

List of employer discretions

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1. Introduction

The guide is for employers in Scotland.

It sets out a list of discretions under the Local Government Pension Scheme (LGPS) (Scotland) Regulations and the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998.

We assume that readers have at least a basic understanding of the LGPS.

Employers should, in the first instance, clarify any uncertainties with the administering authority.

2. How to use the guide

The guide lists the discretions in [section four](#). The discretions are grouped by topic, such as retirements or transfers. [Section three](#) contains a quick reference look up.

For certain discretions, employers must follow specific rules, including having a written policy statement. These rules also outline the procedures for creating, publishing and reviewing the policy, including considerations employers must take into account. For other discretions, there are no such specific rules. However, to promote strong governance, it is recommended that employers still maintain a written policy statement. Each discretion includes a link to further information in [section five](#), outlining any specific rules relevant to that discretion.

In the guide, we refer to different regulations, which are abbreviated as follows:

- The Local Government Pension Scheme (Scotland) Regulations 2018 – ‘2018 Regulations’
- The Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 – ‘2014 Transitional Regulations’
- The Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 – ‘2008 Benefit Regulations’
- The Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 – ‘2008 Administration Regulations’
- The Local Government Pension Scheme (Scotland) Regulations 1998 – ‘1998 Regulations’
- The Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 1998 – ‘1998 Transitional Regulations’

- The Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 – ‘1998 Discretionary Regulations’
- The Local Government Superannuation (Scotland) Regulations 1987 – ‘1987 Regulations’.

You can access these regulations on the [Scheme regulations](http://www.scotlgpsregs.org) page of www.scotlgpsregs.org.

3. Quick look-up reference guide to discretions

Table 1 – Provides a quick look-up reference guide to the employer discretions. Further information on each discretion is shown in section four.

| Topic | Decision |
|--|--|
| Additional pension | <ul style="list-style-type: none"> • Whether to award additional pension • How to pay the cost |
| Additional pension contributions – shared cost | <ul style="list-style-type: none"> • Whether to share the cost • Whether to extend the 30-day deadline for applications to buy back lost pension |
| Additional voluntary contributions – shared cost (SCAVC) | <ul style="list-style-type: none"> • Whether to contribute to a SCAVC |
| Additional voluntary contributions | <ul style="list-style-type: none"> • Whether to allow a late election to use AVCs to buy additional LGPS final salary membership |
| Administering authority substitution | <ul style="list-style-type: none"> • Whether to apply to change the administering authority |
| Admission agreements | <ul style="list-style-type: none"> • Which employees, or groups of employees, to designate as eligible for LGPS membership |
| Appeals | <ul style="list-style-type: none"> • Who will decide stage one internal dispute resolution procedure (IDRP) appeals • Whether to accept late stage one IDRP appeals |
| Aggregation | <ul style="list-style-type: none"> • Whether to allow a late election to keep LGPS benefits separate • Whether to allow a late election to aggregate LGPS benefits • Whether to allow a late election to keep concurrent LGPS benefits separate |
| Assumed pensionable pay (APP) | <ul style="list-style-type: none"> • When calculating APP, whether to substitute pensionable pay received with a higher or lower figure |
| Certificate of protection | <ul style="list-style-type: none"> • Whether to issue a certificate where the member did not apply for it within 12 months of the reduction or restriction |

| Topic | Decision |
|---------------------------------|---|
| Compensatory added years (CAYs) | <ul style="list-style-type: none"> • Whether to award CAYs • Where children's LGPS pension is not payable, who to pay children's CAYs to, and how to apportion them if there is more than one child • How to apportion survivor CAYs pension where there is more than one surviving spouse / civil partner • Whether to allow survivor CAYs pension to remain payable on subsequent marriage / civil partnership / cohabitation (pre-April 98 leavers) • What to pay where the partner of a subsequent relationship is also entitled to a survivor CAYs pension (pre-April 98 leavers) • Whether to restart a survivor CAYs pension from the end of subsequent relationship (pre-April 98 leavers) • What intervals to pay CAYs pensions (regular payments) • How to recover CAYs payments made in error • Whether to ask the administering authority to pay CAYs on the employer's behalf |
| Double entitlement | <ul style="list-style-type: none"> • Under which regulation the benefits will be paid (1 April 1998–31 March 2009 leavers) |
| Employee contributions | <ul style="list-style-type: none"> • What contribution rate to apply • At what intervals the member must pay their contributions |
| Employer contributions | <ul style="list-style-type: none"> • Whether to request a review of the employer contribution rate between valuations |
| Exiting employers | <ul style="list-style-type: none"> • Whether to request an indicative termination assessment |
| Final pay | <ul style="list-style-type: none"> • Whether to allow earlier periods to be used to calculate final pay for variable time employees whose pay includes fees |

| Topic | Decision |
|------------------------------------|--|
| Forfeiture or recovery / retention | <ul style="list-style-type: none"> • <u>Whether to apply for a forfeiture certificate (post-March 15 leavers)</u> • <u>Whether to forfeit any of the member's rights (post-March 15 leavers)</u> • <u>Whether to recover or retain amount of monetary obligation from the LGPS fund (post-March 15 leavers)</u> • <u>Whether to apply for a forfeiture certificate (pre-April 15 leavers)</u> • <u>Whether to forfeit any of the member's rights (pre-April 15 leavers)</u> • <u>Whether to give an interim payments direction (pre-April 15 leavers)</u> • <u>Whether to recover or retain amount of monetary obligation from the LGPS fund (pre-April 15 leavers)</u> • <u>Whether to require the administering authority to pay an amount from the LGPS fund (pre-April 15 leavers)</u> |
| Gratuities | <ul style="list-style-type: none"> • <u>Whether to pay an ill health lump sum gratuity</u> • <u>Whether to pay a death benefit gratuity</u> • <u>Whether to pay a redundancy gratuity</u> • <u>Whether to pay a further annuity to one or more of their spouse / civil partner / dependants (redundancy gratuity)</u> • <u>Whether to pay a further annuity (redundancy gratuity)</u> • <u>Whether to pay a retirement gratuity</u> • <u>Whether to pay a further annuity (retirement gratuity)</u> |
| Ill health | <ul style="list-style-type: none"> • <u>Choose an independent registered medical practitioner</u> |

| Topic | Decision |
|--|---|
| Injury / disease | <ul style="list-style-type: none"> • <u>Amount of injury allowance and whether to suspend or discontinue if person becomes capable of working again (left employment)</u> • <u>Amount of injury allowance (while pay is reduced)</u> • <u>Amount of injury allowance and the period for which it will be paid (where pay was reduced and as now left)</u> • <u>Amount of injury death benefits</u> • <u>Whether to restore injury death benefits on end of subsequent relationship and if so for what period</u> • <u>Period during which injury death benefit is payable</u> |
| Pensionable pay | <ul style="list-style-type: none"> • <u>Whether to specify in contract the value of any non-cash benefit as being a pensionable emolument</u> |
| Redundancy | <ul style="list-style-type: none"> • <u>Whether to increase redundancy payment</u> • <u>Whether to pay compensation</u> |
| Refunds (member lost right to refund due to conduct) | <ul style="list-style-type: none"> • <u>Whether and to whom to pay an amount (post-March 15 leavers)</u> • <u>Whether to pay member – grave misconduct cases (pre-April 15 leavers)</u> • <u>Whether and to whom to pay an amount – fraud cases (pre-April 15 leavers)</u> |

