

LOCAL GOVERNMENT PENSION SCHEME PENSIONS DISCRETION POLICY

COMPULSORY DISCRETIONS REQUIRED IN A POLICY STATEMENT

The Authority as an employer is required to include in its policy statement four discretions relating to regulations.

Regulation 12 - Increase total membership of active members (Statutory Instrument 2008 No.2425, 2009 No.3150 & 2011 NO.561. The local Government Pension Scheme (Benefits, Membership & Contributions) Regulations 2007 as amended by SI 2012/1989.)

This provision permits an employer to increase a member's benefits by awarding additional membership up to a maximum of 10 years to active scheme members.

Extract taken from the Statutory Instrument

1. An employing authority may resolve to increase the total membership of an active member.
2. A member's total additional membership under this regulation (including additional membership in respect of different employments) must not exceed 10 years.
3. If the member leaves his employment for a reason other than redundancy, a resolution under paragraph (1) may only be passed before the relevant date. (SI 2008/2425)
4. If the reason for the member leaving his employment is redundancy, a resolution under paragraph (1) may be passed at any time in the period of six months beginning with the relevant date but shall be deemed to take effect on the relevant date. (SI 2008/2425)
5. The relevant date is the date on which the member leaves his employment. (SI 2008/2425)
6. "Redundancy" includes leaving employment in the interests of efficiency, or because the member held a joint appointment which has been terminated because the other holder has left it. (SI 2008/2425)

Regulation 13 - Award additional pension (Statutory Instrument 2009 No.3150, 2010 No.2090. & 2011 No.561 The local Government Pension Scheme (Benefits, Membership & Contributions) Regulations 2007 as amended by SI 2012/1989.)

This provision permits an employer to award up to a maximum of £5000 additional annual pension to active scheme members.

Extract taken from the Statutory Instrument

- (1) An employing authority may resolve to award an active member (SI 2010/2090) additional pension of not more than £5000 a year payable from the same date as his pension payable under any other provisions of these Regulations.
- (2) Additional pension may be paid in addition to any increase of total membership resolved to be made under regulations 12. (SI 2009/3150)

Regulation 18 - Flexible Retirement (Statutory Instrument 2008 No.1083, 2010 No.2090. & 2011 No.561. The local Government Pension Scheme (Benefits, Membership & Contributions) Regulations 2007 as amended by SI 2012/1989.)

This provision permits an employer to:

- 1) allow a scheme member aged 55 and over, having reduced their hours or the grade, to receive all or part of his benefits and continue working in the reduced capacity.
- 2) waive any reduction that may normally apply due to the early payment of those benefits.

Extract taken from the Statutory Instrument

1. A member who has attained the age of 55 and who, with his employer's consent, reduces the hours he works, or the grade in which he is employed, may make a request in writing to the appropriate administering authority to receive all or part of his benefits under these Regulations, and such benefits may, with his employer's consent, be paid (SI 2008/1083) to him notwithstanding that he has not retired from that employment.
2. If the payment of benefits referred to in paragraph (1) takes effect before the member's 65th birthday, the benefits payable are reduced in accordance with guidance issued by the Government Actuary.
3. But the employer may agree to waive, in whole or in part, any such reduction as is referred to in paragraph (2).
 - 3A. If the payment of benefits referred to in paragraph (1) takes effect after the member's 65th birthday, the benefits payable shall be enhanced in accordance with guidance issued by the Secretary of State. (SI 2010/2090)
4. Subject to paragraph (4A), in (SI 2008/1083) the case of a person who is a member on 31st March 2008, and who makes a request before 31st March 2010, paragraph (1) applies as if "the age of 50" were substituted for "the age of 55".
 - 4A. Paragraph (4) only applies to a member whose employment has been continuous with that same employer throughout that period.(SI 2008/1083)
 - 4B For the purposes of paragraph (4A), the employment of a member who has been the subject of a transfer to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 apply shall be treated as being continuous employment with the transferee employer. (SI 2008/1083)
5. The value of any benefits paid to a member under paragraph (1) shall be taken into account in any subsequent calculation of his benefits under regulation 16, 17, 18, (SI 2010/2090)19, 20, 30 or 31 in accordance with guidance issued by the Government Actuary.(SI 2008/1083)

Regulation 30 - Early Payment of Pension (Statutory Instrument 2008 No.1083, 2010 No.2090. & 2011 No.561. The local Government Pension Scheme (Benefits, Membership & Contributions) Regulations 2007 as amended by SI 2012/1989.)

