

Discretions Policy for: idverde

Date: June 2019

This policy confers no contractual rights. idverde retains the right to change the policies at any time without prior notice or consultation. Only the policy which is current at the time a relevant event occurs to an employee/scheme member will be the one applied to that employee/member.

Discretions have been colour coded -

Compulsory - you must formulate, publish and keep under review a policy on these discretions

Recommended - there is no requirement for you to publish a written policy on these discretions, however as these matters arise fairly frequently it would perhaps be appropriate for you to do so in order that members can be clear on your policy on these matters

Less Common - there is no requirement for you to publish a written policy on these discretions

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)

R = LGPS Regulations 2013 and

TP = LGPS (Transitional Provisions, Savings and Amendments) Regulations 2014

	Discretion	Regulation	Exercised by	Policy
Granting additional pension	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 £6,822 p.a - figure at 1 April 2018)	R31	Employer	<i>idverde does not intend to make use of this provision at present, but it reserves the right to consider its use in exceptional circumstances at any point in the future.</i>
Shared cost APCs	Whether, where an active Scheme member wishes to purchase extra annual pension of up to £6,822 (figure at 1 April 2018) by making Additional Pension Contributions (APCs), to (voluntarily) contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC)	R16(2)(e) & R16(4)(d)	Employer	<i>idverde does not intend to make use of this provision at present, but it reserves the right to consider its use in exceptional circumstances at any point in the future.</i>
	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)	R16(16)	Employer	<i>idverde does not intend to make use of this provision at present, but it reserves the right to consider its use in exceptional circumstances at any point in the future.</i>
Flexible retirement	Whether all or some benefits can be paid if an active member aged 55 or over and with at least 2 years qualifying service reduces their hours or grade (flexible retirement)	R30(6) & TP11(2)	Employer	<i>idverde notes Discretion Regulation18 to allow an employee's right to flexible retirement. It will consider each application on an individual basis against certain criteria, which may include: That there will be no significant or detrimental effect upon service delivery. That the flexible working arrangements are fair to all employees in the team. The reduction in hours is significant (for example 40%) The employee is moving to a lower grade job. Compassionate grounds This list is not exhaustive or inclusive and other criteria will be considered.</i>
	Whether to waive, in whole or in part, actuarial reduction to benefits paid on flexible retirement	R30(8)	Employer (or Admin. Authority where Employer has become defunct)	<i>idverde does not intend to make use of the discretionary power to waive any actuarial reduction as a result of an employee's early retirement at present, but it reserves the right to consider its use in exceptional circumstances at any point in the future.</i>
	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)	R30(8)	Employer (or Admin. Authority where Employer has become defunct)	<i>idverde does not intend to make use of the discretionary power to waive any actuarial reduction as a result of an employee's early retirement at present, but it reserves the right to consider its use in exceptional circumstances at any point in the future.</i>
85 Year Rule	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)	Employer (or Admin. Authority where Employer has become defunct)	<i>idverde does not intend to make use of this provision at present, but it reserves the right to consider its use in exceptional circumstances at any point in the future.</i>
Waive Reduction	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 1/4/14 and post 31/3/14 membership) on a) compassionate grounds (pre 1/4/14 membership) and in whole or in part on any grounds (post 31/3/14 membership) if the member was not in the Scheme before 1/10/06, b) compassionate grounds (pre 1/4/14 membership) and in whole or in part on any grounds (post 31/3/14 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will not attain 60 between 1/4/16 and 31/3/20 c) compassionate grounds (pre 1/4/16 membership) and in whole or in part on any grounds (post 31/3/16 membership) if the member was in the Scheme before 1/10/06 and will be 60 by 31/3/16 d) compassionate grounds (pre 1/4/20 membership) and in whole or in part on any grounds (post 31/3/20 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will attain 60 between 1/4/16 and 31/3/20	TP3(1), TPSch 2 para 2(1), B30(5) & B30A(5)	Employer (or Admin. Authority where Employer has become defunct)	<i>idverde does not intend to make use of the discretionary power to waive any actuarial reduction as a result of an employee's early retirement at present, but it reserves the right to consider its use in exceptional circumstances at any point in the future.</i>

	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 31/3/14 membership)	R30(8)	Employer (or Admin. Authority where Employer has become defunct)	<i>idverde does not intend to make use of the discretionary power to waive any actuarial reduction as a result of an employee's early retirement at present, but it reserves the right to consider its use in exceptional circumstances at any point in the future.</i>
Extend APC deadline	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)	R16(16)		<i>idverde does not intend to make use of this provision at present, but it reserves the right to consider its use in exceptional circumstances at any point in the future.</i>
Variable APC employer contributions	Whether, how much, and in what circumstances to contribute to a share cost APC scheme	R16(2)(e) & R16(4)(d)	Employer	<i>idverde does not intend to make use of this provision at present, but it reserves the right to consider its use in exceptional circumstances at any point in the future.</i>