| Topic | Decision |
|------------|--|
| Retirement | <ul style="list-style-type: none"> • <u>Whether to treat election for early payment under the 2008 Benefit regulations (deferred members who left between 1 April 2009 and 31 March 2015)</u> • <u>Whether to treat election for early payment under the 1998 regulations (deferred members aged between 55 and 60 who left between 1 April 1998 and 31 March 2009)</u> • <u>Whether to consent to election for early payment (deferred members aged between 50 and 55 who left between 1 April 1998 and 31 March 2009)</u> • <u>Whether to treat election for early payment under the 1987 regulations (deferred members aged 55 plus who left before 1 April 1998)</u> • <u>Whether to consent to election for early payment before age 55 (deferred members who left before 1 April 1998)</u> • <u>Whether to waive early payment reductions (deferred members who left between 1 April 2009 and 31 March 2015)</u> • <u>Whether to waive early payment reductions (deferred members who left between 1 April 1998 and 31 March 2009)</u> • <u>Whether to waive early payment reductions (leavers after 31 March 2015)</u> • <u>Whether to use actual date member satisfies the rule of 85 (leavers after 31 March 2015)</u> • <u>Whether to consent to flexible retirement</u> • <u>Whether to waive early payment reductions (flexible retirement cases)</u> |
| Transfers | <ul style="list-style-type: none"> • <u>Whether to treat transfer out as a bulk transfer</u> • <u>Whether to allow late elections to transfer in benefits to the LGPS</u> |

4. List of employer discretions

Table 2 – Sets out information on employer discretions under the LGPS regulations and the 1998 Discretionary Regulations

