

Report of Assistant Director

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 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 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 revised discretions are identified, as are revisions to how the council proposes to exercise some discretions; others are existing approved discretions.

4 Proposed action:**4.1 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 discretions were last considered as a whole by the resources committee on 25 June 2014.

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 Changes have been recommended to the operation of some of the discretions. This will provide greater clarity to scheme members and deferred scheme members. The proposals will reduce the number of discretions whose application will be determined on the individual merits of the case. A number of discretions remain to be determined by named officers. It is recommended that a register of applications is kept giving brief details of the reason for the application; the discretion the application relates to; and a brief summary of the outcome. This will ensure a consistent approach is maintained.
- 6.3 The changes being recommended to the discretions are also seeking to move the council towards greater alignment with our neighbours in the North Northamptonshire area, in terms of the application of our discretions.
- 6.4 Other minor changes to the discretions are in respect of job titles which have changed since 2014.

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 (i.e. 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 base and understanding of the payback period.

9 Risk analysis

Nature of risk	Consequences if realised	Likelihood of occurrence	Control measures
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 ensure that pension discretions are applied more consistently, with less actions being taken on the individual merits of a case. This will provide open, transparent and equitable operation of the discretions.

13 Author and contact officer

Karen Denton, Assistant Director

14 Consultees

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Senior Management Team
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15 Background papers

There are no unpublished background papers to this report.

Discretions Policy for: The Borough Council of Wellingborough

Date: 20 November 2018

This policy confers no contractual rights. The Borough Council of Wellingborough retains the right to change the policies at any time without prior notice or consultation. Only the policy which is current at the time a relevant event occurs to an employee/scheme member will be the one applied to that employee/member.

Discretions have been colour coded -

- Compulsory** - you must formulate, publish and keep under review a policy on these discretions
- Recommended** - there is no requirement for you to publish a written policy on these discretions, however as these matters arise fairly frequently it would perhaps be appropriate for you to do so in order that members can be clear on your policy on these matters
- Less Common** - 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 = LGPS Regulations 2013 and

TP = LGPS (Transitional Provisions, Savings and Amendments) Regulations 2014

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Status</u>	<u>Previous Policy if changed/ explanation</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 £6,822 p.a - figure at 1 April 2018)	R31	Employer	The council does not award additional pension.	Minor revision to wording	Mirrors NCC discretions. The council would not grant additional pension.
Shared cost APCs	Whether, where an active Scheme member wishes to purchase extra annual pension of up to £6,822 (figure at 1 April 2018) 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 does not make such voluntary contributions.	Revised	Mirrors NCC discretions now. 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.
	Whether to extend 30 day deadline for member to elect for a shared cost APC upon return from a period of absNCCe from work with permission with no pensionable pay (otherwise than because of illness or injury, relevant child-related leave or reserve forces service leave)	R16(16)	Employer	The council will only extend the 30 day deadline in specific circumstances (e.g. purchasing of additional leave) and on a case by case basis where there are considered to be reasonable grounds for allowing a member to have more time to make an election.	New	Mirrors NCC discretions.

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Status</u>	<u>Previous Policy if changed/ explanation</u>
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 will consider flexible retirement requests on a case by case basis, only in circumstances where the council invites employees to make an application due to workforce transition requirements. No uninvited applications from employees will be considered.	Revised	Mirrors NCC discretions now. The council would accept applications for flexible retirement on a case by case basis an may agree to the member receiving immediate payment of all or part of their retirement pension where there is 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.
	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)	The council will consider each case on its merits. Section 151 Officer to consider whether to refer the application to Resources Committee for determination.	Revised	Mirrors NCC discretions now. S151 Officer to consider whether to refer the application to Resources Committee for determination.
	Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31 March 2014 membership)	R30(8)	Employer (or Admin. Authority where Employer has become defunct)	The council will consider each case on its merits. Section 151 Officer to consider whether to refer the application to Resources Committee for determination.	Revised	Mirrors NCC discretions now. S151 Officer to consider whether to refer the application to Resources Committee for determination.
85 Year Rule	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)	The council will not "switch on" the 85 year rule.	Revised	Mirrors NCC discretions now. S151 Officer to consider whether to refer the application to Resources Committee for determination.
Waive Reduction	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) on a) 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) 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 c) 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) 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	TP3(1), TPSch 2 para 2(1), B30(5) & B30A(5)	Employer (or Admin. Authority where Employer has become defunct)	The council will consider waiving on a case by case basis any actuarial reduction for active members who wish to retire from age 55 onwards on compassionate grounds. The council will not waive any actuarial reduction for deferred members on compassionate grounds.	Revised	Mirrors NCC discretions now. S151 Officer to consider whether to refer the application to Resources Committee for determination.

