



**PSPS**  
Public Sector Partnership Services Ltd

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# Pensions Discretion Policy

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Committees Considered	PSPS - Senior Leadership Group PSPS - Staff Representation Group Trade Union - Unison

## Scope

PSPS as an 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 the LGPS.

## Key Points

The Local Government Pension Scheme (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 have to 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.

PSPS's 'Pensions Discretion Policy' seeks to amalgamate previous policy statements and determine the position on the non-mandatory 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.

## Discretions

In accordance with the legal requirement under Regulation 60(5) of the LGPS 2013 this policy statement has been developed in order for the employer to balance financial, business and employee needs. The discretions are detailed below.

Section 1 includes -

- LGPS Regulations 2013 [SI 2013/2356] [R]
- LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] [TP]
- LGPS (Administration) Regulations 2008 [SI 2008/239] [A]
- LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended) [SI 2008/238] [T]
- LGPS Regulations 1997 (as amended) [SI 1997/1612] [L]

Table 1 below contains a list of discretionary policies applicable from 1 April 2014 in relation to post 31 March 2014 active members and post 31 March 2014 leavers.

<b>Table 1 – Discretion</b>	<b>Regulation</b>	<b>Discretion Type: Mandatory or Recommended</b>	<b>PSPS Position</b>
Determine rate of employees' contributions	R9(1) & R9(3)	Recommended	The Company will use the contribution rate defined in the regulations and apply it to employees who are members of the pension scheme in accordance with their pensionable pay.  Where an employee changes their employment within the Company and there is a material change to their pensionable pay during a year, the Company will change the employee's contributions rate when the material change takes effect.
Whether, how much, and in what circumstances to contribute to a shared Additional Pension Contribution (APC) Scheme.	R16(2)(e) & R16(4)(d)	Mandatory	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications. The cost of this would fall on the employer so expectation is this discretion will only be exercised in exceptional circumstances.
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)	Recommended	The 30 day deadline will only be extended where due to an administrative error the member was not offered the option to buy back the lost pension; in that instance the 30 day limit will start from the date that the letter issued.
Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements.	R17(1) & definition of SCAVC in Rsch 1	Recommended	This discretion will not be exercised
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).	TP 15(2A)(b), L66(8) & former L66(9)(b)	Recommended	This discretion will not be exercised

<p>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.</p>	<p>R19(2)</p>	<p>Recommended</p>	<p>The Company will reserve the right to exercise this discretion. Expectation is that refund of contribution would not be made to employees who are dismissed from their employment as a result of fraudulent misconduct however the decision to allow a partial or full refund will be considered in exceptional circumstances.</p>
<p>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.</p>	<p>R20(1)(b)</p>	<p>Recommended</p>	<p>The Company does not currently specify in an Employee's contract what other benefits are to be pensionable. However, the Company reserves the right to incorporate this in to employee contracts.</p>
<p>In determining Assumed Pensionable Pay (APP), whether a lump sum payment made in the previous 12 months is a "regular lump sum"</p>	<p>R21(5)</p>	<p>Recommended</p>	<p>The Company will include in the APP calculation any 'regular lump sum payments' where it is judged that it is reasonable to assume that they would have continued to have been paid.</p>
<p>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 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 had regard to the level of pensionable pay received by the member in the previous 12 months</p>	<p>R21(5A) &amp; R21(5B)</p>	<p>Recommended</p>	<p>When it is reasonably assumed that the pensionable pay received by the member in the 12 months prior to their absence, was materially lower than the normal level of pensionable pay, the Company reserves the right to replace the actual pensionable pay received with a higher amount in order to calculate an APP which more accurately reflects the member's expected level of pensionable pay.</p>