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---------------------------|---|---|---|---|
| 1 | Additional pension | <ul style="list-style-type: none"> an active member, or a member who was an active member and was dismissed by reason of redundancy, or business efficiency, or whose employment was ended by mutual consent on business efficiency grounds. <p>This does not apply to councillors.</p> | <p>Decide whether to award the member additional pension.</p> <p>If the member is not an active member, you must decide within six months of the employment ending.</p> <p>You cannot award to the member, in total, more than the additional pension limit, which is adjusted every April. For the current limit, see our annual update bulletin published each March on the monthly bulletins page of www.scotlgpsregs.org.</p> | <p>Yes</p> <p>See Note 2.</p> | <p>30(1) and 58(1)(d) of the 2018 Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--|---|---|---------------------------------------|---|
| 2 | Additional pension | A member who you have awarded additional pension. | Decide whether to agree to pay the cost of the award by changing your contribution rate. You must make an additional payment to the LGPS Fund to meet the cost of the award. This can be done either as a lump sum or by changing your employer contribution rate. | No See Note 1 | 61(8) and 63(3) of the 2018 Regulations |
| 3 | Additional Pension Contributions – shared cost (SCAPCs) | An active member applying to pay SCAPCs. This does not apply to applications for SCAPCs to buy back pension lost while on authorised unpaid leave. This also does not apply to councillors. | Decide whether to share the cost. | Yes See Note 2 | 16(2)(e), 16(4)(d) and 58(1)(a) of the 2018 Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--|---|---|---|--------------------------------|
| 4 | Additional Pension Contributions – shared cost (SCAPCs) | <p>An active member applying to pay SCAPCs to buy back lost pension while on authorised unpaid absence.</p> <p>Authorised unpaid absence does not include periods of illness, injury, child-related leave, reserve forces leave or strike. ‘Child related leave’ means ordinary adoption leave, ordinary maternity leave, paternity leave, paid additional adoption leave, paid additional maternity leave, paid shared parental leave, paid additional paternity leave and paid parental bereavement leave.</p> <p>This does not apply to councillors.</p> | <p>Decide whether to extend the 30-day deadline.</p> <p>The member must apply before the expiry of 30 days from returning to work. If the member does not apply by this deadline or within any extended period you allow, they can still buy back the lost pension, but at full cost to them.</p> | <p>No</p> <p>See Note 1</p> | 16(16) of the 2018 Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--|--|--|---|---|
| 5 | Additional voluntary contributions – shared cost (SCAVCs) | <p>An active member applies to pay into a SCAVCs arrangement.</p> <p>This does not apply to councillors.</p> | Decide whether to contribute to a SCAVC arrangement. | <p>No</p> <p>See Note 1</p> | 17(1) of the 2018 Regulations |
| 6 | Additional voluntary contributions (AVCs) | <p>A member who:</p> <ul style="list-style-type: none"> made the AVC election before 30 June 2005, can elect to use AVCs to buy additional LGPS final salary membership, and elects later than 30 days after leaving the Scheme. <p>Normally, the member must elect while an active member or no later than 30 days after leaving the Scheme.</p> | <p>Decide whether to allow the election.</p> <p>You can decide to extend the 30 day election deadline. However, you may not allow an election received after the later of:</p> <ul style="list-style-type: none"> one year before their normal retirement date, or six months after leaving the Scheme. <p>If you are unsure of the member's normal retirement date, check with the administering authority.</p> | <p>No</p> <p>See Note 1</p> | 65(8) and before their revocation on 30 June 2005 65(9)(b) and 65(10) of the 1998 Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---|--|---|------------------------------------|---|
| 7 | Administering authority substitution | A person or a class of persons. | Decide whether to apply to Scottish Ministers to change the administering authority for a person or class of persons. | No See Note 1 | Paragraph 2 of part 1 of schedule 4 to the 2018 Regulations |
| 8 | Admission agreements | An admitted body employee who participates in the LGPS under an admission agreement. | Decide whether to designate the employee, or groups of employees, as eligible for LGPS membership. | No See Note 1 | 3(1)(b) of the 2018 Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|----------------|---|---|---|--|
| 9 | Appeals | <p>A member, or an alternative applicant, who triggers stage one of the internal dispute resolution procedure (IDRP) about a disagreement with the employer in relation to the LGPS.</p> <p>Regulation 69(2) of the 2018 Regulations lists who can be an 'alternative applicant'. This includes prospective members and, in respect of deceased members, their surviving partners and dependents.</p> | <p>Decide who will be the stage one IDRP adjudicator.</p> <p>When notifying members of LGPS decisions, you must:</p> <ul style="list-style-type: none"> inform them about their right to appeal under stage 1 and 2 of the IDRP, including the time limits for doing so, and specify the job title and address of the person to whom IDRP applications can be made. | <p>No</p> <p>See Note 1</p> | <p>68(5)(c) of the 2018 Regulations</p> <p>23 of the 2014 Transitional Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|----------------|---|---|------------------------------------|--|
| 10 | Appeals | <p>A member, or an alternative applicant, who applies for stage one of the internal dispute resolution procedure (IDRP) after the six-month deadline.</p> <p>The six-month deadline begins:</p> <ul style="list-style-type: none"> • for appeals about a decision, on the date the member was told of the decision, • in any other case, on the date of the act or omission which caused the appeal, or, if there is more than one, the date of the last one. <p>See discretion 9 for more information on ‘alternative applicants’.</p> | The stage one adjudicator can accept late IDRP applications if they consider it reasonable. | No See Note 1 | <p>69(7)(b) of the 2018 Regulations</p> <p>23 of the 2014 Transitional Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--------------------|---|--|---|-------------------------------|
| 11 | Aggregation | <p>An active member who:</p> <ul style="list-style-type: none"> • has an earlier period of LGPS membership, which will be automatically aggregated with their current LGPS record, • can elect to keep the periods separate, and • elects after the 12-month deadline. <p>The 12-month deadline begins with the start date of the current LGPS record.</p> | Decide whether to allow the late election. | <p>No</p> <p>See Note 1</p> | 22(8) of the 2018 Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--------------------|---|--|---|--|
| 12 | Aggregation | <p>Where:</p> <ul style="list-style-type: none"> • an active member has an earlier period of LGPS membership that ended before 1 April 2015, • the earlier period will not be automatically aggregated to their current LGPS record, • the member can elect to aggregate the periods, and • they elect after the 12-month deadline. <p>The 12-month deadline begins with the start date of the current LGPS record.</p> | Decide whether to allow the late election. | <p>No</p> <p>See Note 1</p> | 10(6) of the 2014 Transitional Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--------------------|--|--|---|-------------------------------|
| 13 | Aggregation | <p>An active member who –</p> <ul style="list-style-type: none"> • held a concurrent period of LGPS membership, which will be automatically aggregated with their current LGPS record, • can elect to keep the periods separate, and • elects after the 12-month deadline. <p>The 12-month deadline begins with the end date for the ceased concurrent LGPS membership.</p> | Decide whether to allow the late election. | <p>No</p> <p>See Note 1</p> | 22(7) of the 2018 Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--|---|---|------------------------------------|--|
| 14 | Assumed pensionable pay (APP) | <p>A member –</p> <ul style="list-style-type: none"> • for whom an APP calculation is needed, and • where, in the employer's opinion, the pensionable pay the member received in the relevant 3-month, or 12-week, period was materially higher or lower than they normally received. | When calculating APP, decide whether to substitute the pensionable pay received with a higher or lower figure to reflect the level of pensionable pay the member would normally have received. | No See Note 1 | 21(6) of the 2018 Regulations |
| 15 | Certificate of protection (CoP) | <p>A member who:</p> <ul style="list-style-type: none"> • can be issued with a CoP, and • does not apply for it within 12 months of the date of the reduction or restriction. <p>This does not apply to councillors.</p> | <p>Decide whether to issue the CoP.</p> <p>A CoP protects a member's LGPS benefits by allowing their pension to be calculated based on a higher salary if their pay is reduced or restricted through no fault of their own. See HR guide – appendix 2 for more information, which is available on the employer guides and documents page of www.scotlgpsregs.org.</p> | No See Note 1 | <p>90(5) of the 2018 Regulations</p> <p>43(5) of the 2008 Administration Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---|---|--|--|---|
| 16 | Compensatory added years (CAYs) – retirement | <p>An active member, or an assumed member, who ceases employment and who can be awarded CAYs.</p> <p>Regulation 6 of the 1998 Discretionary Regulations outlines the eligibility conditions for awarding CAYs.</p> <p>Regulations 6(2) and 7 of the 1998 Discretionary Regulations defines an ‘assumed member’.</p> <p>This does not apply to employees of admitted bodies or to councillors.</p> | <p>Decide whether to award CAYs.</p> <p>You must decide within six months of the member ceasing the employment.</p> <p>The 1998 Discretionary Regulations specify the maximum you may award.</p> | <p>Yes</p> <p>See Note 3</p> | 8 of the 1998 Discretionary Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---|---|--|---------------------------------------|---|
