

## Guidance in writing your Discretionary Policies

### Introduction

It is a statutory requirement to prepare, consult and publish your policy statement, which promotes open administration, helps build awareness of pension provisions and ensures correct pension benefit payments. All employers should:

- prepare and publish written policy statements under LGPS Regulations, Compensation Regulations and Injury Allowance Regulations.
- send a copy to Oxfordshire Pension Fund.
- set out and implement a review process.

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**How to use this policy summary:**

1. This document can be used as guidance / reference, or it can be used to formally document the decisions of your organisation.
2. If you do not have your own format for documenting policy decisions and are using this as your template:
  - a. Where XXX appears in the document, please show the formal name of your employer /authority.
  - b. you may delete or add wording in the final column, where applicable, to indicate the decision that you have made.
  - c. please sign the document below, before sending to [pension.employers@oxfordshire.gov.uk](mailto:pension.employers@oxfordshire.gov.uk)
3. Required / mandatory areas (Sections 1, 3, 4, 5, 6 and 7) **must** be included in published statements. If you have not addressed the mandatory areas, your policy will be sent back to you.
4. Non-mandatory areas where the employer can use discretion, and which are the most frequently applied are shown in Section 2. It is recommended you include these in your statements, to help ensure all parties are clear on employer intention and process.
5. Check you apply the parts appropriate to your employer status in the LGPS (admitted, designated, etc).
6. Simplified suggestions of wording have been provided however all employers should prepare their policy being aware of the full requirements and precautions – the full list of discretionary policies can be found <https://lgpsregs.org/resources/guidesetc.php>
7. All policies should be reviewed regularly. Any subsequent changes to policies must be notified to affected employees.
8. 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.
9. Any changes to your policies must be notified to Oxfordshire Pension Services within 1 month of the change.

**Policy statement prepared and submitted by:** .....

**Date** ...../...../ .....

**To be reviewed** ...../...../ .....

## 1: Summary of MANDATORY discretions affecting Active members and Leavers on and after 2 April 2014

Discretion required	Background and points to consider	Employer's decision (to be completed by employer)	Tick ✓
<p>Will the employer grant extra annual pension?</p> <p><a href="#">2013 LGPS Regulation 31</a></p>	<ul style="list-style-type: none"> <li>• Employer can pay the fund to increase the member's pension up to an additional £7,579 a year (April 2023 rate).</li> <li>• Can be granted to an active member, or within 6 months of someone leaving on redundancy or business efficiency.</li> <li>• Full cost is with the employer.</li> </ul>	<p>XXX will (state circumstances, process) /will not grant extra annual pension.</p>	
<p>Will the employer share the cost of purchasing additional pension (SCAPC) with a member?</p> <p><a href="#">2013 LGPS regulation 16(2) and (4)</a></p>	<ul style="list-style-type: none"> <li>• When an active member elects to buy additional pension by extra contributions, the employer can voluntarily contribute towards this. Under what circumstances might the employer do so?</li> <li>• <b>Do not confuse</b> with restoring lost pension after approved absence when employer <b>must</b> share 2/3rds cost.</li> </ul>	<p>XXX will not / will (provide details) share the cost for a member's purchase for additional pension.</p>	
<p>Will the employer permit flexible retirement?</p> <p><a href="#">2013 LGPS regulation 30(6)</a></p>	<ul style="list-style-type: none"> <li>• Members aged at least 55, with agreement of their employer, may reduce their hours or grade and take payment of their pension benefits. (Member stays in fund in ongoing employment)</li> <li>• Member has the choice on taking all, part or none of post 31 March 2008 benefits.</li> <li>• Early payment may mean pension is reduced for the member, but the employer can waive the reduction completely or in part. (Full cost is with the employer.)</li> <li>• Some members may have protected rights to unreduced pension, which would increase employer costs.</li> <li>• Always seek guidance on costs from Pension Services.</li> </ul>	<p>There are several parts to this discretion which should be included:</p> <p>XXX a) will consider applications for flexible retirement subject to cost/ business case / will not agree flexible retirement arrangements</p> <p>If employer will consider a) then b) xxx will/ will not waive any pension reductions and</p> <p>c) will / will not permit member to choose which part of their pension to draw (subject to employer cost/ business need).</p>	