This provision permits an employer to:

- 1) allow a scheme member (active or deferred) aged between 55 and 60 to receive their accrued benefits early.
- 2) waive any reduction that may normally apply due to the early payment of the benefits.

Extract taken from the Statutory Instrument

1. If a member leaves a local government employment before they are entitled to the immediate payment of retirement benefits (apart from this regulation), once he has attained the age of 55 he may choose to receive payment of them immediately.
2. A choice made by a member aged less than 60 is ineffective without the consent of their employing authority or former employing authority (SI 2008/1083).
3. If the member so chooses, they are entitled to a pension payable immediately calculated in accordance with regulation 29 (SI 2008/1083).
4. Their pension must be reduced by the amounts shown as appropriate in guidance issued by the Government Actuary.
5. A member's employing authority may determine on compassionate grounds that their retirement pension (SI 2008/1083) should not be reduced under paragraph (4).

30A - Choice of payment of pension: pensioner member with deferred benefits

1. Where a member who is treated as a pensioner member with deferred benefits under regulation 20(9) ("a regulation 20(9) member"), has reached the Scheme's normal retirement age, he or she is entitled to immediate payment of his or her retirement pension without reduction.
2. Subject to paragraphs (3) and (4), a regulation 20(9) members may upon reaching the age of 55, choose to receive payment of his or her retirement pension immediately.
3. A choice made by a member aged less than 60 is ineffective without the consent of the member's former employing authority.
4. Subject to paragraph (5), the member's pension must be reduced by the amounts shown as appropriate in guidance issued by the Government Actuary.
5. The member's former employing authority may determine on compassionate grounds that the member's retirement pension should not be reduced under paragraph (4).(SI 2010/2090)

NON-COMPULSORY DISCRETIONS IN A POLICY STATEMENT

There are other discretions that are not compulsory to include in the Policy Statement but are recommended:

Regulation 9 - Contributions payable by active members (Statutory Instrument 208 No.1083, 2010 No.2090 & 2011 No.561. The local Government Pension Scheme (Benefits, Membership & Contributions) Regulations 2007 as amended by SI 2012/1989.)

This provisions permits an employer the discretion to determine how and when the member's contribution rate will be calculated.

Extract taken from the Statutory Instrument

1. Subject to paragraph (9), each active member shall make contributions to the Scheme at the contribution rate from their pension able pay in each employment in which they are an active member. (SI 2008/1083)
2. Subject to paragraph (4) the annual contribution rate to be applied to a person who becomes an active member is determined by their employing authority at the commencement of their membership on the basis of their pension able pay in accordance with the following table. (rates Table as at April 2014)

<i>Band</i>	<i>Range</i>	<i>Contribution Rate</i>
1	£0 to £13,500	5.5%
2	£13,501 to £21,000	5.8%
3	£21,001 to £34,000	6.5%
4	£34,001 to £43,000	6.8%
5	£43,001 to £60,000	8.5%
6	£60,001 to £85,000	9.9%
7	£85,001 to £100,000	10.5%
8	£100,001 to £150,000	11.4%
9	£150,001 or more	12.5%

3. On the first day of the pay period in which 1st April 2009 falls, and on the first day of the pay period in which each subsequent 1st April falls (SI 2010/2090), the figures in the second column of the table in paragraph (2) ("Range") are increased by applying the appropriate increase and rounding the result down to the nearest £100. (SI 2008/1083). (3A) In paragraph (3), "the appropriate increase" means the amount by which the figures would be increased with effect from the first Monday falling on or after 6th April of the relevant year if they were pensions beginning on 1st April 2008 to which the Pensions

(Increase) Act 1971 applied. (SI 2010/2090).

4. (a) Where there has been a permanent material change to the terms and conditions of a member's employment which affect his pensionable pay in the course of a financial year, his employing authority may determine that the contribution rate to be applied in his case is not to be calculated in accordance with paragraph (2).