| 17 | Compensatory added years (CAYs) – children’s pension | A child (or children) entitled to a child’s CAYs pension who is not entitled to a child’s pension under the LGPS. | Decide: <ul style="list-style-type: none"> • who to pay the child’s pension to, and • how to apportion the pension among the children if there is more than one child. | Yes See Note 3 | 26(2) of the 1998 Discretionary Regulations |
| 18 | Compensatory added years (CAYs) – survivor pensions | Regarding a deceased member with more than one surviving spouse or civil partner entitled to a survivor CAYs pension. | Decide how to apportion the CAYs survivor pension. | Yes See Note 3 | 20(2) of the 1998 Discretionary Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--|---|---|--|---|
| 19 | Compensatory added years (CAYs) – survivor pensions | <p>Regarding a deceased member who left employment before 1 April 1998:</p> <ul style="list-style-type: none"> • a survivor CAYs pension is payable, and • the spouse or civil partner has entered a subsequent marriage or civil partnership, or a period of cohabitation outside marriage or civil partnership. | <p>Decide whether to allow the survivor pension to remain payable.</p> <p>Otherwise, the pension will stop.</p> | <p>Yes</p> <p>See Note 3</p> | <p>20(4)(a) and (6) of the 1998 Discretionary Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--|---|--|--|--|
| 20 | Compensatory added years (CAYs) – survivor pensions | <p>Regarding a deceased member who left employment before 1 April 1998:</p> <ul style="list-style-type: none"> • a survivor CAYs pension is payable, • the spouse or civil partner subsequently enters a marriage or civil partnership, or starts living with a new partner as if they were husband and wife or as if they were civil partners, and • the new partner is also entitled to a survivor CAYs pension for a deceased member who left employment before 1 April 1998. | <p>Decide whether to allow both survivor CAYs pensions to continue.</p> <p>Unless you decide otherwise, only one survivor CAYs pension, as determined by the couple, can continue.</p> | <p>Yes</p> <p>See Note 3</p> | <p>20(5), (5A), (5B) and (6) of the 1998 Discretionary Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--|---|---|------------------------------------|--|
| 21 | Compensatory added years (CAYs) – survivor pensions | <p>Regarding a deceased member who left employment before 1 April 1998:</p> <ul style="list-style-type: none"> • a survivor CAYs pension was payable, • the pension stopped during a subsequent marriage, civil partnership or cohabitation, and • the subsequent marriage, civil partnership or cohabitation has ended. | Decide whether to restart the pension from the end of the subsequent relationship. | Yes See Note 3 | 20(4)(b) of the 1998 Discretionary Regulations |
| 22 | Compensatory added years (CAYs) | A person who will receive regular CAYs payments from the employer. | Payments are made at the same intervals as the corresponding LGPS pension. However, you can choose different intervals with the person's agreement. | Yes See Note 3 | 29(1) of the 1998 Discretionary Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--|--|--|--|---|
| 23 | Compensatory added years (CAYs) | A person who has received a CAYs payment from the employer in error, including overpayments. | <p>Decide how to recover CAYs payments made in error.</p> <p>You can decide to recover it by:</p> <ul style="list-style-type: none"> • deducting it from future CAYs payments, or • any other means of recovery. | <p>Yes</p> <p>See Note 3</p> | 29(3) of the 1998 Discretionary Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--|-------------------------------------|--|--|---|
| 24 | Compensatory added years (CAYs) | A person entitled to CAYs payments. | <p>Decide whether to ask the administering authority to pay CAYs on your behalf.</p> <p>If the authority agrees, you must repay the amounts within the period and on the terms decided by the authority. Though, the administering authority must recover any payments made from the LGPS fund within two months.</p> <p>The administering authority cannot pay any lump sum CAYs payments from the LGPS fund.</p> <p>CAYs payments made from LGPS funds may have inadvertent tax consequences, such as being included in annual allowance calculations.</p> | <p>Yes</p> <p>See Note 3</p> | 31(2) of the 1998 Discretionary Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---------------------------|--|---|------------------------------------|----------------------------------|
| 25 | Double entitlement | <p>A member who:</p> <ul style="list-style-type: none"> • left between 1 April 1998 and 31 March 2009, • is entitled to a pension or lump sum under two or more regulations due to the same membership, and • has not chosen under which regulation the benefits are to be paid within three months of the date they are entitled to elect. <p>We are not aware of any situations where this could occur.</p> | Decide on the member's behalf under which regulation the benefits will be paid. | No See Note 1 | 33(1)(b) of the 1998 Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|-------------------------------|------------------|--|---|--------------------------------------|
| 26 | Employee contributions | An active member | <p>Decide the member's annual contribution rate for each employment upon joining the Scheme. Reassess this rate each 1 April thereafter.</p> <p>You must also reassess the rate following any permanent material changes to the terms and conditions of their employment which affects their pensionable pay.</p> <p>When assessing the rate, you must have regard to guidance from Scottish Ministers. The Scottish Public Pensions Agency publish updated guidance each March, which is available on the circulares page of their website.</p> | <p>No</p> <p>See Note 1</p> | 9(2) and (4) of the 2018 Regulations |
| 27 | Employee contributions | An active member | Decide the intervals at which the member must pay their employee contributions. | <p>No</p> <p>See Note 1</p> | 9(8) of the 2018 Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|-------------------------------|--|---|---|--|
| 28 | Employer contributions | All active members | <p>Decide whether to request a review of your employer contribution rate between valuations.</p> <p>For the administering authority to allow this, it must have set out its policy on amending contributions between valuations in its funding strategy statement.</p> <p>If the review happens, you must undertake to meet the cost of the review.</p> | <p>No</p> <p>See Note 1</p> | 61A(1)(b)(iii) of the 2018 Regulations |
| 29 | Exiting employers | An employer proposing to become an exiting employer. | <p>Decide whether to request an indicative termination assessment.</p> <p>An indicative assessment is used instead of the actual termination assessment for the period of up to 90 days beginning with the date used to calculate the indicative assessment. It will show either the exit payment due from you or any surplus of assets.</p> | <p>No</p> <p>See Note 1</p> | 61(2A) of the 2018 Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|------------------|--|--|---|---------------------------------------|
| 30 | Final pay | <p>A member:</p> <ul style="list-style-type: none"> • for whom a final pay calculation is required, • who is a variable-time employee, and • whose pensionable pay earned in the relevant final pay period includes fees. <p>This does not apply to councillor members.</p> <p>A ‘variable-time employee’ is defined as such an employee for the purposes of the LGPS in their contract and who is paid based on their duties (rather than by the number of hours worked) or whose duties only have to be performed occasionally.</p> | <p>Decide whether to allow earlier periods to be used to calculate final pay.</p> <p>Ordinarily, you calculate the final pay using the average of the fees earned during the three-year period ending with the date of leaving the Scheme.</p> <p>If you allow earlier periods to be used, you will instead use the fees earned during any three consecutive years within the ten-year period ending with the last day of active membership. Each three-year period ends with the anniversary of the last day of membership.</p> | <p>No</p> <p>See Note 1</p> | 11(2) of the 2008 Benefit Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---|---|--|---|-------------------------------|
| 31 | Forfeiture or recovery / retention | <p>A member who:</p> <ul style="list-style-type: none"> left the Scheme on or after 1 April 2015, and is convicted of a relevant offence. <p>A relevant offence is an offence the member committed in connection with the employment in which they were a member.</p> | <p>Decide whether to apply to Scottish Ministers for a forfeiture certificate.</p> <p>A forfeiture certificate is a certificate that the offence:</p> <ul style="list-style-type: none"> was gravely injurious to the State, or is liable to lead to a serious loss of confidence in the public service. <p>You must apply within the three-month period beginning with the conviction date.</p> | <p>No</p> <p>See Note 1</p> | 86(1) of the 2018 Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---|--|--|---|--------------------------------------|
| 32 | Forfeiture or recovery / retention | <p>A member:</p> <ul style="list-style-type: none"> • who left the Scheme after 31 March 2015, and • regarding whom Scottish Ministers have issued a forfeiture certificate. | <p>Decide whether to forfeit any of the member's rights.</p> <p>If the member has a guaranteed minimum pension (GMP), there are restrictions on the amount that can be forfeited. If unsure, check with the administering authority.</p> <p>When deciding, you must consider any recommendations made by Scottish Ministers.</p> <p>If you incurred loss as a direct consequence of the offence, you may only forfeit any of the member's rights, including membership and survivor benefits, if you are unable to recover the loss:</p> <ul style="list-style-type: none"> • under regulation 87 (see discretion 33), or • by any other means, except after an unreasonable time or at disproportionate cost. | <p>No</p> <p>See Note 1</p> | 86(4) and 89 of the 2018 Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---|--|--|---|--|
