

Schedule B

Employer Discretions

Employers should amend their discretionary policies if they become a deferred employer in the Scheme. The table on the following pages sets out the discretionary policies employers will need to consider when doing this. For more information about discretionary policies and the corresponding regulations see the discretions technical guide on the [employer guides and documents page](http://www.lgpsregs.org) of www.lgpsregs.org.

Key to terms used in the table:

Required to publish – means the employer must prepare, publish and keep under review a written policy statement in relation to its exercise of functions under that regulation. A copy of the statement must be sent to the relevant administering authority.

2013 – LGPS Regulations 2013

TP2014 – LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014

BR2007 – LGPS (Benefits, Membership and Contributions) Regulations 2007

AR2008 – LGPS (Administration) Regulations 2008

2000 – The Local Government (Early Termination of Employment)(Discretionary Compensation)(England and Wales) Regulations 2000

1997 – LGPS Regulations 1997

1995 – LGPS Regulations 1995

r – regulation

Table 1 - Employer Discretions

| Discretion | Required to publish | Regulations | Active Employer | Deferred Employer | Exiting employer |
|---|---------------------|---|-----------------|-------------------|------------------|
| Who to offer membership to (designation bodies) | No | 2013 r2(1B)(a), Sch 2 Part 2 | employer | n/a | n/a |
| Which employees to designate for membership (admission bodies) | No | 2013 r2(1C), r3(1)(b), r4(2)(b) | employer | n/a | n/a |
| Determine employee contribution rate | No | 2013 r9 | employer | n/a | n/a |
| Whether, how much and in what circumstances to contribute to a SCAPC to buy extra pension | Yes | 2013 r16 | employer | n/a | n/a |
| Whether to extend 30-day deadline for a member to elect for a SCAPC to buy lost pension after an authorised absence | No | 2013 r16 | employer | n/a | n/a |
| Whether to offer SCAVCs and in what circumstances | No | 2013 r17 | employer | n/a | n/a |
| Allow a late application to convert AVCs into a membership credit | No | TP 2014 - r15(2A) TP2008 Sch 1 1997 r66(9)(b) | employer | employer | n/a |
| Employer can direct that a total or partial refund of contributions can be made where the member left employment due to fraudulent character or grave misconduct in connection with that employment and has no right to a refund. | No | 2013 r19(2) AR2008 r47(2) 1997 r88(2) | employer | employer | AA |

| Discretion | Required to publish | Regulations | Active Employer | Deferred Employer | Exiting employer |
|--|---------------------|---|-----------------|-------------------|------------------|
| Specify what elements in an employees' contract are pensionable (other than those already specified or excluded in the regulations) | No | 2013 r20(1)(b) | employer | n/a | n/a |
| For APP, determine whether a lump sum made in the previous 12 months is a 'regular lump sum' | No | 2013 r21(5) | employer | n/a | n/a |
| Substitute a higher level of pensionable pay where APP calculation is materially lower than the level of pay the employee would normally receive | No | 2013 r21 | employer | n/a | n/a |
| Extend the 12-month period for a member to elect for previous LGPS benefits to be kept separate or aggregated as appropriate | No | 2013 r22(8)(b), r22(7)(b), TP2014 r10(6), r10(9) | employer | n/a | n/a |
| Flexible retirement – whether some or all benefits can be paid | Yes | 2013 r30(6) TP2014 r11(2) | employer | n/a | n/a |
| Flexible retirement – whether to waive reductions (whole or part) | Yes | 2013 r30(8) | employer | n/a | n/a |
| Voluntary early payment of benefits under r30(5) – whether to waive in whole or part reductions. | Yes | 2013 r30(8) | employer | employer | AA |
| Whether to switch on 85-year rule for members retiring voluntarily between 55 and 60 (except flexible retirement) | Yes | TP2014 Sch 2 1(3) and 1(1)(c) | employer | employer | AA |

| Discretion | Required to publish | Regulations | Active Employer | Deferred Employer | Exiting employer |
|--|---------------------|---|-----------------|-------------------|------------------|
| Whether to waive reductions if a member voluntarily takes early payment of benefits and has pre and post 2014 membership or just pre 2014 membership. Reductions waived on a mixture of compassionate and other grounds depending on membership dates. | Yes | TP2014 r3(1) Sch 2 para 2 BR2007 r30(5), r30A(5) and r31(5) | employer | employer | AA |
| To grant additional pension to a member within 6 months of leaving by reason of redundancy or business efficiency | Yes | 2013 r31 | employer | employer | AA |
| Whether to use a certificate issued by an IRMP under the 2008 Scheme to make a determination under the 2014 Scheme | No | TP2014 r12(6) | employer | employer | AA |
| Determine whether a person in receipt of a tier 3 ill health pension has started gainful employment | No | 2013 r37(3) and (4) | employer | employer | AA |
| Whether to recover any overpaid tier 3 ill health pension where gainful employment started | No | 2013 r37(3) | employer | employer | AA |
| Decide whether to agree to the request for payment of an ill health pension to a deferred member | No | 2013 r38(3) BR2008 r31(4) | employer | employer | AA |
| Decide whether to agree to the request for payment of an ill health pension to a deferred pensioner member | No | 2013 r38(6) BR2008 r31(7) | employer | employer | AA |