(b) In such a case, the authority shall inform the member of the contribution rate applicable to him, and the date from which it is to be applied. (SI 2008/1083).
5. Where a member is a part-time employee, his contributions shall be calculated by multiplying the contributions he would have paid had he been a full-time employee (calculated in accordance with paragraph (2)) by the proportion that the number of his weekly hours bears to the number of weekly hours that he would have worked had he been a full-time employee.
6. But a whole time term-time worker (SI 2008/1083) is not a part-time employee for the purposes of this regulation.
7. In this regulation, "term-time worker" means a person whose contract of employment provides for a regular pattern of periods of work and periods of no work so as to result in a recognisable cycle of work consisting of one year (but is not limited to persons working in educational establishments).
8. The amount of an employee's pensionable pay for the purposes of this regulation is calculated in accordance with regulation 4.
9. In any event, an active member does not make any contributions on and after (SI 2010/2090) the day before his 75th birthday.
10. A person who is an active member in more than one employment must make contributions for each of those employments at the rate applicable to the sum of his pensionable pay in each such employment (SI 2008/1083).
11. For this regulation any reduction in pensionable pay by reason of the actual or assumed enjoyment by the member of any statutory entitlement during any period away from work shall be disregarded.

Regulation 22(8)- Membership Aggregation (Statutory Instrument 2008 No.3245, 2010 No. 2090 & 2011 No.561. The local Government Pension Scheme (Administration) Regulations 2007 as amended by SI 2012/1989.)

This provision permits an employer the discretion to extend the statutory 12 month window within which a scheme member can elect to aggregate deferred LGPS benefits into their current employment.

Extract taken from the Statutory Instrument

Re-employed and rejoining deferred members

1. Where a deferred member becomes an active member in an employment ("the new employment") before becoming entitled to the immediate payment of retirement benefits, he may, by giving notice in accordance with paragraph (4), choose to have his membership in any former employment aggregated with his membership in the new employment.
2. Where he has ceased to be an active member more than once, he may choose to aggregate under paragraph (1)
 - (a) his membership at each of the times he so ceased; or
 - (b) only such periods of membership as are specified in the notice.
3. Before the expiry of the period mentioned in paragraph (4)(b) or the expiry of the date mentioned in paragraph (4)(bb), a member may choose to aggregate any period of former membership. (SI 2010/2090).
4. Notice for the purposes of paragraph (1) must be given in writing
 - (a) while the deferred member is an active member in the new employment;
 - (b) before the expiry of—
 - (i) the period of 12 months beginning with the date on which he became an active member in that employment, or
 - (ii) such longer period as his employer may allow;
 - (bb) where sub-paragraph (b) does not apply, on or before 1st October 2011; (SI 2010/2090)
 - (c) to his appropriate administering authority in that employment; and
 - (d) if the appropriate fund for membership in the new employment is different from that for any former employment to which the notice relates, to the appropriate administering authority in that former employment.
5. References in this regulation to former membership include all membership which the member was entitled to count as membership immediately before he ceased his former active membership.
6. Where a person ceases to be an active member in one employment and immediately becomes an active member in another employment, he shall be treated for the purposes of this regulation as if he were a deferred member as respects the first employment, despite never having ceased to be an active member of the Scheme.
7. But paragraph (6) does not apply to a member who is the subject of
 - (a) a transfer to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("the TUPE Regulations") apply; or
 - (b) a transfer which is treated as if it were a relevant transfer within the meaning of regulations 2(1) and 3 of the TUPE Regulations, notwithstanding regulation 3(5) of those Regulations. (SI2008/3245)

22(2) - Increase time limit for active members to pay absence Contributions (Statutory Instrument 2008 No.3245, 2010 No. 2090 & 2011 No.561. The local Government Pension Scheme (Administration) Regulations 2007 as amended by SI 2012/1989.)

This provision permits an employer the discretion to extend the 30 days time limit for a member who has been away from work as a result of maternity, paternity or adoption leave, industrial action or unpaid leave of absence to apply to pay voluntary pension contributions to prevent any gap in membership.

Extract taken from the Statutory Instrument

1. To make contributions under regulation 18(5)(maternity, paternity or adoption related absence), 20 (Trade Dispute) or 21(6)(a)(First 30 days of unpaid absence) a person must apply to his employing authority in writing before the expiry of a period of 30 days beginning with the day.
 - (a) on which he returns to work, if he returns to work following the absence; or
 - (b) on which he ceases to be employed, if he ceases to be employed by that authority without returning to work.
2. In either case, the authority may allow a longer period.
3. A person's personal representatives may make an application under paragraph (1) if the person has died without making an application.

Regulation 17 - Shared Cost AVC Scheme (Statutory Instrument 2008 No.3245, 2010 No. 2090 & 2011 No.561. The local Government Pension Scheme (Administration) Regulations 2007 as amended by SI 2012/1989.)