| 33 | Forfeiture or recovery / retention | <p>A person who –</p> <ul style="list-style-type: none"> • left the Scheme after 31 March 2015, • has left an employment in which the person was a member, • left the employment due to grave misconduct, or a criminal, negligent or fraudulent act or omission in connection with the employment, • incurred a monetary obligation to the employer arising out of the misconduct, act or omission, and • is entitled to LGPS benefits, including a refund of contributions. | <p>Decide whether to recover or retain the amount of the monetary obligation from the LGPS fund.</p> <p>If there is any dispute over the amount, you may not recover or retain it until it is enforceable under a court order or arbiter's award.</p> <p>If the member has a guaranteed minimum pension (GMP), there are restrictions on depriving the member of their right to that pension. If unsure, check with the administering authority.</p> | <p>No</p> <p>See Note 1</p> | <p>87(2), (4) and 89 of the 2018 Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---|---|---|---|---|
| 34 | Forfeiture or recovery / retention | <p>A member who:</p> <ul style="list-style-type: none"> • left the Scheme before 1 April 2015, • is convicted of a relevant offence, and • left the employment because of the offence. <p>A relevant offence is an offence the member committed in connection with the employment in which they were a member.</p> | <p>Decide whether to apply to Scottish Ministers for a forfeiture certificate.</p> <p>A forfeiture certificate is a certificate that the offence:</p> <ul style="list-style-type: none"> • was gravely injurious to the State, or • is liable to lead to a serious loss of confidence in the public service. <p>You must apply within the three-month period beginning with the conviction date.</p> <p>For most cases, this discretion is likely now obsolete.</p> | <p>No</p> <p>See Note 1</p> | <p>66(6) of the 2008 Administration Regulations</p> <p>111(6) of the 1998 Regulations</p> <p>4(1)(b) of the 1998 Transitional Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---|---|--|---|---|
| 35 | Forfeiture or recovery / retention | <p>A member:</p> <ul style="list-style-type: none"> • who left the Scheme before 1 April 2015, and • regarding whom Scottish Ministers issued a forfeiture certificate. | <p>Decide whether to forfeit any of the member's LGPS rights.</p> <p>If the member has a guaranteed minimum pension (GMP), there are restrictions on forfeiting the member's right to that pension. If unsure, check with the administering authority.</p> <p>If you incurred loss as a direct consequence of the relevant offence, you may only give the direction if you are unable to recover your loss:</p> <ul style="list-style-type: none"> • by the recovery provisions under the Scheme (see discretion 37), or • by any other means, except after an unreasonable time or at disproportionate cost. <p>For most cases, this discretion is likely now obsolete.</p> | <p>No</p> <p>See Note 1</p> | <p>66(2), (5) and 69 of the 2008 Administration Regulations</p> <p>111(2) and (5) of the 1998 Regulations</p> <p>4(1)(b) of the 1998 Transitional Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---|--|--|---|---|
| 36 | Forfeiture or recovery / retention | <p>A member who left the Scheme before 1 April 2015 and regarding whom:</p> <ul style="list-style-type: none"> • Scottish Ministers issued a forfeiture certificate, • you have not formally notified the member of any decision about whether the member is entitled to an LGPS benefit, including a refund, and • you have not yet decided to forfeit their benefits. | <p>Decide whether to give an interim payments direction to the administering authority.</p> <p>An interim payments direction instructs the authority to make interim payments to any person who would be entitled to receive LGPS benefits if no forfeiture direction were given.</p> <p>For most cases, this discretion is likely now obsolete.</p> | <p>No</p> <p>See Note 1</p> | <p>67(1) of the 2008 Administration Regulations</p> <p>112(1) of the 1998 Regulations</p> <p>4(1)(b) of the 1998 Transitional Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---|---|--|---|--|
| 37 | Forfeiture or recovery / retention | <p>A person who –</p> <ul style="list-style-type: none"> • who left the Scheme before 1 April 2015, • left an employment in which they were a member, • left the employment due to a criminal, negligent or fraudulent act or omission in connection with the employment, • incurred a monetary obligation to the employer arising out of the misconduct, act or omission, and • is entitled to LGPS benefits. | <p>Decide whether to recover or retain from the LGPS fund the lesser of:</p> <ul style="list-style-type: none"> • the amount of the monetary obligation, and • the value of the member's rights, calculated by an actuary. <p>If there is any dispute over the amount, you may not recover or retain it until it is enforceable under a court order or arbiter's award.</p> <p>If the member has a guaranteed minimum pension (GMP), there are restrictions on depriving the member of their right to that pension. If unsure, check with the administering authority.</p> | <p>No</p> <p>See Note 1</p> | <p>68(2), (5) and 69 of the 2008 Administration Regulations</p> <p>113(2), (5) and 114 of the 1998 Regulations</p> <p>4(1)(b) of the 1998 Transitional Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---|--|--|---|---|
| 38 | Forfeiture or recovery / retention | <p>A person who left the Scheme before 1 April 2015 and who:</p> <ul style="list-style-type: none"> left an employment in which they were a member, left the employment due to an offence involving fraud or due to grave misconduct in connection with the employment, caused direct financial loss to the employer due to the offence or misconduct, and is entitled to LGPS benefits and regarding whom the employer has directed the benefits to be forfeited or is entitled to a refund of contributions. | <p>Decide whether to require the administering authority to pay you an amount from the LGPS fund.</p> <p>The amount must not exceed the lesser of:</p> <ul style="list-style-type: none"> the direct financial loss, and the amount of any contributions that could have been refunded to the member or paid to their spouse, civil partner or dependant, less any amounts which have been refunded or paid. | <p>No</p> <p>See Note 1</p> | <p>70 of the 2008 Administration Regulations</p> <p>115 of the 1998 Regulations</p> <p>4(1)(b) of the 1998 Transitional Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--------------------------------|---|---|--|--|
| 39 | Gratuities – ill health | <p>An active member:</p> <ul style="list-style-type: none"> • with at least two years' total membership, • whose employment the employer ended on ill health grounds, and • who is not permanently incapable of discharging efficiently the duties. <p>“Permanently incapable” means the member is, more likely than not, incapable until at the earliest their State Pension age (minimum age 65).</p> <p>This does not apply to councillors.</p> | <p>Decide whether to pay an ill health lump sum gratuity.</p> <p>The lump sum is the lesser of:</p> <ul style="list-style-type: none"> • one week's pay for every whole year of employment with the employer, and • 30 week's pay. <p>A week's pay is defined in regulation 49B(5) of the 1998 Discretionary Regulations.</p> | <p>Yes</p> <p>See Note 3</p> | <p>49B of the 1998 Discretionary Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--|--|--|---|---|
| 40 | Gratuities in respect of non-pensionable service – death in service | <p>A person who died while employed by an LGPS employer for at least one year.</p> <p>This does not apply to councillors or employment as a teacher.</p> | <p>Decide whether to make a scheme exercising this power.</p> <p>Decide whether to pay a death benefit gratuity to one or more of the person's spouse, civil partner or dependants. This can be paid as a lump sum, an annuity, or both.</p> <p>If so, decide the amount, ensuring it does not exceed the limit specified in regulation 46(4) of the 1998 Discretionary Regulations.</p> | <p>No</p> <p>See Note 1</p> | 46 and 49 of the 1998 Discretionary Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--|---|--|---|--|
| 41 | Gratuities in respect of non-pensionable service – redundancy | <p>A person who ceases employment with an LGPS employer due to redundancy or business efficiency, having been employed for at least five years, or one year and reached age 60, and is eligible for a redundancy gratuity.</p> <p>Regulation 48 of the 1998 Discretionary Regulations outlines the full eligibility conditions for redundancy gratuities.</p> <p>This does not apply to councillors or employment as a teacher.</p> | <p>Decide whether to make a scheme exercising this power.</p> <p>Decide whether to pay a redundancy gratuity. This can be paid as a lump sum, an annuity, or both.</p> <p>If so, decide the amount, ensuring it does not exceed the limit specified in regulation 48(5) of the 1998 Discretionary Regulations.</p> | <p>No</p> <p>See Note 1</p> | 48(1) and 49 of the 1998 Discretionary Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--|--|---|---|--|
| 42 | Gratuities in respect of non-pensionable service – redundancy | <p>A person who was paid a redundancy gratuity under regulation 48(1) of the 1998 Discretionary Regulations, where:</p> <ul style="list-style-type: none"> the gratuity is or consists of an annuity, and the person has died when the capital value of the annuity payments received was less than the capital value of the annuity when it was originally granted. | <p>Decide whether to make a scheme regarding exercising this power.</p> <p>Decide whether to pay a further annuity to one or more of their spouse, civil partner or dependants.</p> <p>If so, decide the amount, ensuring it does not exceed the limit specified in regulation 48(6) of the 1998 Discretionary Regulations.</p> | <p>No</p> <p>See Note 1</p> | 48(4) and 49 of the 1998 Discretionary Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--|---|--|---|---|
| 43 | Gratuities in respect of non-pensionable service – redundancy | <p>A person who:</p> <ul style="list-style-type: none"> • was paid a further annuity under regulation 48(4) of the 1998 Discretionary Regulations, and • has died when the capital value of the further annuity payments received by the person was less than the capital value of that further annuity when it was originally granted. | <p>Decide whether to make a scheme regarding exercising this power.</p> <p>Decide whether to pay a further annuity. This can be paid to any other person who could have received the further annuity under regulation 48(4) of the 1998 Discretionary Regulations.</p> <p>If so, decide the amount, ensuring it does not exceed the limit specified in regulation 48(7) of the 1998 Discretionary Regulations.</p> | <p>No</p> <p>See Note 1</p> | <p>48(7) and 49 of the 1998 Discretionary Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--|---|---|---|--|