<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 a new employment</p>	<p>R22(8)(b)</p>	<p>Recommended</p>	<p>The Company will reserve the right to exercise this discretion. Requests made outside of the 12 month period will not be considered unless:</p> <ul style="list-style-type: none"> <li>• 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)</li> <li>• Where there has been an administrative delay in processing the initial request which was received within the initial 12 months of active membership</li> <li>• There is clear evidence that they had not been informed of, or could not reasonably have known of the time limit</li> </ul> <p>Any request to extend the deadline based on one of the above reasons is delegated to the Senior Leadership Team.</p>
<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</p>	<p>TP10(6)</p>	<p>Recommended</p>	<p>The Company will reserve the right to exercise this discretion. Requests made outside of the 12 month period will not be considered unless:</p> <ul style="list-style-type: none"> <li>• 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)</li> <li>• Where there has been an administrative delay in processing the initial request which was received within the initial 12 months of active membership</li> <li>• There is clear evidence that they had not been informed of, or could not reasonably have known of the time limit</li> </ul> <p>Any request to extend the deadline based on one of the above reasons is delegated to the Senior Leadership Team.</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)	Recommended	<p>The Company will reserve the right to exercise this discretion. Requests made outside of the 12 month period will not be considered unless:</p> <ul style="list-style-type: none"> <li>• 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)</li> <li>• Where there has been an administrative delay in processing the initial request which was received within the initial 12 months of active membership</li> <li>• There is clear evidence that they had not been informed of, or could not reasonably have known of the time limit</li> </ul> <p>Any request to extend the deadline based on one of the above reasons is delegated to the Senior Leadership Team.</p>
Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement).	R30(6) & TP11(2)	Mandatory	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications.
Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement.	R30(8)	Mandatory	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications. The cost of this would fall on the employer so expectation is this discretion will only be exercised in exceptional circumstances.
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)	Mandatory	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications. The cost of this would fall on the employer so expectation is this discretion will only be exercised in exceptional circumstances.
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)	Mandatory	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications. The cost of this would fall on the employer so expectation is this discretion will only be exercised in exceptional circumstances.

<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>	<p>TP3(1), TPSch 2, para 2(1), B30(5) &amp; B30A(5)</p>	<p>Mandatory</p>	<p>The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications. The cost of this would fall on the employer so expectation is this discretion will only be exercised in exceptional circumstances.</p>
<p>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.</p>	<p>TP12(6)</p>	<p>Recommended</p>	<p>The Company will reserve the right to exercise this discretion. The Company will reach a decision regarding the early payment of pension benefits and the tier payable after it has received the certificate and information provided by the Independent Registered Medical Practitioner.</p>
<p>Determine whether person in receipt of Tier 2 ill health pension has started gainful employment</p>	<p>R37(3) &amp; (4)</p>	<p>Recommended</p>	<p>The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications and medical advice from the Companies Occupational Health provider.</p>

Whether to recover any overpaid Tier 3 pension following commencement of gainful employment.	R37(3)	Recommended	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications and medical advice from the Companies Occupational Health provider.
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)	Recommended	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications and medical advice from the Companies Occupational Health provider.
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)	Recommended	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications and medical advice from the Companies Occupational Health provider.
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).	R91(1) & (8)	Recommended	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications.
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)	Recommended	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications.
Where forfeiture certificate is issued whether to direct interim payments out of Pension Fund until decision is taken to wither apply the certificate to pay benefits.	R92(1) & (2)	Recommended	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications.



Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefit (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 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)	Recommended	The Company reserves the right to seek maximum financial recompense wherever possible where an employee's contract has been terminated because of an offence involving fraud or grave misconduct.
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	Recommended	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications.
Agree to bulk transfer payment	R98(1)(b)	Recommended	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial or administrative implications.
Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	R100(6)	Recommended	<p>The Company will reserve the right to exercise this discretion. Requests made outside of the 12 month period will not be considered unless:</p> <ul style="list-style-type: none"> <li>• 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)</li> <li>• Where there has been an administrative delay in processing the initial request which was received within the initial 12 months of active membership</li> <li>• There is clear evidence that they had not been informed of, or could not reasonably have known of the time limit</li> </ul> <p>Any request to extend the deadline based on one of the above reasons is delegated to the Senior Leadership Team.</p>

Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending 31 March in the 10 years prior to leaving	TP3(6), TP4(6)(C), TP8(4), TP10(2)(a), TP17(2)(b) & B11(2)	Recommended	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications.
Issue a certificate of protection of pension benefits where member fails to apply for one (pay cuts / restrictions occurring pre 1 April 2008).	TP3(1)(a), TSch 1, L23(4)	Recommended	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications

### 1.1 Section 2 includes -

- LGPS (Administration) Regulations 2008 [SI 2008/239] [A]
- LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended) [SI 2007/1166] [B]
- LGPS (Transitional Provisions) Regulations 2008 [S] 2008/238 [T]
- LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] [TP]
- LGPS Regulations 2013 [SI 2013/2356] [R]
- LGPS Regulations 1997 (as amended) [SI 1997/1612] [L]

1.2 Table 2 below contains a list of Discretionary policies in relation to Scheme members who ceased active membership on or after 1 April 2008 and before 1 April 2014

<b>Table 2 - Discretion</b>	<b>Regulation</b>	<b>Discretion Type: Mandatory or Recommended</b>	<b>PSPS Position</b>
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)	Recommended	This discretion will not be exercised.
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)	Recommended	The Company will reserve the right to exercise this discretion. Expectation is that a refund of contribution would not be made to employees who are dismissed from their employment as a result of fraudulent misconduct however the decision to allow a partial or full refund will be considered in exceptional circumstances.
Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund. Under revoked regulation 52(1) of the OPS (Contracting-out) Regulations 1996 [SI 1996/1172] and regulation 12 of the OPS (Schemes that were Contracted-out) (No.2) Regulations a CEP must have been paid to the commissioner within 6 months after the date of termination of contracted-out employment, or one month after the Commissioner's notifies the administering authority that a CEP is payable. Following the end of the contracted-out reconciliation exercise, this discretionary policy should be spent entirely as all premiums will have been paid and no further notifications will be issued by the commissioners.	A49(1) &(2)	Recommended	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial/administrative implications.

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)	Recommended	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications.
Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited.	A72(3)	Recommended	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications.
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)	Recommended	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications.
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)	Recommended	The Company reserves the right to seek maximum financial recompense wherever possible where an 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.
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)	Recommended	The Company reserves the right to seek maximum financial recompense wherever possible where an employee who has left employment because of a fraudulent offence or grave misconduct.
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)	Mandatory	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications. The cost of this would fall on the employer so expectation is this discretion will only be exercised in exceptional circumstances.

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)	Mandatory	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications. The cost of this would fall on the employer so expectation is this discretion will only be exercised in exceptional circumstances.
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)	Mandatory	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications. The cost of this would fall on the employer so expectation is this discretion will only be exercised in exceptional circumstances.
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)	Mandatory	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications. The cost of this would fall on the employer so expectation is this discretion will only be exercised in exceptional circumstances.
Decide whether deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria.	B31(4)	Recommended	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications and medical advice from the Companies Occupational Health provider.
Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment.	B31(7)	Recommended	The Company will reserve the right to exercise this discretion and will deal with it on a case by case basis taking into account any financial implications and medical advice from the Companies Occupational Health provider.

## Applications on Compassionate Grounds

Compassionate grounds can cover a variety of situations and a written application outlining the case should be submitted to the Head of HR and Organisational Development.

Evidence is expected to be submitted supporting the application and the Company reserves the right to seek additional information or evidence should it feel necessary. Any application for actuarial reductions in benefits could be waived based on the individuals circumstances Head of HR.

## Publishing a Mandatory Policy

The Under these regulations, PSPS must formulate, publish and keep under review this 'Pensions Discretion Policy' a statement of their policy.

A copy of the 'Pensions Discretion Policy' must be sent to the relevant administering authority.

If PSPS decides to amend the policy, they must send a copy to the relevant administering authority within one month of the date of the decision to amend the policy.

In formulating and reviewing the 'Pensions Discretion Policy' PSPS is required by the Regulations to have regard to the extent to which the exercise of their discretionary powers could lead to a serious loss of confidence in public service.