

## REPORT OF CHIEF EXECUTIVE

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### **SUBJECT: REVIEW OF EMPLOYER DISCRETIONS IN RELATION TO THE DYFED PENSION FUND**

#### **Purpose of Report**

The report seeks the approval of Members to make changes to the discretions the Authority adopts in relation to the Local Government Pension Scheme (LGPS).

#### **Background**

On 14<sup>th</sup> May 2018 the Local Government Pension Scheme (LGPS) (Amendment) Regulations 2018 were introduced. As a result of this the Dyfed Pension Fund administrators have informed us that all scheme employers are required to review their employer policies.

When formulating and reviewing our policies, the Authority 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.

Once agreed, the abridged Policy Statement must then be published and made available to scheme members and a period of **one month** must elapse before policies can come into effect.

**Annex A** provides a Briefing note from Dyfed Pension Fund administrators.

**Annex B** provides the proposed “Employing Authority Discretions”, with proposed new provisions marked in red.

#### **Financial considerations**

The Authority is not seeking to make significant changes to the Discretions it adopts in relation to the scheme and therefore the financial impact of these changes is likely to be limited. However, it should be noted that changes in how the fund operates could lead to significant increases in the contributions required from the Authority.

## **Risk considerations**

The management of pension provision is a long term function that needs to balance fairness to members, the management requirements of the Authority and the sustainability of the Pension Fund. Consideration needs to be given to the risk of any decision or change.

## **Compliance**

The Authority is required to undertake this review to meet the requirements of the Local Government Pension Scheme (LGPS) (Amendment) Regulations 2018.

## **Human Rights/Equality issues**

The current pension provision provides a significant benefit to enable members to plan for their retirement. However, any changes need to take account of an impact on protected groups.

## **Welsh Language statement**

The documents will be bilingual.

## **Conclusion**

Following advice from the managers of the Dyfed Pension Fund Annex B outlines the proposed changes to the Employer Discretions in relation to the fund.

## **Recommendation**

***That Members approve the “Employing Authority Discretions” included as Annex B***

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**LGPS - Employer Discretionary Policy Update - November 2018 provided by  
Dyfed Pension Fund**

**Introduction**

Within the regulations that make up the Local Government Pension Scheme (LGPS) in England & Wales, there are discretionary functions available to each employing authority. It is therefore a statutory obligation that each employing authority formulates and keep under review a policy in respect of each of these discretionary functions. If not, NO benefits should be paid to your scheme members from the Dyfed Pension Fund, not even in the event of their death.

The introduction of the LGPS (Amendment) Regulations 2018 on 14th May 2018 has brought about further discretionary functions to employing authorities. However, in light of this update, the Local Government Pensions Committee (LGPC) decided to undertake a full review of ALL discretions under all LGPS regulations, which has subsequently led to this exercise and the need to review and update your existing policy statement.

**Policy Statements**

The full Policy Statement contains all the employer discretionary policies in place as at the 14th May 2018 under each of the regulations that govern the LGPS in England & Wales, namely the:

- LGPS (Amendment) Regulations 2018
- LGPS Regulations 2013
- LGPS (Transitional Provisions, Savings & Amendment) Regulations 2014
- LGPS (Administration) Regulations 2008
- LGPS (Benefits, Membership & Contributions) Regulations 2007
- LGPS (Transitional Provisions) Regulations 2008
- LGPS Regulations 1997 (as amended)
- LGPS Regulations 1995 (as amended)
- Local Government (Early Termination of Employment) (Discretionary Compensation) (England & Wales) Regulations 2006 (as amended)
- Local Government (Early Termination of Employment) (Discretionary Compensation) (England & Wales) Regulations 2000 (as amended)
- Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011
- Local Government (Discretionary Payments) Regulations 1996

The full Policy Statement contains both mandatory and non-mandatory policies. Once agreed and accepted, all mandatory policies must then be formally published to your scheme members via the published Policy Statement. Once published, a period of one month must elapse before your newly formulated policies can come into force. (Note that the abridged published Policy Statement contains the mandatory policies from the full policy statement).