| 44 | Gratuities regarding non-pensionable service – retirement | <p>A person who ceases employment with an LGPS employer other than due to redundancy or business efficiency and is eligible for a retirement gratuity.</p> <p>Regulation 47 of the 1998 Discretionary Regulations outlines the full eligibility conditions for retirement gratuities.</p> <p>This does not apply to councillors or employment as a teacher.</p> | <p>Decide whether to make a scheme regarding exercising this power.</p> <p>Decide whether to pay a retirement gratuity. This can be paid as a lump sum, annuity, or both.</p> <p>If so, decide the amount, ensuring it does not exceed the limit specified in regulation 47(3) of the 1998 Discretionary Regulations.</p> | <p>No</p> <p>See Note 1</p> | 47(1) and 49 of the 1998 Discretionary Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--|---|--|---|---|
| 45 | Gratuities in respect of non-pensionable service – retirement | <p>A person who was granted a retirement gratuity under regulation 47(1) of the 1998 Discretionary Regulations, where:</p> <ul style="list-style-type: none"> the gratuity is or consists of an annuity, and the person has died when the capital value of the annuity payments received was less than the capital value of the annuity when it was originally granted. | <p>Decide whether to make a scheme regarding exercising this power.</p> <p>Decide whether to pay a further annuity to one or more of the person's spouse, civil partner or dependants.</p> <p>If so, decide the amount, ensuring it does not exceed the limit specified in regulation 47(5) of the 1998 Discretionary Regulations.</p> | <p>No</p> <p>See Note 1</p> | <p>47(4) and 49 of the 1998 Discretionary Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|-------------------|--|--|---|---------------------------------------|
| 46 | Ill health | A member regarding whom the employer must decide whether they qualify for ill health retirement. | <p>Choose an independent registered medical practitioner (IRMP) to complete the ill health certificate.</p> <p>The IRMP must:</p> <ul style="list-style-type: none"> • meet the definition of ‘independent registered medical practitioner’ in schedule 1 of the 2018 Regulations, • not have previously advised, given an opinion on, or otherwise been involved in the case, and • unless you are also the administering authority, obtain the authority’s approval to your choice. | <p>No</p> <p>See Note 1</p> | 35(2) and (3) of the 2018 Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|-----------------------------------|--|---|---|--|
| 47 | Injury / contracts disease | <p>A person who is entitled to an injury allowance on leaving their employment as a result of incapacity which is likely to be permanent and was caused by the injury or disease.</p> <p>Regulation 39 of the 1998 Discretionary Regulations outlines the full eligibility conditions.</p> <p>This does not apply to councillors or employment as a teacher.</p> | <p>From time to time, decide the amount payable.</p> <p>The annual amount payable may not exceed 85 per cent of the person's annual rate of remuneration, as defined in regulation 39(3) of the 1998 Discretionary Regulations.</p> <p>When deciding, you must consider the matters listed in regulation 43 of the 1998 Discretionary Regulations.</p> <p>If the person becomes capable of working again, decide whether to suspend or discontinue the allowance.</p> | <p>No</p> <p>See Note 1</p> | <p>39(2) and (4) of the 1998 Discretionary Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|-----------------------------------|---|---|---|--|
| 48 | Injury / contracts disease | <p>A person who is entitled to an injury allowance while their pay is reduced while continuing in their employment (or any other relevant employment).</p> <p>Regulation 40 of the 1998 Discretionary Regulations outlines the full eligibility conditions.</p> <p>This does not apply to councillors or employment as a teacher.</p> | <p>From time to time, decide the amount payable.</p> <p>The amount payable in any year may exceed the difference between the person's current pay and the pay they would have received had they not sustained the injury or contracted the disease.</p> <p>When deciding the amount, you must consider the matters listed in regulation 43 of the 1998 Discretionary Regulations.</p> | <p>No</p> <p>See Note 1</p> | <p>40(3) of the 1998 Discretionary Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|-----------------------------------|---|--|---|--|
| 49 | Injury / contracts disease | <p>A person who:</p> <ul style="list-style-type: none"> • was entitled to an allowance under discretion 48 immediately before ceasing their employment (or any other relevant employment), • in respect of whom discretion 48 no longer applies on the cessation, • starts to receive their LGPS pension where the final pay is calculated without applying a Certificate of Protection, and • is entitled to an injury allowance. <p>Regulation 41 of the 1998 Discretionary Regulations outlines the full eligibility conditions.</p> | <p>Decide the amount of the allowance and the period for which it will be paid.</p> <p>The amount may not exceed the difference between the member's LGPS pension being paid and the amount it would have been if the allowance paid under regulation 40 of the 1998 Discretionary Regulations had been included in the final pay calculation.</p> | <p>No</p> <p>See Note 1</p> | <p>41(1) and (2) of the 1998 Discretionary Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|-----------------------------------|--|---|---|--|
| 50 | Injury / contracts disease | <p>A deceased person's spouse, civil partner or dependant who is entitled to injury death benefits.</p> <p>Regulation 42 of the 1998 Discretionary Regulations outlines the full eligibility conditions for injury death benefits.</p> <p>This does not apply to a spouse, civil partner or dependant of a deceased councillor or teacher.</p> | <p>From time to time, decide the amount payable. It can be paid as an annual allowance or lump sum.</p> <p>When deciding the amount, you must consider the matters listed in regulation 43 of the 1998 Discretionary Regulations.</p> | <p>No</p> <p>See Note 1</p> | <p>42(3) of the 1998 Discretionary Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|-----------------------------------|---|--|---|---|
| 51 | Injury / contracts disease | <p>A deceased member's spouse or civil partner:</p> <ul style="list-style-type: none"> • who was entitled to an annual allowance under regulation 42 of the 1998 Discretionary Regulations, • where the allowance stopped due to a subsequent marriage, civil partnership or cohabitation, and • where the subsequent marriage, civil partnership or cohabitation has ended. | <p>Decide whether to restore the allowance.</p> <p>If so, decide the period during which it is paid.</p> | <p>No</p> <p>See Note 1</p> | 42(4) of the 1998 Discretionary Regulations |
| 52 | Injury / contracts disease | A deceased member's dependant who is entitled to an annual allowance under regulation 42 of the 1998 Discretionary Regulations. | Decide the period during which the allowance is paid. | <p>No</p> <p>See Note 1</p> | 42(6) of the 1998 Discretionary Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|------------------------|---|---|--|---|
| 53 | Pensionable pay | <p>An active member</p> <p>This does not apply to councillors.</p> | <p>Decide whether to specify in the contract of employment the value of any non-cash benefit as being a pensionable emolument.</p> <p>No amount falling within regulation 20(2) of the 2018 Regulations can be a pensionable emolument.</p> | <p>No</p> <p>See Note 1</p> | 20(1)(b) of the 2018 Regulations |
| 54 | Redundancy | <p>An active member, or an assumed member, who ceases employment and is entitled to a redundancy payment under the Employment Rights Act 1996.</p> <p>This does not apply to employees of admitted bodies, councillors or teachers.</p> <p>Regulations 6(2) and 7 of the 1998 Discretionary Regulations define an 'assumed member'.</p> | <p>Decide whether to increase the redundancy payment.</p> <p>The increase cannot exceed the difference between:</p> <ul style="list-style-type: none"> the redundancy payment, and the amount it would have been had the limit on weekly pay not applied. <p>The limit on weekly pay is set out and updated annually each 6 April, in section 227 of the Employment Rights Acts 1996.</p> | <p>Yes</p> <p>See Note 3</p> | 4 of the 1998 Discretionary Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--------------------------------|--|--|--|--|
| 55 | Redundancy / efficiency | <p>An active member, or someone who is eligible to be an active member, who:</p> <ul style="list-style-type: none"> ceases their employment due to redundancy or in the interests of the efficient exercise of the employer's functions, and is eligible to receive compensation under part four of the 1998 Discretionary Regulations (Compensation for Redundancy where Part three (Compensation for Premature Retirement) does not apply). <p>This does not apply to councillors.</p> | <p>Decide whether to pay the person compensation.</p> <p>You must decide within six months of the employment ceasing.</p> <p>The compensation must not exceed 104 weeks' pay.</p> <p>You must deduct the following from the compensation:</p> <ul style="list-style-type: none"> redundancy payment under the Employment Rights Act 1996, and compensation under part two of the 1998 Discretionary Regulations (Increase of Statutory Redundancy Payments). | <p>Yes</p> <p>See Note 3</p> | <p>34 and 35 of the 1998 Discretionary Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|----------------|---|---|---|--------------------------------------|
| 56 | Refunds | <p>A member who –</p> <ul style="list-style-type: none"> • left active membership after 31 March 2015, • was entitled to a refund, and • has lost that right because they have been found guilty, in connection with the employment, of either an offence of fraudulent character or grave misconduct. | <p>Decide whether to direct payment from the LGPS fund of a sum to –</p> <ul style="list-style-type: none"> • the member, • their spouse, • their civil partner, • their cohabiting partner, or • any of the member's dependents. <p>The sum can be no more than the member's contributions.</p> | <p>No</p> <p>See Note 1</p> | <p>19(2) of the 2018 Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|----------------|---|---|---|--|
