

## Oswestry Town Council

### **REPORT FROM THE FINANCE OFFICER TO THE COUNCIL-16<sup>th</sup> JUNE 2014.**

#### **Shropshire County Pension Fund: Local Government Pension Scheme Discretionary Policies**

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#### **PURPOSE**

The purpose of this report is to highlight the requirement for the Council to adopt a Discretionary Policy statement on the Local Government Pension Scheme by 30<sup>th</sup> June 2014.

#### **CONTENT**

The Finance Officer attended a meeting of the Shropshire County Pension Fund employers on Friday 25<sup>th</sup> April 2014. At this meeting the changes to the LGPS as from 2014 were highlighted.

One of the major changes is the requirement for the Council to draft a policy outlining and confirming which of the **107 discretions** (that they have the power to determine, i.e. it is their choice not the Pension Fund administrator) they wish to assume control over and exactly how they will exercise that discretion in management of the Shropshire Pension Scheme insofar as it relates to their employees.

As the Finance Officer understands it, adoption of a policy statement on its discretions was recommended as good practice pre 2014, now it is mandatory. Heavy fines can be imposed from next year if an authority has not adopted a policy. Pre 2014 if authorities had no policy on discretions they could not grant or implement any.

The full document which attempts to explain in detail the various discretions an employer has is available from the office. The appendice attached could, should the Council agree, form the basis of its initial policy and details all 107 discretions available.

As further background, the reasons for the discretions are primarily due to the size of the Pension Scheme and the fact that one Scheme cannot suit all its members given their significant diversity in job roles/lifestyles etc. Also regional/local needs cannot be addressed in one overreaching policy.

There are 4 major discretions; awarding of additional pensions, voluntary retirement pre 60, flexible retirement and waiving actuarial valuations.

When considering discretions, the Council should consider how or to what extent the discretionary powers could lead to a serious loss of confidence in the Authority. Every discretion has the potential to cost the authority money. It must consider how much a discretion would cost, is it over generous (or not generous enough) and is it open to claims of discrimination.

It is not appropriate for the Council just to say no to all 107 discretions, nor is it appropriate to say yes to all, without considering the consequences.

Discretions must be workable (easy & practical to implement), affordable (i.e., the "pension strain" must be assessed), reasonable (not being too generous) and foreseeable (no necessity to review the policy every year at budget time, but say every 3 years).

There is no template available from the LPGS due to the fear that all policies would turn out to be identical. The Council should consider two main issues applicable to each policy: Cost to the authority both now and in the longer term and making sure it is not liable to claims of discrimination.

## **WAY FORWARD**

Obviously the Council will not have sufficient time to fully address all discretions by 30<sup>th</sup> June. Given that some of the discretions are extremely complex, probably beyond members and officers ability to fully understand without technical support/expertise, particularly in terms of long term consequences, they may also need to buy in expertise if they wish to fully address all 107 discretions available to them to ensure they are making the correct policy decisions.

It is suggested that the below response to all discretions is included within the initial policy. (The Training Officer advised this is acceptable as it constitutes a policy);

***"This will be assessed on a case by case basis by the Personnel Committee of the Council"***

This will ensure the Council has a Policy in place by 30<sup>th</sup> June, in no way is it committed one way or the other to offering/refusing any discretion and it will then give the Council, should it so wish, time to look further into each discretion and draft a more detailed policy.

Alternatively as this policy is noncommittal, it could stand as the Councils adopted policy with any request from employees being taken and considered on a case by case basis, particularly given the very small

workforce and likelihood that the Council will not need to offer many (possibly with the exception of the 4 major discretions- voluntary redundancy pre 60, flexible retirement, awarding additional pensions etc), if any of the available discretions in the foreseeable future.

R.A. Dyke,  
Finance Officer,  
June 2014.

## OSWESTRY TOWN COUNCIL

### Local Government Pension Scheme (Amendment) Regulations

#### Discretions on which Employers must make Policies and publish such Policies

Each employer must prepare a written statement of its policy in relation to the exercise of its functions regarding the Shropshire County Pension Fund.

The statement must be published to members of the LGPS and copied to Shropshire County Pension Fund.

Oswestry Town Council must;

- keep its statement under review
- make appropriate revisions following a change in its policy.

