

**STATEMENT OF POLICY REGARDING THE EXERCISE OF DISCRETIONS WITHIN THE  
LOCAL GOVERNMENT PENSION SCHEME**

**Amended 12/10/2021**

**Care Quality Commission**

**CQC**

**CQC Human Resources**

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**Gallowgate**










**Newcastle upon Tyne**








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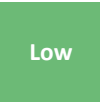


**Discretions from 1.4.14 in relation to post 31.3.14 active members (excluding councillor members) and post 31.3.14 leavers (excluding councillor members), being discretions under:**

- **The Local Government Pension Scheme Regulations 2013 [prefix R]**
- **The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) 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]**

Importance	Discretion	Regulation	Employer Policy
 Mid	To whom to offer membership of the LGPS (designation bodies)	R3(1)(b) & RSch 2, part 2	R3(1)(b) & RSch 2, part 2 does not apply to the Commission.
 Mid	Which employees to designate for membership (admission bodies)	R3(1)(c) & R4(2)(b)	R3(1)(c) & R4(2)(b) does not apply to the Commission.
 Mid	Determine rate of employees' contributions	R9(1) & R9(3)	The Commission will determine the rate of employee contributions, under R9(1) & R9(3) on all elements of actual pensionable pay, including pensionable pay increases or decreases throughout the year.
 High	Whether, how much, and in what circumstances to contribute to a shared cost APC scheme	R16(2)(e) & R16(4)(d)	R16(2)(e) & R16(4)(d) does not apply to the Commission. The Commission has decided not to establish a shared cost APC scheme.
 Low	Whether, how much, and in what circumstances to contribute to a shared cost AVC arrangement entered into on or after 1.4.14	R17(1) & definition of SCAVC in RSch 1	R17(1) & definition of SCAVC in RSch 1 does not apply to the Commission. The Commission has decided not to establish SCAVC arrangements for employees.
 Low	Whether, how much, and in what circumstances to contribute to a shared cost AVC arrangement entered into before 1.4.14	TP15(1)(d) & A25(3)	TP15(1)(d) & A25(3) does not apply to the Commission.
 Low	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)	TP15(1)(b) & L66(8) & former L66(9)(b) does not apply to the Commission.
 Mid	No right to return of contributions if member left due to offence of a fraudulent character or grave misconduct	R19(2)	The Commission has made no decision relating to regulation R19(2), as the need to utilise this discretion has not occurred. The Commission will consider this discretion




	unless employer directs a total or partial refund is to be made		should any cases arise in the future.
	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)	All payments and benefits made by the Commission to its employees, fall within the remit of those specified in regulation R20(1)(b)
	In determining Assumed Pensionable Pay, whether a lump sum payment made in the previous 12 months is a "regular lump sum"	R21(5)	The Commission has made no decision relating to regulation R21(5), as the need to utilise this discretion has not occurred. The Commission will consider this discretion should any cases arise in the future.
	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)	The Commission has made no decision relating to regulation R22(8)(b), as the need to utilise this discretion has not occurred. The Commission will consider this discretion should any cases arise in the future.
	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)	The Commission has made no decision relating to regulation R22(7)(b), as the need to utilise this discretion has not occurred. The Commission will consider this discretion should any cases arise in the future
	Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)	R30(6) & TP11(2)	The Commission will consider applications made under regulation R30(6) & TP11(2) on an individual basis. Applying the same procedure and reasoning as would be applied under applications relating to regulation B12.
	Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement	R30(8)	The Commission will consider applications made under regulation R30(8) on an individual basis. Applying the same procedure and reasoning as would be applied under applications relating to regulation B12.
	Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age	R30(8)	The Commission will consider applications made under regulation R30(8) on an individual basis. Applying the same procedure and reasoning as would be applied under applications relating to regulation B12.
	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, paras 2(1) and 2(2)	The Commission will consider applications made under regulations TPsCh 2, paras 2(1) and 2(2) on an individual basis. Applying the same procedure and reasoning as would be applied under applications relating to regulation B12.
	Whether to waive any actuarial reduction on pre and/or post April 2014 benefits	TP3(1), TPsCh 2, paras 2(1) and 2(2), B30(5) and B30A(5)	The Commission will consider applications made under regulations TP3(1), TPsCh 2, paras 2(1) and 2(2), B30(5) and B30A(5) on an individual basis. Applying the same procedure and reasoning as would be applied under applications relating to regulation B12.