Once your full Policy Statement has been agreed, both the full and published Policy Statement should be sent on to the Dyfed Pension Fund. Note that your full Policy Statement should NOT be published to your scheme members. Once received, your published Policy Statement will then be uploaded to the Discretionary Policies area of the Employer Section on the Dyfed Pension Fund website.

### **Please Note**

Any guidance provided by the Dyfed Pension Fund will always have been offered with the utmost regard to adopting a 'cost neutral' approach. Note that is your responsibility, as the employing authority to formulate your policies. When formulating your policies, please note that you are 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.

## Annex B

### PEMBROKESHIRE COAST NATIONAL PARK AUTHORITY

#### Employing Authority Discretions

**NOTE for review purposes, the new 2018 provisions are in red**



**NOTE: the provisions required to be published are highlighted**

#### Local Government Pension Scheme Regulations 2013

These are discretionary policies from 1 April 2014 in relation to post 31 March 2014 active members and post 31 March 2014 leavers.

Discretion	Regulation	PCNPA Policy
To whom to offer membership of the LGPS (designation bodies).	2 (1B)(a) & Schedule 2, Part 2	All members eligible to join
Which employees to designate for membership (admission bodies).	2(1C), 3(1)(b) and 4(2)(b)	All employees eligible to join
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.	Schedule 2, Part 3, Paragraph 12(c)	Take action appropriate in respect of each admission agreement
Determine rate of employees' contributions.	9(1) & 9(3)	Apply this discretion
Whether, how much, and in what circumstances to contribute to a shared cost APC scheme.	16(2)(e)* & 16(4)(d)*	Not to apply this discretion
Whether to extend 30 day deadline for member to elect for a shared cost APC upon return from a period of absence from work with permission with no pensionable pay (otherwise than because of illness or injury, relevant child-related leave or reserve forces service leave).	16(16)	Extensions ONLY in exceptional circumstances.

Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements	17(1) & Definition of SCAVC in Schedule 1	Not to apply this discretion
No right to return of contributions where a member left their employment due to offence of a fraudulent character or grave misconduct in connection with that employment, unless employer directs a total or partial refund is to be made.	19(2)	Take action appropriate in respect of the circumstances of each case
Specify in an employee's contract what other payments or benefits, other than those specified under Regulation 20(1)(a) and not otherwise precluded by Regulation 20(2), are to be pensionable.	20(1)(b)	Apply this discretion
In determining Assumed Pensionable Pay, whether a lump sum payment made in the previous 12 months is a "regular lump sum".	21(5)	Apply this discretion
Where in the Employer's opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments) in the 3 months (or 12 weeks if not paid monthly) preceding the commencement of Assumed Pensionable Pay (APP), is materially lower than the level of pensionable pay the member would have normally received, decide whether to substitute a higher level of pensionable pay having regard to the level of pensionable pay received by the member in the previous 12 months.	21(5A) & 21(5B)	Apply this discretion in appropriate circumstances.
Whether to extend the 12 month option period for a member to elect that post 31 March 2014 deferred benefits should not be aggregated with a new employment.	22(8)(b)	Extension allowed only in exceptional circumstances
Whether to extend the 12 month option period for a member to elect that post 31 March 2014 deferred benefits should not be aggregated with an ongoing concurrent employment.	22(7)(b)	Extension allowed only in exceptional circumstances
Whether all or some benefits can be paid if	30(6)*	Consider all applications taking into account financial and service

an employee reduces their hours or grade (flexible retirement).		delivery issues
Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement.	30(8)*	Consider all applications taking into account financial and service delivery issues
Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31 March 2014 membership).	30(8)*	Consider all applications taking into account financial and service delivery issues
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.).	31*	Not to apply this discretion
Determine whether person in receipt of Tier 3 ill health pension has started gainful employment.	37(3) & (4)	Apply this discretion based on certification from pension fund doctor
Whether to recover any overpaid Tier 3 pension following commencement of gainful employment.	37(3)	To recover any overpayment in appropriate circumstances
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.	38(3)	Apply this discretion based on certification from pension fund doctor.
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.	38(6)	Apply this discretion based on certification from pension fund doctor.
Whether to "switch on" the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60.	60*	Consider all applications taking into account all financial and service delivery issues.
Whether to extend six month period to lodge a stage one IDR appeal.	74(4)	To extend only in exceptional circumstances