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Status</u>	<u>Previous Policy if changed/ explanation</u>
	Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31/3/14 membership)	R30(8)	Employer (or Admin. Authority where Employer has become defunct)	The council will waive in whole any actuarial reduction for active members who wish to retire from age 55 onwards. Compassionate grounds are defined as where an active employee 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.	Revised	Mirrors NCC discretions now. S151 Officer to consider whether to refer the application to Resources Committee for determination.
Extend APC deadline	Whether to extend 30 day deadline for member to elect for a shared cost APC upon return from a period of absNCCe from work with permission with no pensionable pay (otherwise than because of illness or injury, relevant child-related leave or reserve forces service leave)	R16(16)	Employer	The council will only extend the 30 day deadline in specific circumstances (e.g. purchasing of additional leave) and on a case by case basis where there are considered to be reasonable grounds for allowing a member to have more time to make an election.	New	Mirrors NCC discretions.
Variable employer contributions APC	Whether, how much, and in what circumstances to contribute to a share cost APC scheme	R16(2)(e) & R16(4)(d)	Employer	The council does not make such voluntary contributions.	Revised	Mirrors NCC discretions now. 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.
Shared cost AVCs	Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements.	R17(1) & definition of SCAVC in RSch 1	Employer	The council will not contribute to any shared cost AVC.	Revised (scheme wording changed too)	Mirrors NCC discretions now. S151 Officer to consider whether to refer the application to Resources Committee for determination.
	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		Removed	
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	The council does not extend the normal time limits.	Revised	Mirrors NCC discretions now. Delegate to S151 Officer.
Joining LGPS membership	Whether to extend the 12 month option period for a member to elect that post 31 March 2014 deferred benefits should not be aggregated with a new employment	R22(8)(b)	Employer	The council does not extend the normal time limits.	Revised	Mirrors NCC discretions now. Delegate to S151 Officer.
	Whether to extend the 12 month option period for a member to elect that post 31 March 2014 deferred benefits should not be aggregated with an ongoing concurrent employment	R22(7)(b)	Employer	The council does not extend the normal time limits.	Revised	Mirrors NCC discretions now. Delegate to S151 Officer.

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Status</u>	<u>Previous Policy if changed/ explanation</u>
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.	Unchanged	
Regular lump sum payments	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.	Revised	Mirrors NCC discretions now. Delegate to S151 Officer.
Pensionable Pay	Where in the Employer's opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments) in the 3 months (or 12 weeks if not paid monthly) preceding the commencement of Assumed Pensionable Pay (AP)), is materially lower than the level of pensionable pay the member would have normally received, decide whether to substitute a higher level of pensionable pay having had regard to the level of pensionable pay received by the member in the previous 12 months.	R21(5A) & R21(5B)	Employer	Delegate to S151 Officer.	New discretion 2018	
Deferred benefits	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 benefits should be aggregated with a new employment	TP10(6)	Employer	Delegate to S151 Officer.	New discretion 2018	
	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.	Unchanged	
	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	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.	Scheme wording changed	
	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 Director of Resources in consultation with S151 Officer.	Revised	Delegate to Head of Resources in consultation with S151 Officer.
	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.	TP12(6)	Employer (or Admin. Authority where Employer has become defunct)	Delegate to Director of Resources.	Revised	Delegate to Head of Resources.
	Determine whether person in receipt of Tier 3 ill health pension has started gainful employment	R37(3) & (4)	Employer	Delegate to Director of Resources.	Revised	Delegate to Head of Resources.