Shared cost AVCs	Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements.	R17(1) definition of SCAVC in RSch 1	& Employer	
Transferring in non LGPS pension rights	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	R100(6)	Employer and Admin. Authority	
Joining LGPS membership	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	R22(8)(b)	Employer	
	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	R22(7)(b)	Employer	
Employee contribution rate	How the pension contribution band to which an employee is to be allocated on joining the Scheme, and at each subsequent April, will be determined and the circumstances in which the employer will, in addition to the review each April, review the pension contribution band to which an employee has been allocated following a material change which affects the member's pensionable pay in the course of a Scheme year (1 April to 31 March)	R9(1) & R9(3)	Employer	
Regular lump sum payments	In determining Assumed Pensionable Pay, whether a lump sum payment made in the previous 12 months is a "regular lump sum"	R21(5)	Employer	
Pensionable Pay	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 (AP)), 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 had regard to the level of pensionable pay received by the member in the previous 12 months.	R21(5A) & R21(5B)	& Employer	New discretion 2018
Deferred benefits	Whether to extend the 12 month option period for a member (who did not become a member of the 2014 Scheme by virtue of TP5(1)) to elect that pre 1 April 2014 deferred benefits should be aggregated with a new employment	TP10(6)	Employer	New discretion 2018
	Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership (where AVC arrangement was entered into before 13/11/01)	TP15(1)(b) & L66(8) & former L66(9)(b)	Employer	
	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	R19(2)	Employer	
	Specify in an employee's contract what other payments or benefits, other than those specified in R20(1)(a) and not otherwise precluded by R20(2), are to be pensionable	R20(1)(b)	Employer	

	Whether to use a certificate produced by an IRMP under the 2008 Scheme for the purposes of making an ill health determination under the 2014 Scheme.	TP12(6)	Employer (or Admin. Authority where Employer has become defunct)	
	Determine whether person in receipt of Tier 3 ill health pension has started gainful employment	R37(3) & (4)	Employer	
	Whether to recover any overpaid Tier 3 pension following commencement of gainful employment	R37(3)	Employer	
	Decide whether deferred beneficiary meets criteria of being permanently incapable of former job because of ill health and is unlikely to be capable of undertaking gainful employment before normal pension age or for at least three years, whichever is the sooner.	R38(3)	Employer (or Admin. Authority where Employer has become defunct)	
	Decide whether a suspended ill health tier 3 member is unlikely to be capable of undertaking gainful employment before normal pension age because of ill health	R38(6)	Employer (or Admin. Authority where Employer has become defunct)	
	Whether to extend six month period to lodge a stage one IDR appeal	R74(4)	Adjudicator making stage one IDR decision	
	Decide procedure to be followed by adjudicator when exercising stage one IDR functions and decide the manner in which those functions are to be exercised	R74(6)	Adjudicator making stage one IDR decision	
	Whether to apply to Secretary of State for a forfeiture certificate (where member is convicted of a relevant offence)	R91(1) & (8)	Employer	
	Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited (other than rights to GMP – but see R95 below)	R91(4)	Employer	
	Where forfeiture certificate is issued, whether to direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits	R92(1) & (2)	Employer	

	Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than benefits from transferred in pension rights or APCs or AVCs or, subject to R95 below, in respect of any GMP) where the obligation was incurred as a result of a grave misconduct or a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left employment	R93(2)	Employer	
	Whether, if the member has committed treason or been imprisoned for at least 10 years for one or more offences under the Official Secrets Acts, forfeiture under R91 or recovery of a monetary obligation under R93 should deprive the member or the member's surviving spouse or civil partner of any GMP entitlement	R95	Employer	
	Agree to bulk transfer payment	R98(1)(b)	Employer / Admin. Authority / trustees of new scheme	
	Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending 31st March in the 10 years prior to leaving	TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) & B11(2)	Employer	
	To whom to offer membership of the LGPS (designation bodies)	R3(1)(b) & R Sc 2, Part 2	Employer	
	Which employees to designate for membership (Admission bodies)	R3(1)(c) & R4(2)(b)	Employer	

Discretions in relation to Scheme Members (excluding Councillor Members) who ceased active membership on or after 1.4.08 and before 1.4.14. B = LGPS (Benefits, Memberships and Contributions) Regulations 2007

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>
Waive reduction	Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30	B30(5)	Employer (or Admin. Authority where Employer has become defunct)	
85 year rule	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, para1(2) & 1(1)C		
Waive reduction	Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A	B30A(5), TPsSch 2, para 2(1)	Employer (or Admin. Authority where Employer has become defunct)	
	Whether to extend the 12 month option period for aggregation of deferred benefits	A16(4)(b)(ii)		
	Whether to extend the normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	A83(8)		

	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)	Employer	
	Whether to allow a late application by member to pay optional contributions for a period of unpaid child related leave, strike, or unpaid leave of absence beyond 30 days	A22(2)	Employer	
	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	A47(2)	Employer	
	Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund	A49(1) & (2)	Employer	
	Whether to extend six month period to lodge a stage one IDR appeal	A58(7)(b)	Person making stage one IDR decision	
	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)	A72(1) & (6)	Employer	
	Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited	A72(3)	Employer	
	Where forfeiture certificate is issued, whether to direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits	A73(1) & (2)	Employer	
	Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights or AVCs/SCAVCs) where the obligation was incurred as a result of a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left employment	A74(2)	Employer	
	Whether to recover from Fund any financial loss caused by fraudulent offence or grave misconduct of employee (who has left employment because of that fraudulent offence or grave misconduct), or amount of refund if less.	A76(2) & (3)	Employer	
	Decide whether deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria	B31(4)	Employer (or Admin. Authority where Employer has become defunct)	
	Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment	B31(7)	Employer (or Admin. Authority where Employer has become defunct)	

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.