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.	74(6)	Apply this discretion in line with the internal IDRPs arrangements
Whether to apply to Secretary of State for a forfeiture certificate where member is convicted of a relevant offence ( a relevant offence is an offence committed in connection with an employment in which the person convicted is a member, and because of which the member left the employment).	91(1) & (8)	Take action appropriate to the circumstances of each case
Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited (other than rights to GMP – but see Regulation 95 below).	91(4)	Take action appropriate to the circumstances of each case
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.	92(1) & (2)	Take action appropriate to the circumstances of each case
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 Regulation 95 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.	93(2)	Take action appropriate to the circumstances of each case
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 Regulation 91 or recovery of a monetary obligation under Regulation 93 should deprive the member or the member's surviving spouse or civil partner of any	95	Take action appropriate to the circumstances of each case

GMP entitlement.		
Agree to bulk transfer payment.	98(1)(b)	Apply in appropriate circumstances
Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS.	100(68)	To extend <b>only</b> in exceptional circumstances

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

### Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014

These are discretionary policies from 1 April 2014, in relation to post 31 March 2014 active members and post 31 March 2014 leavers.

Discretion	Regulation	PCNPA Policy
Issue a certificate of protection of pension benefits where member fails to apply for one (pay cuts / restrictions occurring pre 1 April 2008).	3(1)(a)	Apply this discretion in appropriate circumstances.
Whether to extend the 12 month option period for a member (who did not become a member of the 2014 Scheme by virtue of Regulation 5(1)) to elect that pre 1 April 2014 deferred benefits should be aggregated with a new employment.	10(6)	Extensions <b>ONLY</b> in exceptional circumstances.
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).	15(2A)(b)	Allow applications made within 3 months of termination
Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement).	11(2)*	Consider all applications taking into account financial and service delivery issues
Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of flexible retirement).	Schedule 2, paragraph 1(2) and 1 (1)C*	Consider all applications taking into account financial and service delivery issues
Whether to "switch on" the 85 year rule for a	Schedule 2, paragraph 1(2)	Consider all applications taking into account financial and service

member voluntarily drawing benefits on or after age 55 and before age 60.	and 1 (1)C*	delivery issues
Whether to “switch on” the 85 year rule for a pensioner member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60.	Schedule 2, paragraph 1(2) and 1(1)(c)*	Consider all applications taking into account all financial and service delivery issues.
Whether to “switch on” the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60.	Schedule 2, paragraph 1(2) and 1(1)(f)*	Consider all applications taking into account all financial and service delivery issues.
<p>Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1 April 2014 and post 31 March 2014 membership):</p> <p>a) on compassionate grounds (pre 1 April 2014 membership) and in whole or in part on any grounds (post 31 March 2014 membership) if the member was not in the Scheme before 1 October 2006,</p> <p>b) on compassionate grounds (pre 1 April 2014 membership) and in whole or in part on any grounds (post 31 March 2014 membership) if the member was in the Scheme before 1 October 2006, will not be 60 by 31 March 2016 and will not attain 60 between 1 April 2016 and 31 March 2020 inclusive,</p> <p>c) on compassionate grounds (pre 1 April 2016 membership) and in whole or in part on any grounds (post 31 March 2016 membership) if the member was in the Scheme before 1 October 2006 and will be 60 by 31 March 2016,</p> <p>d) on compassionate grounds (pre 1 April 2020 membership) and in whole or in part on any grounds (post 31 March 2020 membership) if the member was in the Scheme before 1 October 2006, will not be 60 by 31 March 2016 and will attain 60 between 1 April 2016 and 31 March 2020 inclusive.</p>	Schedule 2, paragraph 2(1) & 3(1)*	Consider all applications taking into account all financial and service delivery issues.
Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under Regulation 30 of the Benefits, Membership & Contributions Regulations 2007	Schedule 2, paragraph 2(1)*	Consider all applications taking into account all financial and service delivery issues.