Discretion required	Background and points to consider	Employer's decision (to be completed by employer)	Tick ✓
<p>Will the employer switch back on '85-year rule' protections?</p> <p><a href="#">2014 Transitional Provisions regulations Sched 2</a></p>	<ul style="list-style-type: none"> <li>• Unlikely to apply when membership only starts from 1 April 2014 with no linked previous membership.</li> <li>• This rule only applies automatically to members voluntarily retiring from age 60 but the employer has the discretion to "switch it on" for voluntary retirements between age 55 and 60.</li> <li>• Full cost is with employer.</li> </ul>	<p>XXX has no pre 2014 liabilities and this regulation will not apply. (This section will be reviewed in the future/ we will /will not switch on this option should any employee bring earlier protected rights with them to this employment) .</p>	
<p>When would the employer waive actuarial reductions to benefits being drawn on early voluntary retirement?</p> <p><a href="#">2013 LGPS regulation 30(5)</a></p>	<ul style="list-style-type: none"> <li>• Pensions taken early, voluntarily, are reduced but the employer can waive the reductions at their own cost.</li> <li>• Waiver can apply from active, from deferred status and from deferred tier 3 ill health retirees, between age 55 and normal pension age.</li> <li>• Employers should be clear in their policy on how this could apply and under which circumstances.</li> <li>• For post 2014 membership there is no longer the requirement to satisfy compassionate grounds to release pension early.</li> <li>• Ideally your policy should include under what circumstances you would consider waiving reductions (if appropriate).</li> </ul>	<p>XXX will not /will consider applications to waive actuarial reduction for early voluntary retirement from active members.</p> <p>XXX will/ will not consider applications to waive actuarial reductions made by members with deferred pensions etc.</p>	

## 2. Summary of recommended discretions (**not Mandatory**) affecting Active members and Leavers on and after 2 April 2014

An employer has discretion to exercise in these areas	Background and points to consider	Employer's decision (to be completed by employer)	Tick ✓
<p>Employer to determine who will join the scheme (<b>Admitted and Designated Bodies</b>)</p> <p><a href="#">2013 LGPS regulation 2</a></p>	<ul style="list-style-type: none"> <li>• <b>Admitted and Designated bodies</b> - Committee minutes / admission agreement must specify who will be eligible to join the scheme - either by the name, or by type of employment and from which date.</li> <li>• Scheduled Bodies including county, district councils, FE colleges, academies, university must follow LGPS regulations. Admission is not discretionary.</li> </ul>		
<p>Employer to determine member contribution band and terms of review. This decides the member contribution rate.</p> <p><a href="#">2013 LGPS regulations 9/10</a></p>	<ul style="list-style-type: none"> <li>• On joining and every April the employer should allocate the member's contribution band</li> <li>• The policy should show if the allocation would change mid-year following a material change in pay.</li> <li>• Inform member of your process.</li> <li>• Ideally members' contracts should specify what other pay and benefits are pensionable.</li> </ul>	<p>XXX will review employee contribution band every April and <b>will/will not</b> generally review mid-year following a material change to pay, or note here how the contribution band will be determined.</p>	
<p>Will the employer extend time limits for member to make decision on transfer of pension rights from an approved pension scheme?</p> <p><a href="#">2013 LGPS regulation 100(6)</a></p>	<ul style="list-style-type: none"> <li>• The member has 12 months from first joining the LGPS in that employment to receive details, seek advice and make decision on transfer.</li> <li>• There may be reasons for delays out of the member's control.</li> <li>• Employer may want to seek advice on any potential financial cost from Pension Services before approving request to extend deadline.</li> </ul>	<p>XXX will, with the agreement for the Pension Fund agree to an extension of xxx [suggest period or terms and who makes decision] beyond the deadline on submission of evidence / will not extend time limits for transfer decisions.</p>	
<p>Will the employer extend the time limit for members to NOT link (aggregate) their LGPS memberships?</p>	<ul style="list-style-type: none"> <li>• A member joining after April 2014 who has previous LGPS membership can elect to keep pension records separate but this must be done within 12 months of starting in that employment.</li> </ul>	<p>XXX <b>will / will not</b> extend the time limits the member has to make an election to keep pension records separate. As above if <b>will</b> - give [period on extension or terms and who makes the decision]</p>	