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Status</u>	<u>Previous Policy if changed/ explanation</u>
	Whether to recover any overpaid Tier 3 pension following commencement of gainful employment	R37(3)	Employer	Delegate to Director of Resources.	Revised	Delegate to Head of Resources.
	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)	Delegate to Director of Resources.	Revised	Delegate to Head of Resources.
	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)	Delegate to Director of Resources.	Revised	Delegate to Head of Resources.
	Whether to extend six month period to lodge a stage one IDRPs appeal	R74(4)	Adjudicator making stage one IDRPs decision	Delegate to Director of Resources in consultation with S151 Officer.	Revised	Delegate to Head of Resources in consultation with S151 Officer.
	Decide procedure to be followed by adjudicator when exercising stage one IDRPs functions and decide the manner in which those functions are to be exercised	R74(6)	Adjudicator making stage one IDRPs decision	Delegate to Director of Resources in consultation with S151 Officer.	Revised	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 (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	Delegate to Director of Resources.	Revised (scheme wording changed too)	Delegate to Head of Resources.
	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	Delegate to Director of Resources in consultation with S151 Officer.	Revised	Delegate to Head of Resources in consultation with S151 Officer.
	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	Delegate to S151 Officer.	Unchanged	
	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 Director of Resources.	Revised	Delegate to Head of Resources.
	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 R95 should deprive the member or the member's surviving spouse or civil partner of any GMP entitlement	R95	Employer	Delegate to Director of Resources.	Revised	Delegate to Head of Resources.
	Agree to bulk transfer payment	R98(1)(b)	Employer / Admin. Authority / trustees of new scheme	Delegate to S151 Officer.	Unchanged	
	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.	Unchanged	
	To whom to offer membership of the LGPS (designation bodies)	R3(1)(b) & RSch 2, Part 2	Employer	Delegate to Director of Resources.	Revised	Delegate to Head of Resources.

Which employees to designate for membership (Admission bodies)	R3(1)(c) & R4(2)(b)	Employer	Delegate to Director of Resources.	Revised	Delegate to Head of Resources.
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Discretions in relation to Scheme Members (excluding Councillor Members) who ceased active membership on or after 1.4.08 and before 1.4.14. B = LGPS (Benefits, Memberships and Contributions) Regulations 2007

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Status</u>	<u>Previous Policy if changed/ explanation</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)		Discretion removed	
Waive reduction	Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 and B30A	B30A(5), TPSch 2, para 2(1)	Employer (or Admin. Authority where Employer has become defunct)	The council will consider waiving on a case by case basis any actuarial reduction for active members who wish to retire from age 55 onwards on compassionate grounds. The council will not waive any actuarial reduction for deferred members on compassionate grounds.	Revised (and Regulation categories have changed)	Mirrors ENC discretions now. Members and deferred beneficiaries be permitted to retire from age 55 onwards on compassionate grounds without actuarial reduction in benefits. Compassionate grounds 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
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)		Discretion removed	
85 year rule	Whether to switch on the 85 year rule for a pensioner member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60	TPSch 2, para1(2) & 1(1)(C)		The council will not "switch on" the 85 year rule.	Revised	Mirrors ENC discretions now. S151 Officer to consider whether to refer the application to Resources Committee for determination.