(member).		
Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under Regulation 30A Benefits, Membership & Contributions Regulations 2007 (pensioner member with deferred benefits).	Schedule 2, paragraph 2(1)*	Consider all applications taking into account all financial and service delivery issues.
Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early.	Schedule 2, paragraph 2(1)*	Consider all applications taking into account all financial and service delivery issues.
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.	12(6)	Apply this discretion
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.	3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b)	Apply this discretion in appropriate circumstances
Whether to extend six month period to lodge a stage one IDRPA appeal.	23	Extensions ONLY in exceptional circumstances.
Decide procedure to be followed by adjudicator when exercising stage one IDRPA functions and decide the manner in which those functions are to be exercised.	23	Extensions ONLY in exceptional circumstances.

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

### Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007

These are discretionary policies in relation to scheme members who ceased active membership on or after 1 April 2008 and before 1 April 2014

Discretion	Regulation	PCNPA Policy
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.	11(2)	Apply this discretion in appropriate circumstances
Whether to waive, on compassionate	30(5)*	Consider all applications taking

grounds, the actuarial reduction applied to deferred benefits paid early under Regulation 30 (member).		into account financial and service delivery issues
<p>Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1 April 2014 and post 31 March 2014 membership):</p> <p>a) on compassionate grounds (pre 1 April 2014 membership) and in whole or in part on any grounds (post 31 March 2014 membership) if the member was not in the Scheme before 1 October 2006,</p> <p>b) on compassionate grounds (pre 1 April 2014 membership) and in whole or in part on any grounds (post 31 March 2014 membership) if the member was in the Scheme before 1 October 2006, will not be 60 by 31 March 2016 and will not attain 60 between 1 April 2016 and 31 March 2020 inclusive,</p> <p>c) on compassionate grounds (pre 1 April 2016 membership) and in whole or in part on any grounds (post 31 March 2016 membership) if the member was in the Scheme before 1 October 2006 and will be 60 by 31 March 2016,</p> <p>d) on compassionate grounds (pre 1 April 2020 membership) and in whole or in part on any grounds (post 31 March 2020 membership) if the member was in the Scheme before 1 October 2006, will not be 60 by 31 March 2016 and will attain 60 between 1 April 2016 and 31 March 2020 inclusive.</p>	30(5)* & 30A(5)*	Consider all applications taking into account all financial and service delivery issues.
Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under Regulation 30A (pensioner member with deferred benefits)	30A(5)*	Consider all applications taking into account financial and service delivery issues
Decide whether deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria.	31(4)	Apply this discretion based on medical certification from pension fund doctor
Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment.	31(7)	Apply this discretion based on medical certification from pension fund doctor

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

### Local Government Pension Scheme (Administration) Regulations 2008

These are discretionary policies in relation to scheme members who ceased active membership on or after 1 April 2008 and before 1 April 2014

Discretion	Regulation	PCNPA Policy
No right to return of contributions where member left their employment due to offence of a fraudulent character or grave misconduct in connection with that employment, unless employer directs a total or partial refund is to be made.	47(2)	Take action appropriate to the circumstances of each case
Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund.	49(1) & (2)	Not to apply this discretion
Whether to apply to Secretary of State for a forfeiture certificate where member is convicted of a relevant offence (a relevant offence is an offence committed in connection with an employment in which the person convicted is a member, and because of which the member left the employment).	72(1) & (6)	Take action appropriate to the circumstances of each case
Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited.	72(3)	Take action appropriate to the circumstances of each case
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.	73(1) & (2)	Take action appropriate to the circumstances of each case
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	74(2)	Take action appropriate to the circumstances of each case

employment.		
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.	76(2) & (3)	Take action appropriate to the circumstances of each case

### Local Government Pension Scheme (Transitional Provisions) Regulations 2008

These are discretionary policies in relation to scheme members who ceased active membership on or after 1 April 2008 and before 1 April 2014.

Discretion	Regulation	PCNPA Policy
Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership.	Schedule 1	Application must be made within 3 months of termination
Issue a certificate of protection of pension benefits where member fails to apply for one (pay cuts/restrictions occurring pre 1 April 2008)	Schedule 1	Apply in appropriate circumstances

### Local Government Pension Scheme Regulations 1997 (as amended)

These are discretionary policies in relation to any scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008.

