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London Pensions Fund Authority Employer Pensions Discretions Policy

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London Pensions Fund Authority

Employer Pensions Discretions Policy

Introduction

London Pensions Fund Authority (LPFA) (the Employer) is under a legal duty to prepare and publish a written statement of its policy relating to certain discretionary powers under the regulations which apply to the Local Government Pension Scheme (LGPS) (Scheme).

Discretions are powers that enable employers to choose how to apply the scheme in respect of certain provisions. Discretions only apply at the time of application and are subject to change as they are kept under review.

When LPFA sets and reviews these employer discretions, consideration is given to:

- Cost–discretionary powers come with a cost attached - policies mustn't lead to a loss of confidence in public services, therefore have to be affordable;
- Basis on which decisions are made – policies should not be so rigid or restrictive as to prevent flexibility where a possibly unanticipated situation requires it;
- Equality – criteria that do not discriminate and where decisions are objectively justified.

Context

The LGPS in England and Wales was amended from 1 April 2014 so that benefits accruing for service after 31 March 2014 will accrue on a Career average re-valued earnings (CARE) basis, rather than on the previous final salary basis.

The provisions of the CARE scheme, together with the protections for members accrued pre-1 April 2014 final salary rights, are contained in the Local Government Pension Scheme Regulations 2013 and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014.

As a result of the changes, Scheme employers participating in the LGPS must formulate, publish, and keep under review a Statement of Policy on certain discretions which they have the power to exercise in relation to members of the CARE Scheme.

Scheme employers are also required to (or where there is no requirement, are recommended to) formulate, publish, and keep under review a Statement of Policy on certain other discretions they may exercise in relation to members of the LGPS.

LPFA's Employer Pensions Discretion Policy seeks to amalgamate previous policy statements and determine the position on the non-mandatory (recommended) discretions.

Scheme employers are also required to publish and keep under review a Statement of Policy on certain discretions relating to injury allowances under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011.

The principal mandatory discretions fall into four main categories:

1. Additional pension;
2. Waiving actuarial reductions;
3. Switching on the rule of 85 before age 60; and
4. Flexible Retirement.

There are two further mandatory discretions from older regulations which remain in force which LPFA are required to include in our policy, although the chance of needing to apply our discretion may be minimal.

5. Considering whether to grant an application from a deferred member (ex-employee) for early payment of their pension benefits on or after age 50 and before age 55; and
6. Deciding if an employee who opted out of the LGPS before 1 April 2008 can be paid their pension benefits accrued before opting out at their Normal Retirement Date (NRD).

The rule of 85 – who has protection

LGPS benefits are payable, in full, from normal pension age (NPA) which is linked to State Pension age (SPA). If the member has membership in the LGPS before 1 April 2014, then this will have a NPA of age 65.

However, members can voluntarily retire and draw their pension from the LGPS at any time from age 55. If a member chooses to take their pension before their NPA, it will normally be reduced as it is being paid earlier.

The 85-year rule is satisfied when a member's age plus Scheme membership (both in whole years) adds up to 85 or more. When voluntarily retiring before NPA, LPFA looks at how many years early the member will be choosing to access their benefits. A reduction is normally applied for each of these years. The 85-year rule is then applied using the table below and helps to eliminate some, but not all, of these reductions.

Rule of 85	Pension built up before 31 March 2008	Pension built up between 1 April 2008 and 31 March 2014	Pension built up between 1 April 2014 and 31 March 2016	Pension built up between 1 April 2016 and 31 March 2020	Pension built up after 1 April 2020
Members born before 1 April 1958	Protected	Protected	Protected	No protection	No protection
Members born between 1 April 1958 and 31 March 1960	Protected	Partial protection	Partial protection	Partial protection	No protection
Members born on or after 1 April 1960	Protected	No protection	No protection	No protection	No protection

Discretions - Section 1 Mandatory discretions from 1 April 2014 active members (excluding Councillors)

- The Local Government Pension Scheme Regulations 2013 [SI 2013/2356] [**prefix R**]
- The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] [**prefix TP**]

Section 1 – Discretion Mandatory	LPFA policy
<p>Whether, how much, and in what circumstances to contribute to a shared cost Additional Pension Contributions scheme.</p> <p>R16(2)(e) & R16(4)(d)</p>	<p>LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.</p>
<p>Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement).</p> <p>R30(6) & TP11(2)</p>	<p>LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.</p>
<p>Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement.</p> <p>R30(8)</p>	<p>LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.</p>
<p>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).</p> <p>R30(8)</p>	<p>LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.</p>
<p>Whether to apply 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).</p> <p>TPSch 2, para 1(2) & 1(1)(c)</p>	<p>LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.</p>
<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/or, 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/or, 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/or, 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/or, 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> <p>TP3(1), TPsCh 2, para 2(1), B30(5) & B30A(5)</p>	<p>LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.</p>
<p>Whether to grant additional pension to an active member or within six months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £7,300 p.a. on 1 April 2022 - this figure is inflation-proofed annually).</p> <p>R31</p>	<p>LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.</p>

Discretions – Section 1 Recommended discretions from 1 April 2014 active members (excluding Councillors)