| 57 | Refunds | <p>A member who –</p> <ul style="list-style-type: none"> • left active membership before 1 April 2015, • was entitled to a refund, and • has lost that right because they left the employment because of grave misconduct in connection with the employment. | <p>Decide whether to direct payment from the LGPS fund of a sum to the member.</p> <p>The sum must not exceed the member's contributions.</p> | <p>No</p> <p>See Note 1</p> | <p>42(2) of the 2008 Administration Regulations</p> <p>87(2) of the 1998 Regulations</p> <p>4(1)(b) of the 1998 Transitional Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|----------------|---|--|---|--|
| 58 | Refunds | <p>A Member who –</p> <ul style="list-style-type: none"> • left active membership before 1 April 2015, • was entitled to a refund, and • has lost that right because they left the employment because of an offence of a fraudulent character in connection with the employment. | <p>Decide whether to direct payment from the LGPS fund of a sum to –</p> <ul style="list-style-type: none"> • the member, • their spouse, • their civil partner, or • any of the member's dependants. <p>The sum must not exceed the member's contributions.</p> | <p>No</p> <p>See Note 1</p> | <p>42(2) of the 2008 Administration Regulations</p> <p>87(2) of the 1998 Regulations</p> <p>4(1)(b) of the 1998 Transitional Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--------------------------------------|---|---|--|---------------------------------------|
| 59 | Retirement – deferred members | <p>A member who:</p> <ul style="list-style-type: none"> • left with deferred benefits between 1 April 2009 and 31 March 2015, and • elects for payment between 55 and 60. | <p>Ordinarily, you will treat the election as being made under regulation 3(13) of the 2014 Transitional Regulations. For these:</p> <ul style="list-style-type: none"> • you do not need to consent to early payment, • the benefits will be reduced for early payment, and • you may not agree to waive any of the reductions. <p>If you want to waive any reductions for early payment, you must first decide to treat the election as an election under 30(2) of the 2008 Benefit Regulations.</p> | <p>Yes</p> <p>See Note 2</p> | 30(2) of the 2008 Benefit Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--------------------------------------|---|---|--|-------------------------------|
| 60 | Retirement – deferred members | <p>A member who:</p> <ul style="list-style-type: none"> left with deferred benefits between 1 April 1998 and 31 March 2009, and elects for payment between 55 and 60. | <p>Ordinarily, you will treat the election as being made under regulation 3(13) of the 2014 Transitional Regulations. For these:</p> <ul style="list-style-type: none"> you do not need to consent to early payment, the benefits will be reduced for early payment, and you may not agree to waive any of the reductions. <p>If you want to waive any reductions for early payment, you must first decide to treat the election as an election under 30(1) of the 1998 Regulations.</p> | <p>Yes</p> <p>See Note 2</p> | 30(1) of the 1998 Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--------------------------------------|---|--|--|-------------------------------|
| 61 | Retirement – deferred members | <p>A member who:</p> <ul style="list-style-type: none"> • left with deferred benefits between 1 April 1998 and 31 March 2009, and • elects for payment between 50 and 55. | <p>Decide whether to consent to the election.</p> <p>If you do so, the member and the administering authority will need to pay unauthorised tax charges to HMRC.</p> | <p>Yes</p> <p>See Note 2</p> | 30(1) of the 1998 Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--------------------------------------|---|---|---|----------------------------------|
| 62 | Retirement – deferred members | <p>A member who:</p> <ul style="list-style-type: none"> • left with deferred benefits before 1 April 1998, and • elects for payment on or after age 55. | <p>Ordinarily, you will treat the election as being made under regulation 3(13) of the 2014 Transitional Regulations. For these:</p> <ul style="list-style-type: none"> • you do not need to consent to early payment, • the benefits may be reduced for early payment, and • you may not agree to waive any of the reductions. <p>If you want to waive all the reductions for early payment, you must first decide, on compassionate grounds, to treat the election as an election under regulation E2(6)(b) of the 1987 Regulations.</p> <p>Where you do so, the administering authority will likely require you to pay an additional employer contribution.</p> | <p>No</p> <p>See Note 1</p> | E2(6)(b) of the 1987 Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--------------------------------------|--|--|---|----------------------------------|
| 63 | Retirement – deferred members | <p>A member who:</p> <ul style="list-style-type: none"> • left with deferred benefits before 1 April 1998, and • elects for payment between 50 and 55. | <p>Decide whether to consent to the election on compassionate grounds.</p> <p>If you do so the:</p> <ul style="list-style-type: none"> • member and the administering authority will need to pay unauthorised tax charges to HMRC, and • administering authority will likely require you to pay an additional employer contribution. | <p>No</p> <p>See Note 1</p> | E2(6)(b) of the 1987 Regulations |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--------------------------------------|--|--|--|---|
| 64 | Retirement – deferred members | <p>A member:</p> <ul style="list-style-type: none"> • who left with deferred benefits between 1 April 2009 and 31 March 2015, • who elects for early payment, and • whose benefits will be reduced for early payment. | <p>Decide whether, on compassionate grounds, to agree to waive all or none of the reduction to the benefits.</p> <p>If so, the administering authority will likely require you to pay an additional employer contribution.</p> <p>Where the member is aged between 55 and 60, you will only be able to agree to this if you have also agreed for the election to be treated as being made under regulation 30(2) of the 2008 Benefit Regulations. See discretion 59.</p> | <p>Yes</p> <p>See Note 2</p> | <p>Paragraph 2(1) of schedule 2 to the 2014 Transitional Regulations</p> <p>30(5) of the 2008 Benefit Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|--------------------------------------|--|---|--|---|
| 65 | Retirement – deferred members | <p>A member:</p> <ul style="list-style-type: none"> • who left with deferred benefits between 1 April 1998 and 31 March 2009, • who elects for early payment, and • whose benefits will be reduced for early payment. | <p>Decide whether, on compassionate grounds, to agree to waive all or none of the reduction to the member's benefits.</p> <p>If so, the administering authority will likely require you to pay an additional employer contribution.</p> <p>Where the member is aged between 55 and 60, you will only be able to agree to this if you have also agreed that the election is to be treated as being made under regulation 30(1) of the 1998 Regulations. See discretion 60.</p> | <p>Yes</p> <p>See Note 2</p> | <p>Paragraph 2(1) of schedule 2 to the 2014 Transitional Regulations</p> <p>30(5) of the 1998 Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---|--|---|--|--|
| 66 | Retirement – active and deferred members | <p>A member who:</p> <ul style="list-style-type: none"> • left active membership after 31 March 2015, and • will receive payment of benefits that are reduced for early payment. <p>This doesn't apply to flexible retirement cases (see discretion 69).</p> | <p>Decide whether to agree to waive all, some or none of the reductions.</p> <p>If you do so, the administering authority will likely require you to pay an additional employer contribution.</p> | <p>Yes</p> <p>See Note 2</p> | <p>29(9) of the 2018 Regulations</p> <p>3(12) of the 2014 Transitional Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---|---|---|--|---|
| 67 | Retirement – active and deferred members | <p>A member who:</p> <ul style="list-style-type: none"> • left active membership after 31 March 2015, • elects for payment of benefits between 55 and 60, • qualifies for rule of 85 protection, and • satisfies it before 60. <p>If unsure whether the member qualifies for rule of 85 protection and, if so, when they satisfy it, check with the administering authority.</p> <p>This doesn't apply to flexible retirement cases. The actual date the member satisfies the rule of 85 is automatically used.</p> | <p>For calculating early payment reductions, decide whether the administering authority should use the actual date the member satisfies the rule of 85.</p> <p>Ordinarily, the authority will treat the member as satisfying it at age 60.</p> <p>If you require the authority to use the actual date the member satisfied the rule of 85, it will likely require you to pay an additional employer contribution.</p> | <p>Yes</p> <p>See Note 2</p> | <p>Paragraph 1(1)(c) of schedule 2 to the 2014 Transitional Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---|---|---|--|--|
| 68 | Retirement – flexible retirement | <p>An active member who –</p> <ul style="list-style-type: none"> • is aged 55 or over, • has built up at least two years qualifying service, • reduces their hours or grade in an employment, and • immediately elects to receive all or part of their pension while remaining in their employment. <p>Councillor members may not elect for flexible retirement.</p> <p>In some situations, the member can be deemed to hold two years qualifying. If unsure, check with the administering authority.</p> | <p>Decide whether to consent to the election.</p> <p>If so, the administering authority may require you to pay an additional employer contribution.</p> | <p>Yes</p> <p>See Note 2</p> | <p>29(7) of the 2018 Regulations</p> <p>11(2) of the 2014 Transitional Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---|--|---|--|---|
| 69 | Retirement - flexible retirement | A member entitled to flexible retirement where the benefits will be reduced for early payment. | <p>Decide whether to agree to waive all or part of the reductions.</p> <p>If you decide to waive any of the reductions, the administering authority will likely require you to pay an additional employer contribution.</p> | <p>Yes</p> <p>See Note 2</p> | <p>29(9) of the 2018 Regulations</p> <p>Paragraph 2(1) of, and schedule 2 to, the 2014 Transitional Regulations</p> |
| 70 | Transfers out | Two or more members whose active membership ends on joining a different pension Scheme. | <p>Decide whether the transfers out of the LGPS fund should be calculated as a bulk transfer.</p> <p>If so, the administering authority, managers of the different scheme and members also need to agree.</p> | <p>No</p> <p>See Note 1</p> | <p>93(1) of the 2018 Regulations</p> |

