for us 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),**

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Date applicable (if reviewed post 01/04/14)</u>
Granting additional pension	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.)	R31	Employer	The council would not grant additional pension.	NEW for BCW policy
Shared cost APCs	Whether, where an active Scheme member wishes to purchase extra annual pension of up to £6,500 (figure at 1 April 2014 ) by making Additional Pension Contributions (APCs), to (voluntarily) contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC)	R16(2)(e) & R16(4)(d)	Employer	The council would consider contributing to a SCAPC only in circumstances where there is a financial or practical reason for them to do so. Delegate to S151 Officer.	NEW for BCW policy
Flexible retirement	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)	R30(6) & TP11(2)	Employer	The council would accept applications for flexible retirement on a case by case basis and may agree to the member receiving immediate payment of all or part of their retirement pension where there in no cost to the council from the Pension Fund and no detrimental impact on service resulting from the reduction in hours and/or grade. S151 Officer to consider whether to refer the application to Resources Committee for determination.	NEW for BCW policy
	Whether to waive, in whole or in part, actuarial reduction to benefits paid on flexible retirement	R30(8)	Employer (or Admin. Authority where Employer has become defunct)	S151 Officer to consider whether to refer the application to Resources Committee for determination.	NEW for BCW policy
85 Year Rule	Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits at or after age 55 and before age 60.	TPSch 2, paras 1(1)(c), 1(2) and 2(2)	Employer (or Admin. Authority where Employer has become defunct)	S151 Officer to consider whether to refer the application to Resources Committee for determination.	NEW for BCW policy
Waive Reduction	Whether to waive, on compassionate grounds, any actuarial reduction on pre and/or post April 2014 benefits	TP3(1), TPsch 2, paras 2(1) and 2(2), B30(5) and B30A(5)	Employer (or Admin. Authority where Employer has become defunct)	S151 Officer to consider whether to refer the application to Resources Committee for determination.	NEW for BCW policy
	Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age	R30(8)	Employer (or Admin. Authority where Employer has become defunct)	S151 Officer to consider whether to refer the application to Resources Committee for determination.	NEW for BCW policy

Shared cost AVCs	Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements entered into on or after 1/4/14	R17(1) & definition of SCAVC in RSch 1	Employer	S151 Officer to consider whether to refer the application to Resources Committee for determination.	NEW for BCW policy
	Whether, how much, and in what circumstances to continue to contribute to a shared cost AVC arrangement entered into before 1/4/14	TP15(1)(d) & A25(3)	Employer	S151 Officer to consider whether to refer the application to Resources Committee for determination.	NEW for BCW policy
Transferring in non LGPS pension rights	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	R100(6)	Employer and Admin. Authority	Delegate to S151 Officer.	NEW for BCW policy
Joining LGPS membership	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	Delegate to S151 Officer.	NEW for BCW policy
	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	Delegate to S151 Officer.	NEW for BCW policy
Employee contribution rate	How the pension contribution band to which an employee is to be allocated on joining the Scheme, and at each subsequent April, will be determined and the circumstances in which the employer will, in addition to the review each April, review the pension contribution band to which an employee has been allocated following a material change which affects the member's pensionable pay in the course of a Scheme year (1 April to 31 March)	R9(1) & R9(3)	Employer	Delegate to S151 Officer.	NEW for BCW policy

	Whether, in respect of an admission body providing a service in respect of outsourced work, to set off against payments due to that body any sums due from that body to the Fund	RSch 2, Part 3, para 12(c)	Transferor employer	Delegate to S151 Officer.	NEW for BCW policy
	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(1)(b) & L66(8) & former L66(9)(b)	Employer	Delegate to S151 Officer.	NEW for BCW policy
	No right to return of contributions if member left due to offence of a fraudulent character or grave misconduct unless employer directs a total or partial refund is to be made	R19(2)	Employer	S151 Officer to consider whether to refer the application to Resources Committee for determination. The circumstances and merits of each individual case will be considered.	NEW for BCW policy
	Specify in an employee's contract 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	Delegate to Head of Resources in consultation with S151 Officer.	NEW for BCW policy
	In determining Assumed Pensionable Pay, whether a lump sum payment made in the previous 12 months is a "regular lump sum"	R21(5)	Employer	Delegate to S151 Officer.	NEW for BCW policy