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Status</u>	<u>Previous Policy if changed/ explanation</u>
	Whether to extend the 12 month option period for aggregation of deferred benefits	A16(4)(b)(ii)		The council allow an option to combine previous local government service if applicants meet the following criteria: - the employee did not leave the previous public sector employer due to redundancy, ill-health retirement or dismissal - the employee has more than 10 years to work before the age of 60 - the employee has an adequate reason for making the request outside the 12 month transfer period. 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.	Unchanged	
	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	Unchanged	
	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	Unchanged	
	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.	Unchanged	
	No right to return of contributions where 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	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.	Revised (Regulation categories have changed)	
	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	Please see note from the LGA on tab A49	
	Whether to extend six month period to lodge a stage one IDR appeal	A58(7)(b)	Person making stage one IDR decision	Delegate to Director of Resources in consultation with S151 Officer.	Revised	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 (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)	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.	Revised (scheme wording has been changed)	
	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	Unchanged	

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Status</u>	<u>Previous Policy if changed/ explanation</u>
	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 circumstances and merits of each individual case will be considered.	Unchanged	
	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.	Unchanged	
	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	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.	Revised (scheme wording has been changed)	
	Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending 31 st March in the 10 years prior to leaving	B11(2)	Employer		Now been removed	
	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 Director of Resources.	Revised	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 Director of Resources.	Revised	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>Status</u>	<u>Previous Policy if changed/ explanation</u>
Employer consent retirement	Grant an application for early payment of deferred benefits on or after age 50 and before age 55.	31(2)	Employer	The council will not grant such applications for members or deferred members.	Revised (scheme wording has been changed)	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 case will be considered. This will not apply to deferred members.
85 year rule	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. Note: TPSch2, para 2(2) does not reference para 1(1)(f) so there is strictly speaking no requirement to publish a policy under this regulation or R60. LGSS recognises this is a regulatory omission and the employer should publish a policy accordingly	TPSch 2, para 1(2) & 1(1)(f) & R60	Employer	The council will not "switch on" the 85 year rule.	Revised (scheme wording has been changed)	
Waive reduction	Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early	31(5)	Employer	The council will consider waiving on a case by case basis any actuarial reduction for active members who wish to retire from age 55 onwards on compassionate grounds. The council will not waive any actuarial reduction for deferred members on compassionate grounds.	Revised (scheme wording has been changed)	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. 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.
Employer consent at NRD for optant	Optants out only to get benefits paid from Normal Retirement Date if employer agrees	31(7A)	Employer	Delegate to Director of Resources.	Revised (scheme wording has been changed)	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		Now been removed	

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Status</u>	<u>Previous Policy if changed/ explanation</u>
	Issue a certificate of protection of pension benefits where member fails to apply for one (pay cuts / restrictions occurring pre 1.4.08)	23(4)	Employer	Delegate to Section 151 Officer.	Revised (scheme wording has been changed)	
	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 Section 151 Officer.		
	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	34(1)(b)	Employer	Delegate to Director of Resources.	Revised (scheme wording has been changed)	Delegate to Head of Resources.
	Consent to a member's former employer assigning to the new employer rights under any SCAVC life assurance policy	71(7)(a)	Employer	Delegate to Director of Resources.	Revised (scheme wording has been changed)	Delegate to Head of Resources.
	No right to return of contributions where 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.	88(2)	Employer	Delegate to Section 151 Officer.	Revised (scheme wording has been changed)	
	Employer may deduct contributions from a councillor's pay or reserve forces pay	89(1) & (2)	Employer	Delegate to Section 151 Officer.	Revised (scheme wording has been changed)	
	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 Section 151 Officer.	See LGA notes on tab Reg 92	
	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)	111(2) & (5)	Employer	Delegate to Director of Resources.	Revised (scheme wording has been changed)	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	112(1)	Employer	Delegate to Section 151 Officer.	Revised (scheme wording has been changed)	
	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)	113(2)	Employer	Delegate to Section 151 Officer.	Revised (scheme wording has been changed)	
	Recovery from Fund of financial loss caused by employee, or amount of refund if less.	115(2) & (3)	Employer	Delegate to Section 151 Officer.	Revised (scheme wording has been changed)	