#### “EMPLOYER DISCRETIONS” – England & Wales

Discretions from 1.4.14. in relation to post 31.3.14. active members (excluding councillor members) and post 31.3.14. leavers (excluding councillor members), being discretions under:

- the Local Government Pension Scheme Regulations 2013 [prefix **R**]
- the Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014 [prefix **TP**]
- the Local Government Pension Scheme (Administration) Regulations 2008 [prefix **A**]
- the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) [prefix **B**]
- the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [prefix **T**]
- the Local Government Pension Scheme Regulations 1997 (as amended) [prefix **L**]

<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Council Policy</u>
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To whom to offer membership of the LGPS (designation bodies)	<b>R3(1)(b) &amp; RSch 2, Part 2</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Which employees to designate for membership (admission bodies)	<b>R3(1)(c) &amp; R4(2)(b)</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether, in respect of an admission body providing a service in respect of outsourced work, to set off against payments due to that body any sums due from that body to the Fund	<b>RSch 2, Part 3, para 12(c)</b>	Transferor employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Determine rate of employees' contributions	<b>R9(1) &amp; R9(3)</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether, how much, and in what circumstances to contribute to a shared cost APC scheme	<b>R16(2)(e)* &amp; R16(4)(d)*</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements entered into on or after 1.4.14	<b>R17(1) &amp; definition of SCAVC in RSch 1</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether, how much, and in what circumstances to continue to contribute to a shared cost AVC arrangement entered into before 1/4/14	<b>TP15(1)(d) &amp; A25(3)</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Allow late application to convert scheme AVCs into	<b>TP15(1)(b) &amp;</b>	Employer	This discretion will be assessed

membership credit i.e. allow application more than 30 days after cessation of active membership (where AVC arrangement was entered into before 13/11/01)	L66(8) & former L66(9)(b)		on a case by case basis by the Personnel Committee of the Council upon a written request.
No right to return of contributions if member left due to offence of a fraudulent character or grave misconduct unless employer directs a total or partial refund is to be made	R19(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Specify in an employee's contract what other payments or benefits, other than those specified in R20(1)(a) and not otherwise precluded by R20(2), are to be pensionable	R20(1)(b)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
In determining Assumed Pensionable Pay, whether a lump sum payment made in the previous 12 months is a "regular lump sum"	R21(5)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with a new employment	R22(8)(b)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with an ongoing concurrent employment	R22(7)(b)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)	R30(6)* & TP11(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement	R30(8)*	Employer (or Admin. Authority where Employer has become	This discretion will be assessed on a case by case basis by the

		defunct)	Personnel Committee of the Council upon a written request.
Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age	R30(8)*	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to “switch on” the 85 Year Rule for a member voluntarily drawing benefits on or after age 55 and before age 60.	TPSch 2, para 2(2)*	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits from pre 1/4/14 membership where the employer has “switched-on” the 85 Year Rule for a member voluntarily drawing benefits on or after age 55 and before age 60	TPSch 2, para 2(3)*	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 p.a.)	R31*	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to use a certificate produced by an IRMP under the 2008 Scheme for the purposes of making an ill health determination under the 2014 Scheme.	TP12(6)	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Determine whether person in receipt of Tier 3 ill health pension has started gainful employment	R37(3) & (4)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to recover any overpaid Tier 3 pension following commencement of gainful employment	R37(3)	Employer	This discretion will be assessed on a case by case basis by the

			Personnel Committee of the Council upon a written request.
Decide whether deferred beneficiary meets criteria of being permanently incapable of former job because of ill health and is unlikely to be capable of undertaking gainful employment before normal pension age or for at least three years, whichever is the sooner.	R38(3)	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Decide whether a suspended ill health tier 3 member is unlikely to be capable of undertaking gainful employment before normal pension age because of ill health	R38(6)	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to extend six month period to lodge a stage one IDRPs appeal	R74(4)	Adjudicator making stage one IDRPs decision	
Decide procedure to be followed by adjudicator when exercising stage one IDRPs functions and decide the manner in which those functions are to be exercised	R74(6)	Adjudicator making stage one IDRPs decision	
Whether to apply to Secretary of State for a forfeiture certificate (where member is convicted of a relevant offence)	R91(1) & (8)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited (other than rights to GMP – but see R95 below)	R91(4)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Where forfeiture certificate is issued, whether to direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits	R92(1) & (2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to recover from Fund any monetary obligation			This discretion will be assessed

or, if less, the value of the member's benefits (other than benefits from transferred in pension rights or APCs or AVCs or, subject to R95 below, in respect of any GMP) where the obligation was incurred as a result of a grave misconduct or a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left employment	R93(2)	Employer	on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether, if the member has committed treason or been imprisoned for at least 10 years for one or more offences under the Official Secrets Acts, forfeiture under R91 or recovery of a monetary obligation under R93 should deprive the member or the member's surviving spouse or civil partner of any GMP entitlement	R95	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Agree to bulk transfer payment	R98(1)(b)	Employer / Admin. Authority / trustees of new scheme	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	R100(68)	Employer and Admin. Authority	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Allow transfer of pension rights into the Fund	R100(7)	Admin. authority	
Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending 31st March in the 10 years prior to leaving	TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) & B11(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

\* These are matters about which the regulations require there must be a written policy.



**Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1.4.08. and before 1.4.14., being discretions under:**

- the Local Government Pension Scheme (Administration) Regulations 2008 [prefix **A**]
- the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) [prefix **B**]
- the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [prefix **T**]
- the Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014 [prefix **TP**]
- the Local Government Pension Scheme Regulations 2013 [prefix **R**]
- the Local Government Pension Scheme Regulations 1997 (as amended) [prefix **L**]

<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	
Whether, for a member leaving on the grounds of redundancy or business efficiency on or before 31st March 2014, to augment membership (by up to 10 years). The resolution to do so would have to be made within 6 months of the date of leaving. Hence this discretion is spent entirely after 30th September 2014.	<b>B12*</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership	<b>TSch1 &amp; L66(8) &amp; former L66(9)(b)</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
No right to return of contributions due to offence of a fraudulent character or grave misconduct unless employer directs a total or partial refund is to be made	<b>A47(2)</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the	<b>A49(1) &amp; (2)</b>	Employer	This discretion will be assessed on a case by

Pension Fund			case basis by the Personnel Committee of the Council upon a written request.
Whether to extend six month period to lodge a stage one IDRП appeal	A58(7)(b)	Person making stage one IDRП decision	
Whether to apply to Secretary of State for a forfeiture certificate (where member is convicted of a relevant offence)	A72(1) & (6)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited	A72(3)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Where forfeiture certificate is issued, whether to direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits	A73(1) & (2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights or AVCs/SCAVCs) where the obligation was incurred as a result of a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left employment	A74(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

Whether to recover from Fund any financial loss caused by fraudulent offence or grave misconduct of employee (who has left because of that), or amount of refund if less	<b>A76(2) &amp; (3)</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending 31 <sup>st</sup> March in the 10 years prior to leaving	<b>B11(2)</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to grant application for early payment of deferred benefits on or after age 55 and before age 60	<b>B30(2)*</b>	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under <b>B30</b>	<b>B30(5)*</b>	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to grant an application for early payment of a suspended tier 3 ill health pension on or after age 55 and before age 60	<b>B30A(3)*</b>	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A	B30A(5)*	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Decide whether deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria	B31(4)	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment	B31(7)	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

\* These are matters about which the regulations require there must be a written policy.

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

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

<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	
Allow a councillor who has opted out more than once to re-join	7(9)(a)	Employer	This discretion will be assessed on a case by case basis by the

			Personnel Committee of the Council upon a written request.
Allow a late application by a councillor member to pay optional contributions for a period of absence	18(6) & (7)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Allow post 31.3.98 / pre 1.4.08 non-councillor leaver to select final pay period for fees to be a period of not less than 3 or more than 5 years back from date of leaving	22(1)(b)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Issue a certificate of protection of pension benefits where eligible non-councillor member fails to apply for one (pay cuts / restrictions occurring pre 1.4.08)	23(4)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Grant application from a post 31.3.98 / pre 1.4.08 leaver or from a councillor for early payment of benefits on or after age 50/55 and before age 60 (see Note below)	31(2)*	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the

			Council upon a written request.
Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31.3.98 / pre 1.4.08 leaver or a councillor leaver	31(5)*	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Councillor optants out and pre 1.4.08 employee optants out only to get benefits paid from NRD if employer agrees	31(7A)*	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to extend 12 month period for aggregation of deferred benefits (where deferred councillor member wishes to aggregate with current councillor membership in the same Fund)	32(8A)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Decide, in the absence from a post 31.3.98 / pre 1.4.08 leaver of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership	34(1)(b)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

Consent to a member's former employer assigning to the new employer rights under any SCAVC life assurance policy (pre 1.4.08 non-councillor leavers)	71(7)(a)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
No right to return of contributions due to offence of a fraudulent character unless employer directs a total or partial refund is to be made (councillors and pre 1.4.08. leavers)	88(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Employer may deduct contributions from an councillor's pay or reserve forces pay	89(1) & (2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund (councillor leavers and pre 1.4.08 leavers)	92	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Forfeiture of pension rights on issue of Secretary of State's certificate (councillors and pre 1.4.08 leavers)	111(2) & (5)	Employer	This discretion will be assessed on a case

			by case basis by the Personnel Committee of the Council upon a written request.
Where forfeiture certificate is issued, direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits (councillors and pre 1.4.08 leavers)	112(1)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Recovery from Fund of monetary obligation owed by former employee or, if less, the value of the member's benefits (other than transferred in pension rights) (councillors and pre 1.4.08 leavers)	113(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Recovery from Fund of financial loss caused by employee, or amount of refund if less (councillors and pre 1.4.08 leavers)	115(2) & (3)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

\*These are matters about which the regulations require there must be a written policy.

**Note:** benefits paid on or after age 50 and before age 55 are subject to an unauthorised payments charge and, where applicable, an unauthorised payments surcharge under the Finance Act 2006. Also, any part of the benefits which had accrued after 5 April 2006 would generate a scheme sanction charge.

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

<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	
Grant application from a pre-1.4.98 leaver for early payment of deferred benefits on or after age 50 on compassionate grounds (see Note below)	D11(2)(c)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Decide, in the absence from a pre-1.4.98 leaver of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership	D10	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

**Note:** Benefits paid on or after age 50 and before age 55 are subject to an unauthorised payments charge and, where applicable, an unauthorised payments surcharge under the Finance Act 2006. However, as the benefits had accrued prior to 6 April 2006, they would not generate a scheme sanction charge.