An employer has discretion to exercise in these areas	Background and points to consider	Employer's decision (to be completed by employer)	Tick ✓
<a href="#">2013 LGPS regulation 22(7)+(8)</a>	<ul style="list-style-type: none"> <li>Without the written election pension records will be linked together.</li> <li>There may be reasons for delays out of the member's control.</li> </ul>		
<p>Will the employer extend the time limit for members to link (aggregate) their LGPS memberships?</p> <p><a href="#">Amendment LGPS regulations 2018 27 and TP 2014 Regulations 10</a></p>	<ul style="list-style-type: none"> <li>For those joining scheme again after May 2018 but who were in the scheme during March/April 2014 and have previous deferred benefit - aggregation will not be automatic,</li> <li>If they wish to aggregate they must have written election within 12 months.</li> <li>The employer may allow a later election.</li> </ul>	<p>XXX will, with the agreement for the Pension Fund agree to an extension of xxx [suggest period or terms and who makes decision] beyond the deadline on submission of evidence / will not extend time limits for transfer decisions.</p>	
<p>Will the employer contribute to Shared Cost Additional Voluntary Contributions (SCAVC)?</p> <p><a href="#">2013 LGPS regulation 17</a></p>	<ul style="list-style-type: none"> <li>Whether, how much and in what circumstances will the employer contribute to the SCAVC arrangement.</li> <li>It is recommended to consult with Pension Services on any payroll / benefit implications before setting this up.</li> </ul>	<p>XXX will not /will contribute to SCAVC arrangement. (Provide details of circumstances if entering this arrangement).</p>	
<p>Will the employer include regular lump sums when assessing value for Assumed Pensionable Pay (APP)?</p> <p><a href="#">2013 LGPS regulation 21</a></p>	<ul style="list-style-type: none"> <li>When calculating APP, if in the twelve months before the member would have ordinarily received a lump sum payment, will the employer use this in the APP calculation.</li> <li>NB separate calculations are required if member dies in service or retires on ill health even if APP already assessed for monthly returns.</li> <li>employer should state in their policy how checks will be made and how member and fund are informed.</li> </ul>	<p>XXX will not / will, when appropriate, add back the regular lump sum payment to provide the assumed pensionable pay figure:</p> <ul style="list-style-type: none"> <li>*when on reduced pay during child related leave</li> <li>*reserves forces leave</li> <li>*no or reduced pay during sickness or injury</li> <li>*retirement on tier 1 or tier 2</li> <li>*death in service.</li> </ul>	

An employer has discretion to exercise in these areas	Background and points to consider	Employer's decision (to be completed by employer)	Tick ✓
<p>Will the employer substitute a higher value of pensionable pay when assessing APP ?</p> <p>2018 amendment regulations 7</p>	<ul style="list-style-type: none"> <li>An employer may substitute a higher pensionable pay if, in their opinion, the value assessed by APP is materially lower than member would ordinarily have received in the previous year.</li> <li>This could occur during child related leave, reduced on no pay sickness etc and be used for ill health retirement on tier 1 or 2, death in service.</li> </ul>	<p>XXX will / will not consider substituting a higher value of pay in place of APP.</p>	
<p>Will the employer extend the time limit for a member to decide to restore lost pension by shared cost additional pension contributions (SCAPC) after a period of no pay (other than due to sickness or paid child related leave.)?</p> <p><a href="#">2013 LGPS regulation 16(16)</a></p>	<ul style="list-style-type: none"> <li>After a period of approved unpaid leave, a member has 30 days from their return to work to receive information to enable election for (SCAPC) shared cost additional pension contribution, to restore lost pension.</li> <li>employer must provide lost pay details and advise member of opportunity.</li> <li>employer <u>must</u> share costs when the election is made within the time limits stipulated.</li> <li>Increasing time limit would allow for any delays in administration process.</li> </ul>	<p>XXX will not / will only extend deadlines beyond 30 days of return to work when application shows good reason for the delay in decision.</p> <p>Any extension must not exceed xxx from return to work and decision will be made by xxx.</p>	