Section 1 – Discretion Voluntary	LPFA policy
Determine rate of employees' contributions. R9(1) & R9(3)	LPFA will use the contribution rate defined in the regulations and apply it to employees who are members of the Scheme in accordance with their pensionable pay.
Whether, how much, and in what circumstances to contribute to shared cost Additional Voluntary Contributions arrangements. R17(1) & definition of SCAVC in RSch 1	LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.
In determining Assumed Pensionable Pay (APP), whether a lump sum payment made in the previous 12 months is a "regular lump sum". R21(5)	LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.
Where in the Employer's opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments) in the three months (or 12 weeks if not paid monthly) preceding the commencement of 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 had regard to the level of pensionable pay received by the member in the previous 12 months. R21(5A) & R21(5B)	LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.
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)	<p>LPFA will reserve the right to exercise this discretion. Requests made outside of the 12-month period will/may not be considered unless:</p> <ul style="list-style-type: none"> • No previous option was given to the member due to a clear administration error (e.g. service declared but the transfer quotation had never been requested) • Where there has been an administrative delay in processing the initial request which was received within the initial 12 months of active membership. • There is clear evidence that they had not been informed of or could not reasonably have known of the time limit. <p>Any request to extend the deadline based on one of the above reasons is delegated to the CEO or the Chief Legal and Compliance Officer in the CEO's absence.</p>
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)	<p>LPFA will reserve the right to exercise this discretion. Requests made outside of the 12-month period will/may not be considered unless:</p> <ul style="list-style-type: none"> • No previous option was given to the member due to a clear administration error (e.g. service declared but the transfer quotation had never been requested) • Where there has been an administrative delay in processing the initial request which was received within the initial 12 months of active membership • There is clear evidence that they had not been informed of or could not reasonably have known of the time limit. <p>Any request to extend the deadline based on one of the above reasons is delegated to the CEO or the Chief Legal and Compliance Officer in the CEO's absence.</p>
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)	<p>LPFA will reserve the right to exercise this discretion. Requests made outside of the 12-month period will/may not be considered unless:</p> <ul style="list-style-type: none"> • No previous option was given to the member due to a clear administration error (e.g. service declared but the transfer quotation had never been requested) • Where there has been an administrative delay in processing the initial request which was received within the initial 12 months of active membership • There is clear evidence that they had not been informed of or could not reasonably have known of the time limit. <p>Any request to extend the deadline based on one of the above reasons is delegated to the CEO or the Chief Legal and Compliance Officer in the CEO's absence.</p>
Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS. R100(6)	<p>LPFA will reserve the right to exercise this discretion. Requests made outside of the 12-month period will/may not be considered unless:</p> <ul style="list-style-type: none"> • No previous option was given to the member due to a clear administration error (e.g. service declared but the transfer quotation had never been requested) • Where there has been an administrative delay in processing the initial request which was received within the initial 12 months of active membership • There is clear evidence that they had not been informed of or could not reasonably have known of the time limit. <p>Any request to extend the deadline based on one of the above reasons is delegated to the CEO or the Chief Legal and Compliance Officer in the CEO's absence.</p>

List of Section 2 discretionary policies in relation to scheme members (excluding Councillors) who ceased active membership on or after 1 April 2008 and before 1 April 2014, being discretions under:

- The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) [SI 2007/1166] **[prefix B]**
- The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] **[prefix TP]**

Section 2 – Discretion Mandatory	LPFA position/comments
Whether to apply 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)	LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.
Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 (member). B30(5), TPSch 2, para 2(1)	LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.
Whether to apply 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)	LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.
Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A (pensioner member with deferred benefits). B30A(5), TPSch 2, para 2(1)	LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration. A request for early unreduced payment of benefits on compassionate grounds (i.e. waiving of percentage reduction in respect of early retirement on compassionate grounds), will normally be considered only where the former member is prevented from full-time working due to the need to provide long-term care for a dependent.

Discretions – Section 3 Mandatory Active members between 1 April 1998 and 31 March 2008 (excluding Councillors)

- LGPS Regulations 1997 [SI 1997/1612] **[No prefix]**
- The Local Government Pension Scheme Regulations 2013 [SI 2013/2356] **[prefix R]**
- The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] **[prefix TP]**

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.

Section 3 – Discretion Mandatory	LPFA position/comments
Grant application for early payment of deferred benefits on or after age 50 and before age 55. 31(2)	LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.
Whether to apply the 85-year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60. TPSch 2, para 1(2) & 1(1)(f) & R60	LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.
Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early. 31(5) & TPSch 2, para 2(1)	LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.

List of Section 4 discretionary policies in relation to scheme members who ceased active membership before 1 April 1998, under:

- The Local Government Pension Scheme Regulations 1995 (as amended) [SI 1995/1019] [**prefix D**]
- The Local Government Pension Scheme Regulations 1997 (as amended) [SI 1997/1612] [**prefix L**]
- The Local Government Pension Scheme (Transitional Provisions) Regulations [SI 1997/1613] [**prefix TL**]
- The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] [**prefix TP**]

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.

Section 4 – Discretion Mandatory	LPFA position/comments
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)	LPFA will reserve the right to exercise this discretion and will deal with it on a case-by-case basis taking account of any financial implications. The cost of this would fall on the employer which will need to be taken into consideration.