

LGPS Employer's Pension Policy



Local Government Pension Scheme

A Guide for Scheme Employers

Issue 7 : January 2022

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This guide aims to explain the various employer discretions under current LGPS Regulations to help you develop your pensions policy which you are required, by law, to create and keep under review.

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You can print or download interactive Forms and Guides from our website:

<https://www.norfolkpensionfund.org/about/employers/>

Only Norfolk Pension Fund forms will be accepted.

These notes are based on our understanding of the current legislation and background information, including any guidance from the Department for Levelling Up, Housing and Communities (DLHC) and the Local Government Association (LGA). However, nothing contained in them can override the LGPS legislation.

Introduction

You are required by **law** to review or create a pensions policy in relation to the discretions under the Local Government Pension Scheme.

Your pensions policy should show the basis on which you would make decisions on the various discretions. The government has advised employers should not ‘fetter their discretion’; i.e. policies should not be so rigid or restrictive as to prevent flexibility where a (possibly unanticipated) situation requires it.

There are compulsory items which all employers must include, as well as several non-compulsory items. We would recommend you include the non-compulsory items, particularly our larger employers; we realise it might seem a bit cumbersome for those with only a few members.

The regulations require new policies to be in place within **one month** of joining the LGPS.

Once you’ve issued a pensions policy, you should arrange for it to be reviewed from time to time, particularly when there’s a change to any of your stated policies.

If you make any alterations to your pensions policy, the new version must be published and a copy sent to the Norfolk Pension Fund within **one month** of the changes being made, or as soon as reasonably practical.

You may wish to consult your employees or their representatives before making or changing your pensions policy.

Please be aware it’s also a **legal requirement** for you to have regard to the extent to which your policy on exercising these discretions might lead to a serious loss of confidence in the public service.

Compulsory Items (for inclusion in Employers' Pensions Policy)

Please do not only use these wordings for your Pensions Policy. They are a description of the discretion. Your policy must state your actions for each discretion.

Funding of Additional Pension : Regulation 16(2e) 16(4d) (Two decisions to be made)

An employer may fund wholly, or in part, a members additional pension contract. The payment can be paid by regular contributions or a lump sum.

The cost of this would fall on the employer.

Where an APC is used to cover a period of unpaid leave and the member makes an option to pay for it within 30 days of returning to work then the employer has to pay 2/3rd of the cost with the member paying the rest of the balance.

The employer has the discretion to extend the 30 day time limit.

Awarding Additional Pension : Regulation 31

An employer may increase a member's benefits by awarding additional pension up to a maximum of £6,500 p.a. from April 2014. This amount is subject to an annual increase each April.

The cost of this would fall on the employer.

Flexible Retirement : Regulation 30(6)

An employer may give consent for a member aged 55 or more who reduces their grade or hours of work (or both) to receive all or part of their LGPS benefits immediately, even though they haven't left its employment.

Any cost for the early payment would fall on the employer.

Waiving of Actuarial Reduction : Regulation 30(8)

Transitional Provisions Regulations 2014 Schedule 2, 1(2) &1(1)(C)

If the benefits payable on retirement before normal pension age would normally be reduced for early payment, the employer may agree to waive all or part of the reduction.

The cost of doing so would fall on the employer.

Compulsory Items – Relating to old provisions

**Only required for employers in the LGPS prior to
1 April 2014**

Early Payment of Pension : Regulation 30 LGPS (Benefits, Membership and Contributions) Regulations 2007 (Two decisions to be made)

Under the 2007 Regulation, employers had the discretion to allow a member aged 55 or more who had left employment prior to 2014 to receive benefits straight away.

The Amendment Regulations 2018 allows members aged 55 or more and who had left employment prior to 2014 to receive benefits straight away without employer consent.

If the benefits payable would normally be reduced for early payment, the employer may agree to waive all or part of the reduction.

The cost of doing so would fall on the employer.