Discretion	Regulation	PCNPA Policy
Allow a councillor who has opted out more than once to rejoin.	7(9)(a)	Not applicable
Allow a late application by a councillor member to pay optional contributions for a period of absence.	18(6) & (7)	Not applicable
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)	Apply in appropriate circumstances
Grant application for early payment of deferred benefits on or after age 50 and before age 55.	31(2)*	Consider all applications
	31(5)*	Consider all applications

Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early.		
Optants out only to get benefits paid from NRD if employer agrees.	31(7A)*	N/A
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)	Not applicable
Decide, in the absence 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)	The Authority to choose which benefits are payable if member does not do so within 3 months
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 November 2001).	66(8) & former 66(9)(b)	Application must be made within 3 months of termination.
Consent to a member's former employer assigning to the new employer rights under any SCAVC life assurance policy.	71(7)(a)	Not to apply this discretion
No right to return of contributions where a member left their employment due to offence of a fraudulent character or grave misconduct in connection with that employment, unless employer directs a total or partial refund is to be made.	88(2)	Take action appropriate to the circumstances of each case
Employer may deduct contributions from an councillor's pay or reserve forces pay.	89(1) & (2)	Not applicable
Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund	92	Take action appropriate to the circumstances of each case
Grant application for early payment of	106(1)*	Consider all applications

deferred benefits on or after age 50 on compassionate grounds.		
Forfeiture of pension rights on issue of Secretary of State's certificate following a relevant offence ((a relevant offence is an offence committed in connection with an employment in which the person convicted is a member, and because of which the member left the employment).	111(2) & (5)	Take action appropriate to the circumstances of each case
Where forfeiture certificate is issued, direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits.	112(1)	Take action appropriate to the circumstances of each case
Recovery from Fund of monetary obligation owed by former employee or, if less, the value of the member's benefits (other than transferred in pension rights).	113(2)	Take action appropriate to the circumstances of each case
Recovery from Fund of financial loss caused by employee, or amount of refund if less.	115(2) & (3)	Take action appropriate to the circumstances of each case

### Local Government Pension Scheme (Transitional Provisions) Regulations 1997

These are discretionary policies in relation to scheme members who ceased active membership before 1 April 1998

Discretion	Regulation	PCNPA Policy
Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds.	4*	Consider all Applications.

### Local Government Pension Scheme Regulations 1995 as amended

These are discretionary policies in relation to scheme members who ceased active membership before 1 April 1998

Discretion	Regulation	PCNPA Policy
Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds.	11(2)(c)*	Consider all Applications.

Decide, in the absence of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership.	10	PCNPA to choose which benefits are payable if the member doesn't do so within 3 months.

**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.

### Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) regulations 2006 (as amended)

These are discretionary policies in relation to employees of an employing authority that is defined under regulation 2 of these regulations

Discretion	Regulation	PCNPA Policy
To base redundancy payments on an actual weeks pay where this exceeds the statutory week's pay limit.	5	To base redundancy payments on actual week's pay
To award lump sum compensation of up to 104 week's pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment.	6	Redundancy: To award payment based on statutory redundancy table with a multiplier of 2 (max 60 weeks) and release of accrued benefits.  Efficiency: Release of accrued benefits, no lump sum compensation

**Note:** For the purposes of the above regulations '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. The employing authority must be a body that is defined in regulation 2 of the above regulations. Although the above regulations have not been updated to reflect the 2014 Scheme, essentially an employer defined under regulation 2 is a body that is listed under the following provisions of the LGPS Regulations 2013 (excluding admitted bodies, though an admitted body may use these regulations by analogy and, if they do so, might wish to have a written policy):

- Part 1 of Schedule 2 (scheduled bodies)
- Part 2 of Schedule 2 (designate bodies)
- Part 4 of Schedule 2 of the LGPS Regulations (a person employed by a body listed in Part 4 that is deemed to be a scheduled body)

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**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.

**Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended)**  
 These are discretionary policies in relation to former employees of an employing authority that is a body that is a scheduled body, designate body, or a body that is deemed to be a scheduled body under the LGPS Regulations 2013 and equivalent predecessor regulations (excluding admitted bodies).

Discretion	Regulation	PCNPA Policy
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)	Apportioned on same basis as main scheme benefits.
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)	Apportioned on same basis as main scheme benefits.
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	21(7)	CAY payments to continue in payment.

spouse's or civil partner's annual compensatory added years payments should continue to be paid.		
If, under the preceding decision, the authority's policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual compensatory added years payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation.	21(5)	NA
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 cohabitation 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)	CAY payments to continue in payment.
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	No longer abate. Mirrors DPF policy from 1.10.2006.
How to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment in local government.	19	No longer abate. Mirrors DPF policy from 1.10.2006.