| Discretion | Required to publish | Regulations | Active Employer | Deferred Employer | Exiting employer |
|--|---------------------|--|-----------------|-------------------|------------------|
| Whether to apply to the Sec of State for a forfeiture certificate where the member is convicted of a relevant offence for which their employment ended | No | 2013 r91(1) and (8) AR2008 r72(1) and (6) | employer | employer | AA |
| Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited (other than GMP rights) | No | 2013 r91(4) AR2008 r72(3) 1997 r111(2) and (5) | employer | employer | AA |
| Where forfeiture certificate is issued whether to direct interim payments out of the pension fund until decision is taken to apply the certificate or pay benefits | No | 2013 r92(1) and (2) AR2008 r73(1) and (2) 1997 r112(1) | employer | employer | AA |
| Whether to recover from the pension fund any monetary obligation or, if less, the value of the member's benefits 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. | No | 2013 r93(2) AR2008 r74(2) and 76(2) and (3) 1997 r113(2) and r115(2) and (3) | employer | employer | AA |

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|---|---------------------|--------------------------------|---------------------------------------|---------------------------------------|---------------------------|
| 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 or recovery of a monetary obligation should deprive the member or the member's surviving spouse or civil partner of any GMP entitlement. | No | 2013 r95(2) | employer | employer | AA |
| Agree to bulk transfer payment | No | 2013 r98(1)(b) | Employer /AA / trustees of new scheme | Employer /AA / trustees of new scheme | AA/trustees of new scheme |
| Extend time limit for the acceptance of transfers in beyond 12 months from joining | No | 2013 r100(6) | employer and AA | n/a | n/a |
| Issue a certificate of protection where member failed to apply for one (pay cuts/restrictions pre 1 April 2008) | No | TP2014 r3(1)(a) 1997 r23(4) | employer | employer | AA |
| Whether to allow a variable time employee to elect to have their final pay calculated as the average of all fees for any consecutive three years ending on 31 March within the period of 10 years ending with the last day they were an active member | No | BR2007 r11(2) | employer | n/a | n/a |
| Allow a late application by a Welsh councillor member to pay optional contributions for a period of absence | No | 1997 r18(6) and (7) | employer | n/a | n/a |
| Allow a Welsh councillor who has opted out to re-join | No | 1997 r7(9)(a) | employer | n/a | n/a |

| Discretion | Required to publish | Regulations | Active Employer | Deferred Employer | Exiting employer |
|---|---------------------|----------------------------|-----------------|-------------------|------------------|
| Allow payment for early payment of deferred benefits on or after 50 and before age 55 (would be an authorised payment) | Yes | 1997 r31(2) | employer | employer | AA |
| To extend the 12-month aggregation window for a Welsh Councillor to aggregate councillor benefits in the same fund | No | 1997 r32(8A) | employer | n/a | n/a |
| 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 lump sum under 2 or more regulations in respect of the same period of Scheme membership. | No | 1997 r34(1)(b) 1995 D10 | employer | employer | AA |
| Consent to a member's former employer assigning to the new employer rights under any SCAVC life assurance policy | No | 1997 r71(7)(a) | employer | n/a | n/a |
| Employer may deduct contributions from a councillor's pay or reserve forces pay. | No | 1997 r89(1) and (2) | employer | n/a | n/a |
| How to apportion any surviving spouse's or civil partner's compensatory added years (CAY) payment where the deceased is survived by more than one spouse or civil partner | Yes | 2000 r21(4) | employer | employer | employer |

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| Decide to whom children's CAYs payments are paid and, if applicable, how payment is apportioned where this is more than one child. Only applies where a child's pension is not payable from the LGPS. | Yes | 2000 r25(2) | employer | employer | employer |
| Whether to suspend payment of a surviving spouse's /partner's CAYs payment on a subsequent remarriage/ civil partnership or cohabitation that takes place after 1 April 1998. Only applies where the deceased member left employment before 1 April 1998. | Yes | 2000 r21(7) | employer | employer | employer |
| Decide whether to allow payment of two CAYs payments where a person entitled to a spouse's/partner's payment remarries, cohabits or enters into a civil partnership with a person who is also entitled to a survivor's CAYs payment under the same regulation. Only applies where the deceased member left before 1 April 1998 and the remarriage, civil partnership or cohabitation takes place after 1 April 1998. | Yes | 2000 r21(7) | employer | employer | employer |
| To what extent to reduce or suspend the member's annual CAYs during any period of re-employment in local government | Yes | 2000 r17 | employer | employer | employer |
| How to reduce the member's annual CAYs payment following the end of a period of re-employment in local government | Yes | 2000 r19 | employer | employer | employer |