Non-Compulsory Items

Please do not only use these wordings for your Pensions Policy. They are a description of the discretion. Your policy must state your actions for each discretion.

Membership Aggregation : Regulation 22(7b)(8b)

A member who transfers from another LGPS employer, either directly or after a break, must have their two periods of membership aggregated provided they do so while still an active member in the new post. The member has twelve months from the aggregation to opt to keep their periods of membership separate.

The employer has discretion to extend the twelve months time limit.

Shared Cost AVCs : Regulation 17(1)

An employer may contribute towards a Shared Cost AVC Scheme, i.e. an AVC Scheme into which the employer pays contributions as well as the member.

The cost of doing so would fall on the employer.

Forfeiture of Pension Rights : Regulations 91, 92, 93

If a member leaves as a result of a conviction for an offence in connection with their LGPS employment or as a result of their own criminal, negligent or fraudulent act in connection with that employment, the employer has discretion (within the terms of these three regulations) to direct all or part of their LGPS pension rights should be forfeited and / or paid over to the employer or specified dependants of the member.

Appointment of Adjudicator for Member Disagreements : Regulation 74(1)

There is a three-stage dispute procedure for members who disagree with any LGPS decision made by their employer. The first stage is handled by the employer.

Employers must appoint an Adjudicator. You may appoint internally or externally. In every notification of any decision made under the Regulations must inform the person concerned of the job title and address of the person appointed under Regulation 74(1) to whom any application may be made for adjudication.

Transfers of Pension Rights : Regulation 100(6)

A member who has previous pension rights in a different pension scheme* may transfer them into the LGPS provided they opt to do so within twelve months of joining it.

The employer has discretion to extend the twelve months time limit.

**This does not include rights in the LGPS, which are dealt with under Membership Aggregation on page 8.*

Members' Contribution Rates : Regulation 9(3)

Employers have to allocate members into the appropriate contribution band at the beginning of each financial year. If a member's pay moves into a different band during a financial year, the employer has discretion to implement the new band immediately but may prefer to wait until the next annual review.

Calculation of Assumed Pensionable Pay Amendment Regulations 2018 Regulation 21 (5A,5B,5C)

Employers have the discretion to substitute a higher level of pensionable pay to reflect the level of pay the member would normally have received if the assumed pensionable pay calculation, in the employer's opinion, is lower than they would normally receive had they still been at work.

Admission Policy ('designating bodies' only) : Regulation 3(5)

This discretion only applies to 'designating bodies'. As far as the Norfolk Pension Fund is concerned, 'designating bodies' are Parish and Town Councils, Internal Drainage Boards and companies under the control of Norfolk County Council and / or a District Council.

Employees of 'designating bodies' are not automatically members of the LGPS but are allowed to join if they, or the class of employee to which they belong, have been designated by the employer for membership.

The pension policy of a 'designating body' should therefore show the criteria it uses in allowing employees to join the LGPS.

Non-Compulsory Items – Relating to old provisions

**Only required for employers in the LGPS prior to
1 April 2014**

Membership Aggregation : LGPS (Administration) Regulations 2008, Regulation 16(4)(b)(ii)

A member who transfers prior to 1st April 2014 from another LGPS employer, either directly or after a break, may opt to aggregate the two periods of membership provided they do so while still an active member in the new post and within twelve months of joining.

The employer has discretion to extend the twelve months time limit for possible aggregations prior to 1 April 2014.

Employer Pension Policy Template

A blank [Employer Pension Policy Template \(SR85\)](https://www.norfolkpensionfund.org/about/employers/) can be found on our website at <https://www.norfolkpensionfund.org/about/employers/> under 'Forms'.

When your pension policy has been agreed, it must be published and a copy sent to the Norfolk Pension Fund within **one month** of the changes being made, or as soon as reasonably practical.

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If you would like this guide in large print, audio, Braille, alternative format or in a different language, please email pensions@norfolk.gov.uk or call 01603 222824