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>Status</u>	<u>Previous Policy if changed/ explanation</u>
Employer consent retirement	Grant an application for early payment of deferred benefits on or after age 50 on compassionate grounds. Note: although the common provisions of the 1997 Transitional provisions regulations do not specify regulation D11(2)(c), their intention was that it should apply to this regulation	D11(2)(c)	Employer	The council will not grant such applications for members or deferred members.	Revised (scheme wording has been changed)	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 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 Section 151 Officer.	Revised (scheme wording has been changed)	

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>Status</u>	<u>Previous Policy if changed/ explanation</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 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 Scheme Services is not augmented) will receive no enhancement to their lump sum compensation for the loss of their employment.</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 30th September 2006 and before 1st April 2007 (but only if employment had commenced pre 1st October 2006)	11(2)	Employer		Now been removed	

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>Status</u>	<u>Previous Policy if changed/ explanation</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 Section 151 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 Section 151 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 Director of Resources.		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 Director of Resources.		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 Director of Resources.		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 Director of Resources.		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 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	Delegate to Director of Resources.		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>Status</u>	<u>Previous Policy if changed/ explanation</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	The council does not grant any injury allowance.		To be considered and determined by Resources Committee/Council according to the circumstances and merits of each individual case.
	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	The council does not grant any injury allowance.		To be considered and determined by Resources Committee/Council according to the circumstances and merits of each individual case.
	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	The council does not grant any injury allowance.	Revised (scheme wording has been changed)	To be considered and determined by Resources Committee/Council according to the circumstances and merits of each individual case.
	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	The council does not grant any injury allowance.		To be considered and determined by Resources Committee/Council according to the circumstances and merits of each individual case.
	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	The council does not grant any injury allowance.		To be considered and determined by Resources Committee/Council according to the circumstances and merits of each individual case.
	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	The council does not grant any injury allowance.	Revised (scheme wording has been changed)	To be considered and determined by Resources Committee/Council according to the circumstances and merits of each individual case.
	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	The council does not grant any injury allowance.	Revised (scheme wording has been changed)	To be considered and determined by Resources Committee/Council according to the circumstances and merits of each individual case.
	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	The council does not grant any injury allowance.	Revised (scheme wording has been changed)	To be considered and determined by Resources Committee/Council according to the circumstances and merits of each individual case.
	Determine amount of any injury allowance to be paid under regulation 6(1) (payment of injury allowance following the cessation of employment)	6(1)	Employer	The council does not grant any injury allowance.	Revised (scheme wording has been changed)	To be considered and determined by Resources Committee/Council according to the circumstances and merits of each individual case.
Determine whether and when to cease payment of an injury allowance payable under regulation 6(1) (payment of injury allowance following the cessation of employment)	6(2)	Employer	The council does not grant any injury allowance.	Revised (scheme wording has been changed)	To be considered and determined by Resources Committee/Council according to the circumstances and merits of each individual case.	

<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>	<u>Status</u>	<u>Previous Policy if changed/ explanation</u>
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. <i>The requirement to nominate a cohabiting partner has ceased entirely under these regulations due to the outcome of Elmes v Essex CC high court judgement</i>	7(1)	Employer	The council does not grant any injury allowance.	Revised (scheme wording has been changed)	To be considered and determined by Resources Committee/Council according to the circumstances and merits of each individual case.
Determine amount of any injury allowance to be paid to the spouse, civil partner, nominated co-habiting partner (for awards made on or after 1 April 2008 the requirement to nominate a cohabiting partner has ceased due to the outcome of Elmes v Essex CC high court judgement) or dependent 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	The council does not grant any injury allowance.	Revised (scheme wording has been changed)	To be considered and determined by Resources Committee/Council according to the circumstances and merits of each individual case.
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	The council does not grant any injury allowance.	Revised (scheme wording has been changed)	To be considered and determined by Resources Committee/Council according to the circumstances and merits of each individual case.