Whether to use a certificate produced by an IRMP under the 2008 Scheme for the purposes of making an ill health determination under the 2014 Scheme.	<b>TP12(6)</b>	Employer (or Admin. Authority where Employer has become defunct)	Delegate to Head of Resources.	NEW for BCW policy
Determine whether person in receipt of Tier 3 ill health pension has started gainful employment	<b>R37(3) &amp; (4)</b>	Employer	Delegate to Head of Resources.	NEW for BCW policy
Whether to recover any overpaid Tier 3 pension following commencement of gainful employment	<b>R37(3)</b>	Employer	Delegate to Head of Resources.	NEW for BCW policy
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.	<b>R38(3)</b>	Employer (or Admin. Authority where Employer has become defunct)	Delegate to Head of Resources.	NEW for BCW policy
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	<b>R38(6)</b>	Employer (or Admin. Authority where Employer has become defunct)	Delegate to Head of Resources.	NEW for BCW policy
Whether to extend six month period to lodge a stage one IDR appeal	<b>R74(4)</b>	Adjudicator making stage one IDR decision	Delegate to Head of Resources in consultation with S151 Officer.	NEW for BCW policy
Decide procedure to be followed by adjudicator when exercising stage one IDR functions and decide the manner in which those functions are to be exercised	<b>R74(6)</b>	Adjudicator making stage one IDR decision	Delegate to Head of Resources in consultation with S151 Officer.	NEW for BCW policy
Whether to apply to Secretary of State for a forfeiture certificate (where member is convicted of a relevant offence)	<b>R91(1) &amp; (8)</b>	Employer	Delegate to Head of Resources.	NEW for BCW policy
Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited (other than rights to GMP – but see <b>R95</b> below)	<b>R91(4)</b>	Employer	Delegate to Head of Resources in consultation with S151 Officer.	NEW for BCW policy
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	<b>R92(1) &amp; (2)</b>	Employer	Delegate to S151 Officer.	NEW for BCW policy

	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 the person has left employment	R93(2)	Employer	Delegate to Head of Resources.	NEW for BCW policy
	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 R should deprive the member or the member's surviving spouse or civil partner of any GMP entitlement	R95	Employer	Delegate to Head of Resources.	NEW for BCW policy
	Agree to bulk transfer payment	R98(1)(b)	Employer / Admin. Authority / trustees of new scheme	Delegate to S151 Officer.	NEW for BCW policy
	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	Delegate to S151 Officer.	NEW for BCW policy
	To whom to offer membership of the LGPS (designation bodies)	R3(1)(b) & R 2, Part 2	Employer	Delegate to Head of Resources.	NEW for BCW policy
	Which employees to designate for membership (Admission bodies)	R3(1)(c) & R4(2)(b)	Employer	Delegate to Head of Resources.	NEW for BCW policy

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

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Date applicable (if reviewed post 01/04/14)</u>
Employer consent retirement	Whether to grant application for early payment of deferred benefits on or after age 55 and before age 60	B30(2)	Employer (or Admin. Authority where Employer has become defunct)	A business case, including costings, to be produced. S151 Officer to assess the case and consider whether to refer the application to Resources Committee for members and deferred beneficiaries	
Waive reduction	Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30	B30(5)	Employer (or Admin. Authority where Employer has become defunct)	Members and deferred beneficiaries be permitted to retire from age 55 onwards on compassionate grounds without actuarial reduction of benefits. Compassionate grounds to be defined as where a member or deferred beneficiary needs to care full time for a close relative, spouse, partner or other dependant who, through illness, requires full time care for the rest of their life expectancy, which is anticipated to be in excess of 12 months from the date of the agreed medical advice. This care will prevent the employee from taking up gainful employment which will result in financial hardship. This will only be considered in exceptional circumstances. The S151 Officer will decide whether the circumstances warrant referral to Resources Committee for determination. The circumstances and merits of each individual case will be considered. This will not apply to deferred members	

Granting additional membership	Whether, for a member leaving on the grounds of redundancy or business efficiency on or before 31 <sup>st</sup> March 2014, to augment membership (by up to 10 years). The resolution to do so would have to be made within 6 months of the date of leaving. Hence this discretion is spent entirely after 30 <sup>th</sup> September 2014.	B12	Employer	The council will not normally exercise this discretion, and will not normally augment pensions of employees leaving under redundancy (including voluntary redundancy) or early retirement. In exceptional cases a recommendation will be made by the	
Employer consent retirement following Tier 3 Ill health award	Whether to grant an application for early payment of a suspended tier 3 ill health pension on or after age 55 and before age 60	B30A(3)	Employer (or Admin. Authority where Employer has become defunct)	A business case, including costings, to be produced. S151 Officer to assess the case and consider whether to refer the application to Resources Committee for determination. The circumstances and merits of each individual case will be considered. This will not apply to deferred members.	NEW for BCW policy