	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 pa)	R31	The Commission will consider applications made under regulation R31 on an individual basis. Applying the same procedure and reasoning as would be applied under applications relating to regulation B12.
	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)	The Commission has made no decision relating to regulation TP12(6), as the need to utilise this discretion has not occurred. The Commission will consider this discretion should any cases arise in the future
	Determine whether a member is entitled to an ill health retirement pension, and what tier of benefit to be awarded.	R36	The Commission will consider applications made under regulation R36 on an individual basis. Agreement will then be dependent on medical opinion and certification from a doctor suitably qualified under scheme regulations.
	Whether to recover any overpaid Tier 3 pension following commencement of gainful employment	R37(3)	The Commission will consider applications made under regulation R37(3) on an individual basis.
	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)	The Commission will consider applications made under regulation R38(3) on an individual basis. Agreement will then be dependent on medical opinion and certification from a doctor suitably qualified under scheme regulations.
	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)	The Commission will consider applications made under regulation R38(6) on an individual basis. Agreement will then be dependent on medical opinion and certification from a doctor suitably qualified under scheme regulations.
	Whether to extend six month period to lodge a stage one IDRP appeal	R74(4)	Formerly A58(7)(b) This is the discretion of the Adjudicator at stage 1
	Whether to apply to Secretary of State for a forfeiture certificate (where member is convicted of a relevant offence)	R91(1) & (8)	The Commission has made no decision relating to regulations R91(1) & (8), as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future.
	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)	The Commission has made no decision relating to regulation R91(4), as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future.





	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)	The Commission has made no decision relating to regulations R92(1) & (2) , as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future.
	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)	The Commission has made no decision relating to regulations R93(2) , as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future.
	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 member's surviving spouse or civil partner of any GMP entitlement.	R95	The Commission has made no decision relating to regulations R95, as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future.
	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	R100(68)	The Commission will not utilise regulation R100(68) unless the regulations of LGPS are amended to allow extension of the 12 month option period, or, where an administrative error on the part of the Commission has occurred, resulting in the election to transfer being made outside the 12 month time limit.
	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)."	TPSch 2, para 1(2) & 1(1)(c)	The Commission will consider applications made under regulation R30(6) & TP11(2) on an individual basis. Applying the same procedure and reasoning as would be applied under applications relating to regulation B12.

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 [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]

Importance	Discretion	Regulation	Employer Policy
	Whether, for a member leaving on the grounds of redundancy or business efficiency on or before 31 <sup>st</sup> 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 30 <sup>th</sup> September 2014.	B12	The Commission will consider applications under Regulation B12 on an individual basis. However, the broad policy is that no discretionary benefit will be given unless there are over-riding reasons for doing so in any particular case, by reason of individual circumstances and/or exceptional circumstances and all cases will be considered with a view to the financial or organisational benefit to the Commission. Individual awards must be determined taking into account the Commission's financial circumstances as at the date of the individual employee's application, whether that is for related reasons such as retirement or redundancy,
	Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership	Tsch1 & L66(8) & former L66(9)(b)	The Commission has made no decision relating to regulations Tsch1 & L66(8) & former L66(9)(b) , as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future.
	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	A47(2)	The Commission has made no decision relating to regulation A47 (2), as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future.








	Whether to apply to Secretary of State for a forfeiture certificate (where member is convicted of a relevant offence)	A72(1) & (6)	The Commission has made no decision relating to regulations A72(1) & (6) , as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future.
	Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited	A72(3)	The Commission has made no decision relating to regulation A72 (3), as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future
	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)	The Commission has made no decision relating to regulations A73 (1) & (2), as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future
	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)	The Commission has made no decision relating to regulation A74 (2), as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future
	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	A76(2) & (3)	The Commission has made no decision relating to regulations A76 (2) & (3), as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future
	Whether to grant application for early payment of deferred benefits on or after age 55 and before age 60	B30(2)	The Commission will consider applications made under regulation B30(2) on an individual basis, applying the same reasoning as would be applied under applications relating to regulation B12.
	Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30	B30(5)	The Commission will consider applications made under regulation B30(5) on an individual basis, applying the same reasoning as would be applied under applications relating to regulation B12
	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	B30A(3)	The Commission will consider applications made under regulation B30A(3) on an individual basis, applying the same reasoning as would be applied under applications relating to regulation B12
	Whether to waive, on compassionate grounds, the actuarial reduction applied to	B30A(5)	The Commission will consider applications made under regulation B30A(5) on an