This provision permits an employer to establish a SCAVC arrangement wherein costs are shared on a basis agreed by the Authority.

Extract taken from the Statutory Instrument

1. An active member may elect to pay additional voluntary contributions ("AVC's") into a scheme established under contract between his appropriate administering authority and a body approved for the purposes of the Finance Act 2004 ("an additional voluntary contributions arrangement").
2. The additional voluntary contributions arrangement must be a money purchase pension scheme registered in accordance with the Finance Act 2004 and administered in accordance with that Act and the Pensions Act 2004.
3. Where the member's employing authority contributes to the scheme, the additional voluntary contributions arrangement is to be known as a shared cost additional voluntary contributions arrangement and contributions to it as "SCAVCs".
4. Such AVCs or SCAVCs are in addition to any other contributions the member may pay under regulation 23(ARCS).
5. Where the member elects to pay AVCs or SCAVCs, he must first
 - (a) notify his employing authority in writing; and
 - (b) in the notification specify
 - (i) the percentage of his pensionable pay he wishes to pay or the amount he wishes to pay on his usual pay days from his pay,
 - (ii) whether he wishes any of his AVCs or SCAVCs to be used to provide benefits payable on his death, and
 - (iii) if he does, the proportion to be so used.
6. A member may
 - (a) vary
 - (i) the amount of his AVCs or SCAVCs, or
 - (ii) the proportion of them to be used to provide benefits payable on his death; or
 - (a) stop paying AVCs or SCAVCs.
7. Where he wishes to do so, he must first notify his employing authority in writing.
8. An active member may, by notifying his administering authority in writing, transfer into his additional voluntary contributions arrangement constituted under this regulation the accumulated value of any other additional voluntary contributions arrangement to which he has subscribed.
9. An election to pay AVCs or SCAVCs may be made in respect of each employment in respect of which a person is a member.
10. The maximum a person may specify under paragraph (5)(b)(i) or notify under paragraph (7) as the varied amount in respect of each employment is 50 per cent of the pensionable pay of that employment or an amount equal to 50 per cent of the pensionable pay of that employment.

Regulation 91, 92 & 93 - Forfeiture of Pension Rights (Statutory Instrument 2008 No.3245, 2010 No. 2090 & 2011 No.561. The local Government Pension Scheme (Administration) Regulations 2007 as amended by SI 2012/1989.)

This provision permits an employer the discretion to allow to forfeit all or part of a scheme member's pension benefits in case of conviction of a criminal offence, negligent or fraudulent act.

Extract taken from the Statutory Instrument

1. A person is not entitled to a repayment under regulation 46 (right to return of contributions less than 3 months service) if
 - (a) he becomes a member again within one month and one day;
 - (b) he left his employment because of
 - I. an offence of a fraudulent character, or
 - II. grave misconduct,
 in connection with his employment; (SI 2010/2090)
 - (c) regulation 79(2) (right to payment out of fund authority's pension fund) applies; or (SI 2010/2090)
 - (b) the person continues as an active member in another employment held concurrently with the employment in which that person has ceased to be an active member. (SI 2010/2090)
2. But where paragraph (1)(b) applies, the employing authority may direct the payment out of the appropriate fund to him or, in a case of an offence of a fraudulent character, to him or to his spouse, civil partner, nominated cohabiting partner or any dependant of his, of a sum equal to all or part of his contributions.
3. A person is not entitled to a repayment under regulation 46(1) if a transfer value has been credited to the appropriate fund for him.
4. A person ceases to be entitled to such a repayment if he returns to local government employment before receiving it.

Regulation 74– Appointment of Specified Person to deal with Internal Disputes (Statutory Instrument 2008 No.3245, 2010 No. 2090 & 2011 No.561. The local Government Pension Scheme (Administration) Regulations 2007 as amended by SI 2012/1989.)

Responsibility for determination under the first stage of the Internal Disputes Resolution Procedure rests with a 'specified person' appointed by the employer.

Extract taken from the Statutory Instrument

1. Every person whose rights or liabilities are affected by a decision under regulation 55 (First Instance decisions General) must be notified of it in writing by the body which made it as soon as is reasonably practicable.
2. A notification of a decision that the person is not entitled to a benefit must contain the grounds for the decision.
3. A notification of a decision about the amount of a benefit must contain a statement showing how it is calculated.
4. Every notification must contain a conspicuous statement giving the address from which further information about the decision may be obtained.
5. Every notification must also—
 - (a) refer to the rights available under regulations 58 (Applications to resolve disagreements) and 60 (Reference of disagreement for reconsideration by appropriate administering authority);
 - (b) specify the time limits within which the rights under those regulations may be exercised; and
 - (c) specify the job title and the address of the person to whom applications under regulation 58 may be made.