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

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

<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	
To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks' pay limit.	5	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
To award lump sum compensation of up to 104 weeks' pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment.	6	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

**Note:** For the purposes of the above table, 'local government' means employment with an employer who offers membership of the LGPS to its employees, regardless of whether or not the employee chooses to join the LGPS (except where the employer is an Admitted Body). Technically, an employee of an Admitted Body (i.e. a body that has applied to the administering authority to allow its employees to join the LGPS and has entered into a formal admission agreement) is only employed in 'local government' if he / she is a member of the LGPS.

Formulating and publishing a policy under the Discretionary Compensation Regulations 2006

The employer must formulate, publish and keep under review a statement of their policy. If the employer decides to amend the policy, no change can come into effect until one month has passed since the date the amended policy statement was published. In formulating and reviewing its policy an employer is required by the Regulations to:

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

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

Under Regulation 26 of the Discretionary Compensation Regulations, each authority (other than an Admitted Body) is required to formulate and keep under review a policy which applies in respect of exercising their discretion in relation to:

Discretion	Regulation	Exercised by	
How to apportion any surviving spouse's or civil partner's annual compensatory added years payment where the deceased person is survived by more than one spouse or civil partner	21(4)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
How it will decide to whom any children's annual compensatory added years payments are to be paid where children's pensions are not payable under the LGPS (because the employee had not joined the LGPS) and, in such a case, how the annual added years will be apportioned amongst the eligible children	25(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether, in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal pension suspension rules should be disapplied i.e. whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid	21(7)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
If, under the preceding decision, the authority's policy is to apply the normal	21(5)	Employer	This discretion will

suspension rules, whether the spouse's or civil partner's annual compensatory added years payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation			be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partners annual CAY payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or co-habitation lasts, should be disapplied i.e. whether the spouses' or civil partners' annual CAY payments should continue to be paid to both of them	21(7)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether and to what extent to reduce or suspend the member's annual compensatory added years payment during any period of re-employment in local government	17	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
How to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment in local government	19	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

**Note:** For the purposes of the above table, 'local government' means employment with an employer who offers membership of the LGPS to its employees, regardless of whether or not the employee chooses to join the LGPS (except where the employer is an Admitted Body).

Technically, an employee of an Admitted Body (i.e. a body that has applied to the administering authority to allow its employees to join the LGPS and has entered into a formal admission agreement) is only employed in 'local government' if he / she is a member of the LGPS.

#### Formulating and publishing a policy under the Discretionary Compensation Regulations 2000

The employer must formulate, publish and keep under review a statement of their policy.

If the employer decides to amend the policy, a new written statement must be published within a month of when the employer decided on the amendment(s). No change can come into effect until one month has passed since the date the amended policy statement was published.

In formulating and reviewing its policy an employer is required by the Regulations to:

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

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

Under Regulation 14 of the Injury Allowances Regulations, each LGPS employer (other than an Admitted Body) is required to formulate, publish and keep under review the policy that it will apply in the exercise of its discretionary powers to make any award under the Injury Allowances Regulations in respect of leavers, deaths and reductions in pay that occurred post 15 January 2012.

<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	
Whether to grant an injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.	3(1)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount of injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.	3(4) and 8	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Determine whether person continues to be entitled to an injury allowance awarded under regulation 3(1).	3(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to grant an injury allowance following cessation of employment as a	4(1)	Employer	This discretion will

result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job.			be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount of injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job.	4(3) and 8	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1).	4(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to suspend or discontinue injury allowance awarded under regulation 4(1) if person secures paid employment for not less than 30 hours per week for a period of not less than 12 months.	4(5)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a reg 3 payment was being made at date of cessation of employment but reg 4 does not apply.	6(1)	Employer	This discretion will be assessed on a case by case basis

			by the Personnel Committee of the Council upon a written request.
Determine amount of any injury allowance to be paid under regulation 6(1)	6(1)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Determine whether and when to cease payment of an injury allowance payable under regulation 6(1)	6(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to grant an injury allowance to the spouse, civil partner, nominated co-habiting partner or dependent of an employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.	7(1)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Determine amount of any injury allowance to be paid under regulation 7(1)	7(2) and 8	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the

			Council upon a written request.
Determine whether and when to cease payment of an injury allowance payable under regulation 7(1)	7(3)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

Formulating and publishing a policy under the Injury Allowances Regulations 2011

Each LGPS employer (other than an Admitted Body) is required to formulate, publish and keep under review the policy that it will apply in the exercise of its discretionary powers to make any award under the Injury Allowances Regulations.

If the employer decides to change the policy, no change can come into effect until one month has passed since the date the amended policy statement is published.