**3: Other MANDATORY provisions to be included in a policy, under different regulations and which can apply to active employees regardless of LGPS membership**

An employer has discretion to exercise in these areas	Background and points to consider (shaded sections are mandatory)	Employer's decision	Tick ✓
<p>Will the Employer make an injury award to compensate for loss of</p> <p>a) pay, or b) job, or c) death due to injury or disease sustained at work?</p> <p><a href="#">Regulation 3-7 of the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 employers (LGPS employers)</a></p>	<ul style="list-style-type: none"> <li>Under what circumstances, for how much and for how long would an employee be compensated if in performing their duties they sustain injury or disease leading to loss of pay, employment or death?</li> <li>Injury award could apply to all employees regardless of LGPS membership.</li> <li>All costs rest with employer.</li> </ul>	<p>XXX will / will not set up an injury award scheme under these regulations.</p> <p>If <b>will set</b> out the terms of assessment and arrangements to apply.</p>	
<p>Will the employer pay enhanced redundancy payments and /or compensation for loss of employment on redundancy ?</p> <p><a href="#">Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006</a></p>	<p>1) in the event of a redundancy, when weekly pay is higher than the relevant statutory weekly pay, which would the employer use to assess redundancy payment? (Regulation 5)</p> <p>2) an employer can make a termination payment of up to 104 weeks' pay to an LGPS member or someone eligible to be a member when leaving due to redundancy, efficiency or cessation of a joint appointment. <b>Cannot use</b> this if you are awarding additional pension under 2013 LGPS regulation 31.</p> <p>Neither 1 nor 2 are funded - all at employer cost.</p>	<p>1) XXX will / will not base redundancy pay on actual pay when greater than the 'statutory week's pay' for a redundancy payment.</p> <p>2) XXX will / will not award termination compensation lump sum of xxx week's pay (specify the assessment, entitlement etc) following redundancy etc to anyone or specify occasion when consideration is possible.</p> <p>Who decides?</p>	



#### 4: Summary of MANDATORY discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to members (excluding councillor members) who ceased active membership between 1 April 2008 and 31 March 2014

Occasionally an employer will receive request from a former employee who left the employment and the LGPS under earlier pension scheme regulations. The following table shows the mandatory discretions under different regulations according to the leaving date. These are all mandatory.

Where bodies have amalgamated, or services transferred check on your level of inherited responsibility to ensure you include the right category.

If this Section does not apply to you, please indicate here \_\_\_\_\_

An employer has discretion to exercise in these areas	Background and points to consider	Employer's decision	Tick ✓
<p>Will employer switch on '85-year rule' protections for early payment of deferred benefit? Request made from May 2018</p> <p>LGPS Administration Regulations 2018 66 and sched 2 of 2014 TP Regulations</p>	<ul style="list-style-type: none"> <li>• Early payment of a deferred benefit – on and after May 2018, for those between ages 55-60 does not automatically carry the 85-year rule protection to unreduced pension.</li> <li>• The opportunity to request early payment of DB for those in this age group only available from May 2018. Before then, agreement to early payment before age 60 required protection of 85-year rights and full employer costs.</li> <li>• Costs fall to the employer, ask Pension Services for estimate for decision process.</li> </ul>	<p>XXX <b>will not /will</b> consider applications to switch on 85-year rule to provide early unreduced pension to former scheme members. Ideally, include details you need from the member to make the decision, if appropriate</p> <p>XXX will not consider applications to waive actuarial reductions made by members with deferred pensions under any circumstance etc.</p>	
<p>Will you 'switch on' the 85-year rule upon the voluntary early payment of a suspended tier 3 ill health pension? from 14 May 2018</p> <p>LGPS Administration Regulations 2018 66 and sched 2 of 2014 TP Regulations</p>	<ul style="list-style-type: none"> <li>• Background, points and costs like those in line above – introduced from May 2018 for post 2014 leavers with suspended tier 3 pension.</li> <li>• Costs fall to the employer, ask Pension Services for estimate for decision process.</li> </ul>	<p>XXX <b>will not /will</b> consider applications to switch on 85-year rule to provide unreduced pension paid early on request to former scheme members after the third-tier ill health pension has ceased, and voluntary request made for early payment between from age 55-60</p> <p>XXX will not consider applications to waive actuarial reductions made by members with deferred pensions under any circumstance etc.</p>	
<p>Will the employer waive actuarial reductions due to compassionate grounds for</p>	<ul style="list-style-type: none"> <li>• The additional costs rest with the employer, waiving the reduction for early payment is for the lifetime of the pension. Apply to Pension Services for details of costs.</li> </ul>	<p>XXX will not /will consider applications to waive actuarial reduction for early pension payments.</p>	