Regulation 100– Inward Transfer of Pension Rights

This provision allows an employer the discretion to extend the statutory 12 month window within which a scheme member can elect to transfer benefits from another scheme into their current employment.

Extract taken from the Statutory Instrument

1. If a person who becomes an active member has relevant pension rights, he may request his fund authority to accept a transfer value for some or all of those rights from the relevant transferor.
2. Relevant pension rights are
 - (a) accrued rights under a registered scheme other than rights to benefits under the scheme which are attributable (directly or indirectly) to a pension credit; and
 - (b) accrued rights under a European pensions institution as defined in section 293(8) of the Pensions Schemes Act 2004. (SI 2008/2425)
3. Accrued rights under a registered scheme include rights to preserved benefits and rights appropriately secured under section 19 of the 1993 Act. (SI 2008/2425)
4. For the purposes of this regulation and regulation 84, the fund authority, in relation to a transferring person, is the body maintaining the pension fund of the Scheme to which he is contributing.
5. The relevant transferor is the trustees or managers of the scheme under which the transferring person's relevant pension rights arise.
6. But the relevant transferor for the rights specified in paragraph (3) is the trustees or managers of the scheme, or the insurance company, to which a payment in respect of his accrued rights has been made.
7. A request from a transferring person under paragraph (1) must be made by notice in writing.
8. That notice must be given before the expiry of the period of 12 months beginning with the date he became an active member (or such longer period as his employer may allow).
9. Where a request under paragraph (1) is duly made the fund authority may accept the transfer value and credit it to its pension fund.

Regulation 31 - Early Payment of Pension – Ill Health (Statutory Instrument 2008 No.1083, 2010 No.2090, 2011 No.561 & 2012 No.1989 The local Government Pension Scheme (Benefits, Membership & Contributions) Regulations 2007 as amended by SI 2012/1989.)

This provision permits an employer the discretion to:

- 1) allow a scheme member who has had their tier 3 ill-health benefits suspended put back into payment before their 60th birthday.
- 2) waive any reduction that may normally apply due to the early payment of the benefits.

Extract taken from the Statutory Instrument

1. This regulation applies to:

a member who has left his or her employment before he or she is entitled to the immediate payment of retirement benefits (apart from this regulation), or
a member who has left his or her employment and is a pensioner member with deferred benefits under regulation 20(9) (Early Leavers through ill health who have had their payments discontinued)

2. Subject to paragraphs (3) and (4), if a member to whom paragraph (1a) applies becomes permanently incapable of discharging efficiently the duties of that employment because of ill-health or infirmity of mind or body, the member may ask to receive payment of their retirement benefits whatever the members age.
3. A request under paragraph (2) must be made to the member's former employing authority or appropriate administering authority where the member's former employing authority has ceased to be a scheme employer.
4. Before determining whether to agree to a request under paragraph (2), the member's former employing authority or appropriate administering authority as the case may be, must obtain a certificate from an IRMP (*Independent Registered Medical Practitioners qualified in Occupational Health Medicine*) as to whether in the IRMP's opinion the member is suffering from a condition that renders the member permanently incapable of discharging efficiently the duties of that employment because of ill-health or infirmity of mind or body and, if so, whether as a result of that condition the member has a reduced likelihood of being capable of undertaking any gainful employment before reaching normal retirement age, or for at least three years, whichever is the sooner.
5. In the case of a member to whom paragraph (1b) applies, if the member becomes permanently incapable of undertaking any gainful employment, the member may ask to receive payment of their retirement benefits, whatever the member's age.
6. A request under paragraph (5) must be made to the member's former employing authority or appropriate administering authority where the member's former employing authority has ceased to be a Scheme employer.
7. Before determining whether to agree to a request under paragraph (5), the member's former employing authority or appropriate administering authority as the case may be, must obtain a certificate from an IRMP as to whether in the IRMP's opinion the member is suffering from a condition that renders the member permanently incapable of undertaking any gainful employment
8. In this regulation, "gainful employment", "IRMP" and "permanently incapable" have the meaning as given to those expressions by regulation 20(14). (SI 2011/561).