Waive reduction	Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under <b>B30A</b>	<b>B30A(5)</b>	Employer (or Admin. Authority where Employer has become defunct)	<p>members and deferred beneficiaries be permitted to retire from age 55 onwards on compassionate grounds without actuarial reduction of benefits.</p> <p>Compassionate grounds to be defined as where a member or deferred beneficiary needs to care full time for a close relative, spouse, partner or other dependant who, through illness, requires full time care for the rest of their life expectancy, which is anticipated to be in excess of 12 months from the date of the agreed medical advice. This care will prevent the employee from taking up gainful employment which will result in financial hardship.</p> <p>This will only be considered in exceptional circumstances. The S151 Officer will decide whether the circumstances warrant referral to Resources Committee for determination. The circumstances and merits of each individual case will be considered.</p> <p>This will not apply to deferred members</p>	NEW for BCW policy
-----------------	----------------------------------------------------------------------------------------------------------------------	----------------	------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------

	Whether to extend the 12 month option period for aggregation of deferred benefits	A16(4)(b)(ii)		<p>The council allow an option to combine previous local government service if applicants meet the following criteria:</p> <ul style="list-style-type: none"> <li>• The employee did not leave the previous public sector employer due to redundancy, ill-health retirement or dismissal</li> <li>• The employee has more than 10 years to work before the age of 60</li> <li>• The employee has an adequate reason for making the request outside the 12 month transfer period.</li> </ul> <p>Each request to be considered on an individual basis. The decision to be delegated to the S151 Officer who will reserve the right to refuse the request even if they meet the above criteria.</p>	
	Whether to extend the normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	A83(8)		Delegate to S151 Officer	

	Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership	TSch1 & L66(8) & former L66(9)(b)	Employer	Delegate to S151 Officer.	NEW for BCW policy
	Whether to allow a late application by member to pay optional contributions for a period of unpaid child related leave, strike, or unpaid leave of absence beyond 30 days	A22(2)	Employer	The council allow the extension of the period in cases where the member was not notified of the right to pay contributions. Delegated to S151 Officer.	
	No right to return of contributions due to offence of a fraudulent character or grave misconduct unless employer directs a total or partial refund is to be made	A47(2)	Employer	S151 Officer to consider whether to refer the application to Resources Committee for determination. The circumstances and merits of each individual case will be considered.	
	Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund	A49(1) & (2)	Employer	Delegate to S151 Officer.	NEW for BCW policy
	Whether to extend six month period to lodge a stage one IDRPs appeal	A58(7)(b)	Person making stage one IDRPs decision	Delegate to Head of Resources in consultation with S151 Officer.	
	Whether to apply to Secretary of State for a forfeiture certificate (where member is convicted of a relevant offence)	A72(1) & (6)	Employer	S151 Officer to consider whether to refer the application to Resources Committee for determination. The circumstances and merits of each individual case will be considered.	
	Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited	A72(3)	Employer	S151 Officer to consider whether to refer the application to Resources Committee for determination. The circumstances and merits of each individual case will be considered.	
	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	S151 Officer to consider whether to refer the application to Resources Committee for determination. The	
	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	S151 Officer to consider whether to refer the application to Resources Committee for determination. The circumstances and merits of each individual case will be considered.	

	Whether to recover from Fund any financial loss caused by fraudulent offence or grave misconduct of employee (who has left because of that), or amount of refund if less	A76(2) & (3)	Employer	S151 Officer to consider whether to refer the application to Resources Committee for determination. The circumstances and merits of each individual case will be considered.	
	Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending 31 <sup>st</sup> March in the 10 years prior to leaving	B11(2)	Employer	Delegate to S151 Officer.	
	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)	Delegate to Head of Resources.	
	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)	Delegate to Head of Resources.	



Discretions under the Local Government Pension Scheme Regulations 1997 (as amended) in relation to:

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

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Date applicable (if reviewed post 01/04/14)</u>
Employer consent retirement	Grant application from a post 31.3.98. / pre 1.4.08. leaver or from a councillor for early payment of benefits on or after age 50/55 and before age 60 (see Note below)	31(2)	Employer	The council will not normally make use of this discretion. The S151 Officer to decide whether the circumstances warrant referral to Resources Committee for consideration. The circumstances and merits of each individual case will be considered.	