An employer has discretion to exercise in these areas	Background and points to consider	Employer's decision	Tick ✓
<p>early payment of deferred pension - before age 65?</p> <p><a href="#">LGPS regulations 2007 30(5)</a></p> <p>Sched 2 of TP regulations 2014</p>	<ul style="list-style-type: none"> <li>• Ideally include details required you need to make the decision</li> <li>• Include where to present the request.</li> <li>• Notes for the release of pension early for post 14 members could also be read here.</li> <li>• Can apply for member with DB or with suspended tier 3 ill health pension, left scheme before 1.4.2008.</li> <li>• Compassionate grounds is only reason for waiving reduction.</li> </ul>		

**5: Summary of MANDATORY discretions to be exercised on and after 1 April 2014 (for requests made from 14 May 2018) in relation to members (including councillor members) who ceased active membership between 1 April 1998 and 31 March 2008**

1. Will the employer waive reductions on compassionate grounds for an early voluntary payment of pension?
2. Will the employer switch on the 85-year rule for early payment of DBs requested between ages 55-60?
3. Will the employer permit early payment of benefit from age 50 and under 55 (always check on the tax situation as may result in unauthorised payment charge)?

Contact Pension Services for cost estimates. Please refer to the tables above for points to consider and the LGA [www.lgpsregs.org](http://www.lgpsregs.org) guide to Employer Discretions provide more detailed reference.

If you are a new employer, and this Section does not apply to you, please indicate here \_\_\_\_\_

**A note about Councillors / elected members:** Although elected members may not now join the LGPS in England, this fund does hold the deferred pensions for former councillors from some Districts and the County Council. Authorities enabling the elected members to join should have the 3 mandatory policy areas above prepared for leavers between 1 April 1998 and 31 March 2008 (effective from 14 May 2018).

**6: Summary of the MANDATORY discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to members (excluding councillor members) who ceased active membership before 1 April 1998**

<b>An employer has discretion to exercise in these areas</b>	<b>Background and points to consider</b> (shaded sections are mandatory)	<b>Employer's decision</b>	<b>Tick</b> ✓
Will the employer grant early payment of deferred benefit on compassionate grounds?  LGPS regulations 1995 (Transitional Provisions 1997 2)	<ul style="list-style-type: none"> <li>• There is an employer cost involved in agreeing to early payment from age 50 and HMRC charge for unauthorised payment.</li> <li>• You should include details required you need to make the decision.</li> </ul>	XXX will not /will consider applications to waive actuarial reduction for early voluntary retirement from members with deferred pensions.	

If this Section does not apply to you, please indicate here \_\_\_\_\_

## 7: Summary of the MANDATORY discretions to be exercised under the 2000 Discretionary Regulations

These regulations still apply as benefits have been awarded in the past for certain leavers before 1 April 2007. Employers, (most likely to be County, District Councils and Oxford City) using these in the past should maintain **mandatory** policies on:

- Reduction or suspension of annual compensation (added years) during periods of re employment in local government and after leaving and having opportunity to re-join the LGPS (even if doesn't) what level of pension abatement to apply
- If survived by more than one civil partner or spouse how will the pension be apportioned
- Whether to suspend spouse or civil partner pension during periods of re marriage/ partnership or cohabitation
- Whether to reinstate spouse or civil partnership added year's compensatory pension after remarriage etc has ended
- Would children's pension be payable under compensatory regulations when not under LGPS main scheme?

If this Section does not apply to you, please indicate here \_\_\_\_\_