	benefits paid early under B30A		individual basis, applying the same reasoning as would be applied under applications relating to regulation B12
	Decide whether deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria	B31(4)	The Commission will consider applications made under regulation B31(4) on an individual basis. Agreement will then be dependent on medical opinion and certification from a doctor suitably qualified under scheme regulations
	Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment	B31(7)	The Commission will consider applications made under regulation B31(7) on an individual basis. Agreement will then be dependent on medical opinion and certification from a doctor suitably qualified under scheme regulations
	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 1(2)& 1(1)(c)	The Commission will consider applications made under regulation R30(6) & TP11(2) on an individual basis. Applying the same procedure and reasoning as would be applied under applications relating to regulation B12.
	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.	TPSch 2, para 1(2)& 1(1)(c)	The Commission will consider applications made under regulation R30(6) & TP11(2) on an individual basis. Applying the same procedure and reasoning as would be applied under applications relating to regulation B12.



**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**


Importance	Discretion	Regulation	Employer Policy
	Grant application from a post 31.3.98 / pre 1.4.08 leaver for early payment of benefits on or after age 50/55 and before age 60 (see Note below)	31(2)	Benefits paid on or after age 50 and before age 55 are subject to an unauthorised payments charge. The Commission would not consider applications under any circumstance.
	Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early to a post 31.3.98 / pre 1.4.08 leaver.	31(5)	The Commission will consider applications made under regulation B31(5) on an individual basis, applying the same reasoning as would be applied under applications relating to regulation B12
	Pre 1.4.08 optants out only to get benefits paid from NRD if employer agrees	31(7A)	The Commission will consider applications made under regulation B31(7A) on an individual basis, applying the same reasoning as would be applied under applications relating to regulation B12
	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)	The Commission has made no decision relating to regulation 34 (1) (b), as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future
	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 (pre 1.4.08 leavers)	88(2)	The Commission has made no decision relating to regulation 88(2), as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future
	Forfeiture of pension rights on issue of Secretary of State's certificate ( pre 1.4.08 leavers)	111(2) & (5)	The Commission has made no decision relating to regulations 111(2) & (5), as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future
	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 (pre 1.4.08 leavers)	112(1)	The Commission has made no decision relating to regulations 112(1), as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future

	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) (pre 1.4.08 leavers)	113(2)	The Commission has made no decision relating to regulation 113(2), as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future
	Recovery from Fund of financial loss caused by employee, or amount of refund if less (pre 1.4.08 leavers)	115(2) & (3)	The Commission has made no decision relating to regulation 115(2) & (3), as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future
	<p>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.</p> <p>Note: TPSch 2, para 2(2) does not reference para 1(1)(f) so strictly speaking there is no requirement to publish a policy under this regulation or R60. However, we understand that this is simply a regulatory omission and the appropriate party should publish a policy accordingly.</p>	TPSch 2, para 1(2) & 1(1)(f) & R60	The Commission will consider applications made under regulation R30(6) & TP11(2) on an individual basis. Applying the same procedure and reasoning as would be applied under applications relating to regulation B12.
	Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds. Although the common provisions of the 1997 Transitional provisions regulations do not specify regulation D11(2)(c), there intention was that it should apply to this regulation.	TP3(5A)(vi), TL4, L106(1) & D11(2)(c)	Benefits paid on or after age 50 and before age 55 are subject to an unauthorised payments charge. The Commission would not consider applications under any circumstance.

**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 pre 1.4.98 scheme leavers**

Importance	Discretion	Regulation	Employer Policy
	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)	Benefits paid on or after age 50 and before age 55 are subject to an unauthorised payments charge. The Commission would not consider applications under any circumstance

 <p>Low</p>	<p>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</p>	<p>D10</p>	<p>The Commission has made no decision relating to regulation D10, as the need to utilise this discretion has not occurred. The Commission will consider utilising this discretion should any such cases arise in the future</p>
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**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.