**Note:** The list of discretions under the above regulations are in relation to compensatory added years made under those regulations and in their continuing application (i.e. not new awards made to current employees). The employing authority is a body that is a scheduled body, a designate body, or a body that is deemed to be a scheduled body under the LGPS Regulations 2013 and equivalent predecessor regulations (excluding admitted bodies, though an admitted body may use these regulations by analogy and, if they do so, might wish to have a written policy).

#### **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.

### **Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011**

These are discretionary policies which relate to injury allowances, apply only in respect of leavers, deaths and reductions in pay that occurred before 16 January 2012; and which relate to gratuities, apply only in respect of leavers and deaths that occurred before 16 January 2012.

<b>Discretion</b>	<b>Regulation</b>	<b>PCNPA Policy</b>
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)*	PCNPA has elected NOT to implement an Injury Allowance under the above Regulations.
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*	See 3 (1)
Determine whether person continues to be entitled to an injury allowance awarded under Regulation 3(1) (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).	3(2)*	See 3 (1)
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)*	See 3 (1)

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*	See 3 (1)
Determine whether person continues to be entitled to an injury allowance awarded under Regulation 4(1) (loss of employment through permanent incapacity).	4(2)*	See 3 (1)
Whether to suspend or discontinue injury allowance awarded under Regulation 4(1) (loss of employment through permanent incapacity) if person secures paid employment for not less than 30 hours per week for a period of not less than 12 months.	4(5)*	See 3 (1)
Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a Regulation 3 payment (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job) was being made at date of cessation of employment but Regulation 4 (loss of employment through permanent incapacity) does not apply.	6(1)*	See 3 (1)
Determine amount of any injury allowance to be paid under Regulation 6(1) (payment of injury allowance following the cessation of employment).	6(1)*	See 3 (1)
Determine whether and when to cease payment of an injury allowance payable under Regulation 6(1) (payment of injury allowance following the cessation of employment).	6(2)*	See 3 (1)
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)*	See 3 (1)

Determine amount of any injury allowance to be paid to the spouse, civil partner, nominated co-habiting partner (for awards made on or after 1 April 2008 the requirement to nominate a co-habiting partner has ceased due to the outcome of the Elmes v Essex high court judgement) or dependent of an employee under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).	7(2) and 8*	See 3 (1)
Determine whether and when to cease payment of an injury allowance payable under Regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).	7(3)*	See 3 (1)

**Note:** For the purposes of the above regulations '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. The employing authority is a body that is a scheduled body, a designate body, or a body that is deemed to be a scheduled body under the LGPS Regulations 2013 and equivalent predecessor regulations (excluding admitted bodies, though an admitted body may use these regulations by analogy and, if they do so, might wish to have a written policy).

### **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.

### **Local Government (Discretionary Payments) Regulations 1996 (as amended)**

These are discretionary policies which relate to injury allowances, apply only in respect of leavers, deaths and reductions in pay that occurred before 16 January 2012; and which relate to gratuities, apply only in respect of leavers and deaths that occurred before 16 January 2012.

Discretion	Regulation	PCNPA Policy
Suspend or discontinue injury allowance if person becomes capable of working again.	34(4)	Apply this discretion.
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	Pay to be assessed at the rate which would have applied if he had not been absent from work.
Amount and duration of injury allowance following cessation of employment where regulation 35 payment (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) was being made but regulation 34 (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) does not apply.	36	Injury allowance to cease upon retirement.
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	Injury allowance to cease upon death of scheme member
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)	Not to apply this discretion.
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)	Not to apply this discretion.
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)	Not to apply this discretion.

Amount of gratuity payable to any other surviving dependant, spouse or civil partner where amount of annuity payments paid under Regulation 42(4) fall short of their capital value at date of award.	42(7)	Not to apply this discretion.
Formulate and keep under review the injury allowance and gratuity policies to be operated by the authority.	46A	Apply this discretion.

Approved NPA XXXXX

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