In formulating and reviewing its policy an employer is required by the Regulations to:

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

### Discretions under the Local Government (Discretionary Payments) Regulations 1996 (as amended)

The following discretions under the Discretionary Payments Regulations:

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

<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	
Amount of injury allowance following loss of employment through permanent incapacity after sustaining an injury or contracting a disease as a result of anything required to do in carrying out duties of job.	34(2) and 38	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Suspend or discontinue injury allowance if person becomes capable of working again	34(4)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount of injury allowance following reduction in pay after sustaining an injury or contracting a disease as a result of anything required to do in carrying out duties of job.	35(3) and 38	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount and duration of injury allowance following cessation of employment	36	Employer	This discretion will

where reg 35 payment was being made but reg 34 does not apply.			be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount and duration of a dependant's, spouse's or civil partner's injury allowance following death of employee after sustaining an injury or contracting a disease as a result of anything required to do in carrying out duties of job.	37(3), 37(6) and 38	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Reinstate spouse's or civil partner's injury allowance following earlier cessation due to cohabitation, remarriage or registration of a new civil partnership	37(4)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount of death in service gratuity payable to surviving dependant, spouse or civil partner	40	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount or retirement gratuity payable	41	Employer	This discretion will be assessed on a case by case basis

			by the Personnel Committee of the Council upon a written request.
Amount of gratuity payable to surviving dependant, spouse or civil partner where amount of annuity payments fall short of their capital value at date of award	41(4)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount if redundancy gratuity payable	42	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount of gratuity payable to surviving dependant, spouse or civil partner where amount of redundancy annuity payments fall short of their capital value at date of award	42(4)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount of gratuity payable to any other surviving dependant, spouse or civil partner where amount of annuity payments paid under 42(4) fall short of their capital value at date of award	42(7)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the

## **OSWESTRY TOWN COUNCIL**

### **Local Government Pension Scheme (Amendment) Regulations**

#### **Discretions on which Employers must make Policies and publish such Policies**

**Each employer must prepare a written statement of its policy in relation to the exercise of its functions regarding the Shropshire County Pension Fund.**

**The statement must be published to members of the LGPS and copied to Shropshire County Pension Fund.**

**Oswestry Town Council must;**

- keep its statement under review**
- make appropriate revisions following a change in its policy.**

#### **“EMPLOYER DISCRETIONS” – England & Wales**

**Discretions from 1.4.14. in relation to post 31.3.14. active members (excluding councillor members) and post 31.3.14. leavers (excluding councillor members), being discretions under:**

- the Local Government Pension Scheme Regulations 2013 [prefix **R**]
- the Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014 [prefix **TP**]
- the Local Government Pension Scheme (Administration) Regulations 2008 [prefix **A**]
- the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) [prefix **B**]
- the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [prefix **T**]
- the Local Government Pension Scheme Regulations 1997 (as amended) [prefix **L**]

<b><u>Discretion</u></b>	<b><u>Regulation</u></b>	<b><u>Exercised by</u></b>	<b><u>Council Policy</u></b>
To whom to offer membership of the LGPS (designation bodies)	R3(1)(b) & RSch 2, Part 2	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Which employees to designate for membership (admission bodies)	R3(1)(c) & R4(2)(b)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether, in respect of an admission body providing a service in respect of outsourced work, to set off against payments due to that body any sums due from that body to the Fund	RSch 2, Part 3, para 12(c)	Transferor employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Determine rate of employees' contributions	R9(1) & R9(3)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether, how much, and in what circumstances to contribute to a shared cost APC scheme	R16(2)(e)* & R16(4)(d)*	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements entered into on or after 1.4.14	R17(1) & definition of SCAVC in RSch 1	Employer	This discretion will be assessed on a case by case basis by the Personnel

			Committee of the Council upon a written request.
Whether, how much, and in what circumstances to continue to contribute to a shared cost AVC arrangement entered into before 1/4/14	TP15(1)(d) & A25(3)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership (where AVC arrangement was entered into before 13/11/01)	TP15(1)(b) & L66(8) & former L66(9)(b)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
No right to return of contributions if member left due to offence of a fraudulent character or grave misconduct unless employer directs a total or partial refund is to be made	R19(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Specify in an employee's contract what other payments or benefits, other than those specified in R20(1)(a) and not otherwise precluded by R20(2), are to be pensionable	R20(1)(b)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
In determining Assumed Pensionable Pay, whether a lump sum payment made in the previous 12 months is a "regular lump sum"	R21(5)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with a new employment	R22(8)(b)	Employer	This discretion will be assessed on a case by case basis by the Personnel

			Committee of the Council upon a written request.
Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with an ongoing concurrent employment	R22(7)(b)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)	R30(6)* & TP11(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement	R30(8)*	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age	R30(8)*	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to “switch on” the 85 Year Rule for a member voluntarily drawing benefits on or after age 55 and before age 60.	TPSch 2, para 2(2)*	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits from pre 1/4/14 membership where the employer has “switched-on” the	TPSch 2, para 2(3)*	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel

85 Year Rule for a member voluntarily drawing benefits on or after age 55 and before age 60			Committee of the Council upon a written request.
Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 p.a.)	R31*	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to use a certificate produced by an IRMP under the 2008 Scheme for the purposes of making an ill health determination under the 2014 Scheme.	TP12(6)	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Determine whether person in receipt of Tier 3 ill health pension has started gainful employment	R37(3) & (4)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to recover any overpaid Tier 3 pension following commencement of gainful employment	R37(3)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Decide whether deferred beneficiary meets criteria of being permanently incapable of former job because of ill health and is unlikely to be capable of undertaking gainful employment before normal pension age or for at least three years, whichever is the sooner.	R38(3)	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Decide whether a suspended ill health tier 3 member is unlikely to be capable of undertaking gainful	R38(6)	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel

employment before normal pension age because of ill health			Committee of the Council upon a written request.
Whether to extend six month period to lodge a stage one IDRП appeal	R74(4)	Adjudicator making stage one IDRП decision	
Decide procedure to be followed by adjudicator when exercising stage one IDRП functions and decide the manner in which those functions are to be exercised	R74(6)	Adjudicator making stage one IDRП decision	
Whether to apply to Secretary of State for a forfeiture certificate (where member is convicted of a relevant offence)	R91(1) & (8)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited (other than rights to GMP – but see R95 below)	R91(4)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Where forfeiture certificate is issued, whether to direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits	R92(1) & (2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than benefits from transferred in pension rights or APCs or AVCs or, subject to R95 below, in respect of any GMP) where the obligation was incurred as a result of a grave misconduct or a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left employment	R93(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

Whether, if the member has committed treason or been imprisoned for at least 10 years for one or more offences under the Official Secrets Acts, forfeiture under <b>R91</b> or recovery of a monetary obligation under <b>R93</b> should deprive the member or the member's surviving spouse or civil partner of any GMP entitlement	<b>R95</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Agree to bulk transfer payment	<b>R98(1)(b)</b>	Employer / Admin. Authority / trustees of new scheme	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	<b>R100(68)</b>	Employer and Admin. Authority	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Allow transfer of pension rights into the Fund	<b>R100(7)</b>	Admin. authority	
Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending 31st March in the 10 years prior to leaving	<b>TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) &amp; B11(2)</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

\* These are matters about which the regulations require there must be a written policy.

**Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1.4.08. and before 1.4.14., being discretions under:**

- the Local Government Pension Scheme (Administration) Regulations 2008 [prefix **A**]
- the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) [prefix **B**]
- the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [prefix **T**]
- the Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014 [prefix **TP**]
- the Local Government Pension Scheme Regulations 2013 [prefix **R**]
- the Local Government Pension Scheme Regulations 1997 (as amended) [prefix **L**]

<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	
Whether, for a member leaving on the grounds of redundancy or business efficiency on or before 31st March 2014, to augment membership (by up to 10 years). The resolution to do so would have to be made within 6 months of the date of leaving. Hence this discretion is spent entirely after 30th September 2014.	<b>B12*</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership	<b>TSch1 &amp; L66(8) &amp; former L66(9)(b)</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
No right to return of contributions due to offence of a fraudulent character or grave misconduct unless employer directs a total or partial refund is to be made	<b>A47(2)</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund	A49(1) & (2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to extend six month period to lodge a stage one IDRП appeal	A58(7)(b)	Person making stage one IDRП decision	
Whether to apply to Secretary of State for a forfeiture certificate (where member is convicted of a relevant offence)	A72(1) & (6)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited	A72(3)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Where forfeiture certificate is issued, whether to direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits	A73(1) & (2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights or AVCs/SCAVCs) where the obligation was incurred as a result of a criminal,	A74(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee

negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left employment			of the Council upon a written request.
Whether to recover from Fund any financial loss caused by fraudulent offence or grave misconduct of employee (who has left because of that), or amount of refund if less	<b>A76(2) &amp; (3)</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending 31 <sup>st</sup> March in the 10 years prior to leaving	<b>B11(2)</b>	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to grant application for early payment of deferred benefits on or after age 55 and before age 60	<b>B30(2)*</b>	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under <b>B30</b>	<b>B30(5)*</b>	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to grant an application for early payment of a suspended tier 3 ill health pension on or after age 55 and before age 60	<b>B30A(3)*</b>	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee

			of the Council upon a written request.
Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under <b>B30A</b>	<b>B30A(5)*</b>	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Decide whether deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria	<b>B31(4)</b>	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment	<b>B31(7)</b>	Employer (or Admin. Authority where Employer has become defunct)	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

\* These are matters about which the regulations require there must be a written policy.