Waive reduction	Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31.3.98. / pre 1.4.08. leaver or a councillor leaver	31(5)	Employer	<p>Such leavers be permitted to retire from age 55 onwards on compassionate grounds without actuarial reduction of benefits. Compassionate grounds will be defined as where a member or deferred beneficiary needs to care full time for a close relative, spouse, partner or other dependant who, through illness, requires full time care for the rest of their life expectancy which is anticipated to be in excess of 12 months from the date of the agreed medical advice. This care will prevent the employee from taking up gainful employment which will result in financial hardship.</p> <p>The council will not normally make use of this discretion. The S151 Officer to decide whether the circumstances warrant referral to Resources Committee for consideration. The circumstances and merits of each individual case will be considered.</p>	
Employer consent at NRD for optant out	pre 1.4.08. employee optants out ( <b>Not</b> Councillors) who are still in the same employment only to get benefits paid from NRD if employer agrees	31(7A)	Employer	Delegate to Head of Resources	

	Allow a councillor who has opted out more than once to rejoin	7(9)(a)	Employer	Delegate to Head of Resources	
	Allow a late application by a councillor member to pay optional contributions for a period of absence	18(6) & (7)	Employer	Delegate to Head of Resources	
	Allow post 31.3.98. / pre 1.4.08. non-councillor leaver to select final pay period for fees to be a period of not less than 3 or more than 5 years back from date of leaving	22(1)(b)	Employer	Delegate to S151 Officer	
	Issue a certificate of protection of pension benefits where eligible non-councillor member fails to apply for one (pay cuts / restrictions occurring pre 1.4.08.)	23(4)	Employer	Delegate to S151 Officer	
	Whether to extend 12 month period for aggregation of deferred benefits (where deferred councillor member wishes to aggregate with current councillor membership in the same Fund)	32(8A)	Employer	Delegate to S151 Officer	
	Decide, in the absence from a post 31.3.98. / pre 1.4.08. leaver 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	34(1)(b)	Employer	Delegate to Head of Resources	
	Consent to a member's former employer assigning to the new employer rights under any SCAVC life assurance policy (pre 1.4.08. non-councillor leavers)	71(7)(a)	Employer	Delegate to Head of Resources	
	No right to return of contributions due to offence of a fraudulent character unless employer directs a total or partial refund is to be made (councillors and pre 1/4/08 leavers)	88(2)	Employer	Delegate to S151 Officer	
	Employer may deduct contributions from an councillor's pay or reserve forces pay	89(1) & (2)	Employer	Delegate to S151 Officer	
	Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund (councillor leavers and pre 1.4.08. leavers)	92	Employer	Delegate to S151 Officer	
	Forfeiture of pension rights on issue of Secretary of State's certificate (councillors and pre 1.4.08. leavers)	111(2) & (5)	Employer	Delegate to Head of Resources	
	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 (councillors and pre 1.4.08. leavers)	112(1)	Employer	Delegate to S151 Officer	
	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) (councillors and pre 1.4.08. leavers)	113(2)	Employer	Delegate to S151 Officer	
	Recovery from Fund of financial loss caused by employee, or amount of refund if less (councillors and pre 1.4.08. leavers)	115(2) & (3)	Employer	Delegate to S151 Officer	

**Discretions under the Local Government Pension Scheme Regulations 1995 (as amended) in relation to scheme members who ceased active membership before 1.4.98.**

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Date applicable (if reviewed post 01/04/14)</u>
Employer consent retirement	Grant application from a pre 1.4.98. leaver for early payment of deferred benefits on or after age 50 on compassionate grounds	D11(2)(c)	Employer	The council will not normally make use of this discretion. The S151 Officer to decide whether the circumstances warrant referral to Resources Committee for determination. The circumstances and merits of each individual case will be considered.	
	Decide, in the absence from a pre 1.4.98. leaver 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	D10	Employer	Delegate to S151 Officer	

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

Under Regulation 7 of the Discretionary Compensation Regulations, each authority (other than an Admitted Body) is required to formulate and keep under review a policy which applies in respect of exercising their discretion in relation to:

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Date applicable (if reviewed post 01/04/14)</u>
Redundancy Pay on actual weeks pay	To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks pay limit.	5	Employer	In all cases of redundancy, redundancy payments be calculated using the employee's actual weekly earnings.	
Lump sum compensation	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	<p>Employees whose employment with the council commenced on or before 5 October 2010 (excluding those employees who accepted a new contract of employment on or after 6 October 2010):</p> <p>Employees who are made redundant by the Council or whose employment is terminated in the interests of the efficient exercise of the Council's functions (and whose Local Government Pension Scheme service is not augmented) be paid lump sum compensation for the loss of their employment which is equivalent to twice the redundancy payment to which they are (or would be entitled if they were declared redundant) after applying the exercise of the discretion referred to in Regulation 5 above.</p> <p>Employees whose contract of employment commences with the Council on or after 6th October 2010, and existing employees who accept a new contract of employment with the Council on or after 6th November</p>	