| No. | Topic | Relevant member | Summary of employer discretion | Whether it must set out its policy | Regulations |
|-----|---------------------|---|--|---|-------------------------------|
| 71 | Transfers in | <p>An active member who:</p> <ul style="list-style-type: none"> • elects to transfer pension rights from a different scheme to the LGPS, and • gives the election after 12 months from first joining the LGPS in an employment. | Decide whether to allow the late election. | <p>No</p> <p>See Note 1</p> | 95(6) of the 2018 Regulations |

5. Information on formulating and publishing discretions

Note 1 – no written policy statement required

Regarding exercising certain discretions, while the regulations do not require the employer to set out their policy in a written statement, we recommend doing so to promote strong governance.

Note 2 – written policy required under the LGPS regulations

The regulations require the employer to prepare and publish a written statement of its policy on exercising certain discretions.

The employer should have sent a copy of its first statement to the administering authority before:

- 1 July 2015 – regulation 58 of the 2018 Regulations
- 1 July 2009 – regulation 61 of the 2008 Administration Regulations
- 1 July 1998 – regulation 105 of the 1998 Regulations.

The employer must keep their statement under review.

If the employer changes its policy, it must revise its statement accordingly. Within a month of revising the statement, the employer must:

- send a copy of the revised statement to the administering authority, and
- publish the revised statement.

When preparing, reviewing and revising the statement, the employer must consider whether there is a risk, and if so, the extent of that risk, that exercising the discretion in accordance with the policy could lead to a serious loss of confidence in the public service.

Note 3 – Regulation 51A of the 1998 Discretionary Regulations

Regulation 51A requires the employer to formulate and publish a written statement of its policy on exercising certain discretions.

The employer should have published its first statement before 7 October 2000.

The employer must keep their statement under review.

If the employer decides to amend its policy, it must publish an amended written statement within a month of deciding to amend the policy. The amended policy may not have effect until, at the earliest, one month after the amended statement is published.

When formulating or reviewing their policy, the employer must:

- have regard to the extent to which exercising the discretions, unless properly limited, could lead to a serious loss of confidence in the public service
- be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

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7. Disclaimer

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