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

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

<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	
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Allow a councillor who has opted out more than once to re-join	7(9)(a)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Allow a late application by a councillor member to pay optional contributions for a period of absence	18(6) & (7)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Allow post 31.3.98 / pre 1.4.08 non-councillor leaver to select final pay period for fees to be a period of not less than 3 or more than 5 years back from date of leaving	22(1)(b)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Issue a certificate of protection of pension benefits where eligible non-councillor member fails to apply for one (pay cuts / restrictions occurring pre 1.4.08)	23(4)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

Grant application from a post 31.3.98 / pre 1.4.08 leaver or from a councillor for early payment of benefits on or after age 50/55 and before age 60 (see Note below)	31(2)*	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31.3.98 / pre 1.4.08 leaver or a councillor leaver	31(5)*	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Councillor optants out and pre 1.4.08 employee optants out only to get benefits paid from NRD if employer agrees	31(7A)*	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to extend 12 month period for aggregation of deferred benefits (where deferred councillor member wishes to aggregate with current councillor membership in the same Fund)	32(8A)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Decide, in the absence from a post 31.3.98 / pre 1.4.08 leaver of an election from the member within 3 months of being able to elect, which benefit is to	34(1)(b)	Employer	This discretion will be assessed on a

be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership			case by case basis by the Personnel Committee of the Council upon a written request.
Consent to a member's former employer assigning to the new employer rights under any SCAVC life assurance policy (pre 1.4.08 non-councillor leavers)	71(7)(a)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
No right to return of contributions due to offence of a fraudulent character unless employer directs a total or partial refund is to be made (councillors and pre 1.4.08. leavers)	88(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Employer may deduct contributions from an councillor's pay or reserve forces pay	89(1) & (2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund (councillor leavers and pre 1.4.08 leavers)	92	Employer	This discretion will be assessed on a case by case basis by the Personnel

			Committee of the Council upon a written request.
Forfeiture of pension rights on issue of Secretary of State's certificate (councillors and pre 1.4.08 leavers)	111(2) & (5)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Where forfeiture certificate is issued, direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits (councillors and pre 1.4.08 leavers)	112(1)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Recovery from Fund of monetary obligation owed by former employee or, if less, the value of the member's benefits (other than transferred in pension rights) (councillors and pre 1.4.08 leavers)	113(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Recovery from Fund of financial loss caused by employee, or amount of refund if less (councillors and pre 1.4.08 leavers)	115(2) & (3)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the

			Council upon a written request.
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\*These are matters about which the regulations require there must be a written policy.

**Note:** benefits paid on or after age 50 and before age 55 are subject to an unauthorised payments charge and, where applicable, an unauthorised payments surcharge under the Finance Act 2006. Also, any part of the benefits which had accrued after 5 April 2006 would generate a scheme sanction charge.

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

<b><u>Discretion</u></b>	<b><u>Regulation</u></b>	<b><u>Exercised by</u></b>	
Grant application from a pre-1.4.98 leaver for early payment of deferred benefits on or after age 50 on compassionate grounds (see Note below)	D11(2)(c)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Decide, in the absence from a pre-1.4.98 leaver of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership	D10	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

**Note:** Benefits paid on or after age 50 and before age 55 are subject to an unauthorised payments charge and, where applicable, an unauthorised payments surcharge under the Finance Act 2006. However, as the benefits had accrued prior to 6 April 2006, they would not generate a scheme sanction charge.

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

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

<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	
To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks' pay limit.	5	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
To award lump sum compensation of up to 104 weeks' pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment.	6	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

**Note:** For the purposes of the above table, 'local government' means employment with an employer who offers membership of the LGPS to its employees, regardless of whether or not the employee chooses to join the LGPS (except where the employer is an Admitted Body). Technically, an employee of an Admitted Body (i.e. a body that has applied to the administering authority to allow its employees to join the LGPS and has entered into a formal admission agreement) is only employed in 'local government' if he / she is a member of the LGPS.

Formulating and publishing a policy under the Discretionary Compensation Regulations 2006

The employer must formulate, publish and keep under review a statement of their policy. If the employer decides to amend the policy, no change can come into effect until one month has passed since the date the amended policy statement was published. In formulating and reviewing its policy an employer is required by the Regulations to:

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

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

Under Regulation 26 of the Discretionary Compensation Regulations, each authority (other than an Admitted Body) is required to formulate and keep under review a policy which applies in respect of exercising their discretion in relation to:

Discretion	Regulation	Exercised by	
How to apportion any surviving spouse's or civil partner's annual compensatory added years payment where the deceased person is survived by more than one spouse or civil partner	21(4)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
How it will decide to whom any children's annual compensatory added years payments are to be paid where children's pensions are not payable under the LGPS (because the employee had not joined the LGPS) and, in such a case, how the annual added years will be apportioned amongst the eligible children	25(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether, in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal pension suspension rules should be disapplied i.e. whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid	21(7)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

<p>If, under the preceding decision, the authority's policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual compensatory added years payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation</p>	21(5)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
<p>Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partners annual CAY payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or co-habitation lasts, should be disapplied i.e. whether the spouses' or civil partners' annual CAY payments should continue to be paid to both of them</p>	21(7)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
<p>Whether and to what extent to reduce or suspend the member's annual compensatory added years payment during any period of re-employment in local government</p>	17	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
<p>How to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment in local government</p>	19	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

**Note:** For the purposes of the above table, 'local government' means employment with an employer who offers membership of the LGPS to its employees, regardless of whether or not the employee chooses to join the LGPS (except where the employer is an Admitted Body). Technically, an employee of an Admitted Body (i.e. a body that has applied to the administering authority to allow its employees to join the LGPS and has entered into a formal admission agreement) is only employed in 'local government' if he / she is a member of the LGPS.