	To award compensatory added years to a person aged 50 or over with 5 or more years membership (or notional membership) of the LGPS in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment which occurred after 30 <sup>th</sup> September 2006 and before 1 <sup>st</sup> April 2007 (but only if employment had commenced pre 1 <sup>st</sup> October 2006)	11(2)	Employer	A business case, including costings, to be produced. S151 Officer to assess the case and consider whether to refer the application to Resources Committee for determination. The circumstances and merits of each individual case	NEW for BCW policy
--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------	----------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------

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

These Regulations still apply to any Compensatory Added Years previously awarded by a Scheme Employer before 1 April 2007. Scheme employers (other than admission bodies) who made awards of Compensatory Added Years are required to have a policy on the following::

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Date applicable (if reviewed post 01/04/14)</u>
Abatement during re-employment	Whether and to what extent to reduce or suspend the member's annual compensatory added years payment during any period of re-employment in local government	17	Employer	Delegate to S151 Officer	
Reduction following cessation of re-employment	How to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment in local government	19	Employer	Delegate to S151 Officer	
Apportionment of survivor benefit	How to apportion any surviving spouse's or civil partner's annual compensatory added years payment where the deceased person is survived by more than one spouse or civil partner	21(4)	Employer	Delegate to Head of Resources	
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 compensatory added years payments should continue to be paid	21(7)	Employer	Delegate to Head of Resources	
	If, under the preceding decision, the authority's policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual compensatory added years payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation	21(5)	Employer	Delegate to Head of Resources	

	How it will decide to whom any children's annual compensatory added years payments are to be paid where children's pensions are not payable under the LGPS (because the employee had not joined the LGPS) and, in such a case, how the annual added years will be apportioned amongst the eligible children	25(2)	Employer	Delegate to Head of Resources	
	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 partners annual CAY payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or cohabitation 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	Delegate to Head of Resources	



**Discretions under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011**

Scheme employers (other than admission bodies) must have a policy on:

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Date applicable (if reviewed post 01/04/14)</u>
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	To be considered and determined by Resources Committee/ Council according to the circumstances and merits of each individual case.	NEW for BCW policy
	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	To be considered and determined by Resources Committee/ Council according to the circumstances and merits of each individual case.	NEW for BCW policy
	Determine whether person continues to be entitled to an injury allowance awarded under regulation 3(1).	3(2)	Employer	To be considered and determined by Resources Committee/ Council according to the circumstances and merits of each individual case.	NEW for BCW policy
	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	To be considered and determined by Resources Committee/ Council according to the circumstances and merits of each individual case.	NEW for BCW policy
	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	To be considered and determined by Resources Committee/ Council according to the circumstances and merits of each individual case.	NEW for BCW policy
	Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1).	4(2)	Employer	To be considered and determined by Resources Committee/ Council according to the circumstances and merits of each individual case.	NEW for BCW policy
	Whether to suspend or discontinue injury allowance awarded under regulation 4(1) 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	To be considered and determined by Resources Committee/ Council according to the circumstances and merits of each individual case.	NEW for BCW policy

Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a reg 3 payment was being made at date of cessation of employment but reg 4 does not apply.	6(1)	Employer	To be considered and determined by Resources Committee/ Council according to the circumstances and merits of each individual case.	NEW for BCW policy
Determine amount of any injury allowance to be paid under regulation 6(1)	6(1)	Employer	To be considered and determined by Resources Committee/ Council	NEW for BCW policy
Determine whether and when to cease payment of an injury allowance payable under regulation 6(1)	6(2)	Employer	To be considered and determined by Resources Committee/ Council	NEW for BCW policy
Whether to grant an injury allowance to the spouse, civil partner, nominated 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	To be considered and determined by Resources Committee/ Council according to the circumstances and merits of each individual case.	NEW for BCW policy
Determine amount of any injury allowance to be paid under regulation 7(1)	7(2) and 8	Employer	To be considered and determined by Resources Committee/ Council	NEW for BCW policy
Determine whether and when to cease payment of an injury allowance payable under regulation 7(1)	7(3)	Employer	To be considered and determined by Resources Committee/ Council	NEW for BCW policy

**Key to Regulation References (in Bold):**

- the **Local Government Pension Scheme Regulations 2013** [prefix R]
- the **Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) 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]