	Discretion	Regulation	Exercised by	Policy
Employer consent retirement	Grant an application for early payment of deferred benefits on or after age 50 and before age 55.	31(2)	Employer	
85 year rule	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. Note: TPSch2, para 2(2) does not reference para 1(1)(f) so there is strictly speaking no requirement to publish a policy under this regulation or R60. LGSS recognises this is a regulatory omission and the employer should publish a policy accordingly	TPSch 2, para 1(2) & 1(1)(f) & R60	Employer	
Waive reduction	Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early	31(5)	Employer	
Employer consent at NRD for optant	Optants out only to get benefits paid from Normal Retirement Date if employer agrees	31(7A)	Employer	
	Issue a certificate of protection of pension benefits where member fails to apply for one (pay cuts / restrictions occurring pre 1.4.08)	23(4)	Employer	
	Whether to extend 12 month period for aggregation of deferred benefits (where deferred councillor member wishes to aggregate with current councillor membership in the same Fund)	32(8A)	Employer	
	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	34(1)(b)	Employer	
	Consent to a member's former employer assigning to the new employer rights under any SCAVC life assurance policy	71(7)(a)	Employer	
	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.	88(2)	Employer	
	Employer may deduct contributions from a councillor's pay or reserve forces pay	89(1) & (2)	Employer	
	Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund (councillor leavers and pre 1.4.08. leavers)	92	Employer	
	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)	Employer	
	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)	Employer	
	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)	Employer	
	Recovery from Fund of financial loss caused by employee, or amount of refund if less.	115(2) & (3)	Employer	

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

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>
Employer consent retirement	Grant an application for early payment of deferred benefits on or after age 50 on compassionate grounds. Note: although the common provisions of the 1997 Transitional provisions regulations do not specify regulation D11(2)(c), their intention was that it should apply to this regulation	D11(2)(c)	Employer	
	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.	D10	Employer	

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

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

	Discretion	Regulation	Exercised by	Policy
Redundancy Pay on actual weeks pay	To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks pay limit.	5	Employer	
Lump sum compensation	To award lump sum compensation of up to 104 weeks pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment.	6	Employer	

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

These Regulations still apply to any Compensatory Added Years previously awarded by a Scheme Employer before 1 April 2007. Scheme employers (other than admission bodies) who made awards of Compensatory Added Years are required to have a policy on the following::

	<u>Discretion</u>	<u>Regulation</u>	<u>Exercised by</u>	<u>Policy</u>
Abatement during re-employment	Whether and to what extent to reduce or suspend the member's annual compensatory added years payment during any period of re-employment in local government	17	Employer	
Reduction following cessation of re-employment	How to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment in local government	19	Employer	
Apportionment of survivor benefit	How to apportion any surviving spouse's or civil partner's annual compensatory added years payment where the deceased person is survived by more than one spouse or civil partner	21(4)	Employer	
Effects of remarriage, new civil partnership or co-habitation on survivor's compensation payments	Whether, in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal pension suspension rules should be disapplied i.e. whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid	21(7)	Employer	
	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)	Employer	

	How it will decide to whom any children's annual compensatory added years payments are to be paid where children's pensions are not payable under the LGPS (because the employee had not joined the LGPS) and, in such a case, how the annual added years will be apportioned amongst the eligible children	25(2)	Employer	
	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)	Employer	

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

Scheme employers (other than admission bodies) must have a policy on:

Discretion	Regulation	Exercised by	Policy
Whether to grant an injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.	3(1)	Employer	
Amount of injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.	3(4) and 8	Employer	
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)	Employer	
Whether to grant an injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job.	4(1)	Employer	
Amount of injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job.	4(3) and 8	Employer	
Amend to "Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity)"	4(2)	Employer	
Amend to "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)	Employer	

Injury Allowances	Amend to "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)	Employer	
	Amend to "Determine amount of any injury allowance to be paid under regulation 6(1) (payment of injury allowance following the cessation of employment)	6(1)	Employer	
	Amend to " 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)	Employer	
	Amend to "Whether to grant an injury allowance to the spouse, civil partner, 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." The requirement to nominate a cohabiting partner has ceased entirely under these regulations due to the outcome of Elmes v Essex CC high court judgement	7(1)	Employer	
	Amend to "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 cohabiting partner has ceased due to the outcome of Elmes v Essex CC high court judgement) or dependent 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	Employer	
	Amend to "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)	Employer	