#### Formulating and publishing a policy under the Discretionary Compensation Regulations 2000

The employer must formulate, publish and keep under review a statement of their policy.

If the employer decides to amend the policy, a new written statement must be published within a month of when the employer decided on the amendment(s). No change can come into effect until one month has passed since the date the amended policy statement was published.

In formulating and reviewing its policy an employer is required by the Regulations to:

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

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

Under Regulation 14 of the Injury Allowances Regulations, each LGPS employer (other than an Admitted Body) is required to formulate, publish and keep under review the policy that it will apply in the exercise of its discretionary powers to make any award under the Injury Allowances Regulations in respect of leavers, deaths and reductions in pay that occurred post 15 January 2012.

<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	
Whether to grant an injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.	3(1)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount of injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.	3(4) and 8	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Determine whether person continues to be entitled to an injury allowance awarded under regulation 3(1).	3(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

Whether to grant an injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job.	4(1)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount of injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job.	4(3) and 8	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1).	4(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to suspend or discontinue injury allowance awarded under regulation 4(1) if person secures paid employment for not less than 30 hours per week for a period of not less than 12 months.	4(5)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a reg 3 payment was being made at date of cessation of employment but reg 4 does not apply.	6(1)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Determine amount of any injury allowance to be paid under regulation 6(1)	6(1)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Determine whether and when to cease payment of an injury allowance payable under regulation 6(1)	6(2)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Whether to grant an injury allowance to the spouse, civil partner, nominated co-habiting partner or dependent of an employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.	7(1)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Determine amount of any injury allowance to be paid under regulation 7(1)	7(2) and 8	Employer	This discretion will be assessed on a

			case by case basis by the Personnel Committee of the Council upon a written request.
Determine whether and when to cease payment of an injury allowance payable under regulation 7(1)	7(3)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

#### Formulating and publishing a policy under the Injury Allowances Regulations 2011

Each LGPS employer (other than an Admitted Body) is required to formulate, publish and keep under review the policy that it will apply in the exercise of its discretionary powers to make any award under the Injury Allowances Regulations.

If the employer decides to change the policy, no change can come into effect until one month has passed since the date the amended policy statement is published.

In formulating and reviewing its policy an employer is required by the Regulations to:

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

### Discretions under the Local Government (Discretionary Payments) Regulations 1996 (as amended)

The following discretions under the Discretionary Payments Regulations:

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

<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	
Amount of injury allowance following loss of employment through permanent incapacity after sustaining an injury or contracting a disease as a result of anything required to do in carrying out duties of job.	34(2) and 38	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Suspend or discontinue injury allowance if person becomes capable of working again	34(4)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount of injury allowance following reduction in pay after sustaining an injury or contracting a disease as a result of anything required to do in carrying out duties of job.	35(3) and 38	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

Amount and duration of injury allowance following cessation of employment where reg 35 payment was being made but reg 34 does not apply.	36	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount and duration of a dependant's, spouse's or civil partner's injury allowance following death of employee after sustaining an injury or contracting a disease as a result of anything required to do in carrying out duties of job.	37(3), 37(6) and 38	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Reinstate spouse's or civil partner's injury allowance following earlier cessation due to cohabitation, remarriage or registration of a new civil partnership	37(4)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount of death in service gratuity payable to surviving dependant, spouse or civil partner	40	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount or retirement gratuity payable	41	Employer	This discretion will be assessed on a

			case by case basis by the Personnel Committee of the Council upon a written request.
Amount of gratuity payable to surviving dependant, spouse or civil partner where amount of annuity payments fall short of their capital value at date of award	41(4)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount if redundancy gratuity payable	42	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount of gratuity payable to surviving dependant, spouse or civil partner where amount of redundancy annuity payments fall short of their capital value at date of award	42(4)	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.
Amount of gratuity payable to any other surviving dependant, spouse or civil partner where amount of annuity payments paid under 42(4) fall short of their capital value at date of award	42(7)	Employer	This discretion will be assessed on a case by case basis by the Personnel

			Committee of the Council upon a written request.
Formulate and keep under review the injury allowance and gratuity policies to be operated by the authority	46A	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.

			Council upon a written request.
Formulate and keep under review the injury allowance and gratuity policies to be operated by the authority	46A	Employer	This discretion will be assessed on a case by case basis by the Personnel Committee of the Council upon a written request.