

## The Local Government Pension Scheme (Scotland) Regulations 2008 - Discretions

Discretion	Regulation	Council Position
Which employees to nominate for membership (admission bodies)	A6(1) & A11(6)	The Council has nominated LVJB and LCJA as admission bodies.
Determine rate of employees' contributions	B4 & T9	The Council will exercise this discretion. SPPA guidance on the assessment of member contribution rates has been issued to personnel sections in conjunction with SLC advice.
Frequency of payment of member's contributions	B4(11)	In line with fortnightly pay cycle.
Specify in an employee's contract what other payments or benefits, other than those specified in B5(1)(a) and not otherwise precluded by B5(2) or (3), are to be pensionable	B5(1)(b)	The Council will exercise this discretion. SPPA guidance on the assessment of member contribution rates has been issued to personnel sections in conjunction with SLC advice.
Whether to recover employee contributions that had been reduced or waived after 40 years pensionable local government service prior to the deletion of L14 by SI 2006/468	Reg 8 of SI 2006/468	The Council will exercise this discretion.
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	A19(2)	The Council will exercise this discretion and will allow late applications in exceptional circumstances.
Whether to augment membership of an active member (by up to 10 years)	B12*	The Council will not exercise this discretion
Whether to grant additional pension to a member (by up to £5,000 p.a)	B13*	The Council will not exercise this discretion
Agree method of paying for augmented membership granted under B12 or additional pension granted under B13	A36(2) & (4)	The Council will not exercise this discretion
Whether to extend the one month period within which a lump sum payment by the employer under A36(2) has to be made (to pay for any augmented membership granted under B12 or additional pension granted under B13)	A36(9)(b)	The Council will not exercise this discretion
Whether, how much, and in what circumstances to contribute to a shared cost AVC scheme	A22(3) & B15(3)	The Council will not exercise this discretion
Allow late application to convert scheme AVC's into membership credit i.e. allow application more than 30 days after cessation of active membership	TSch1 & L655(8) & former L65(9)(b)	The Council will not exercise this discretion

<b>Discretion</b>	<b>Regulation</b>	<b>Council Position</b>
No right to return of contributions due to offence of a fraudulent character or grave misconduct unless employer directs a total or partial refund is to be made	A42(2)	The Council will exercise this discretion.
Employer may deduct contributions from an employee's pay or reserve forces pay	A40(1) & (2)	The Council has exercised this discretion
Issue a certificate of protection of pension benefits where eligible member fails to apply for one	A43(5)	The Council will exercise this discretion. Resource personnel sections will be responsible for issuing a certificate of protection in appropriate circumstances.
Whether to apply to the Scottish Ministers for a forfeiture certificate (where member is convicted of a relevant offence)	A66(6) 111(2)& (5)	The Council will exercise this discretion.
Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited	A66(2) A112 (1)	The Council will exercise this discretion.
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	A67(1) & (2) 113 (2)	The Council will exercise this discretion.
Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights of AVC's/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	A68(2)	The Council will exercise this discretion in line with the national guidance on fraud and in situations where there is no provision through other policies.
Whether to recover from Fund any financial loss caused by fraudulent offence or grave misconduct of employee (who has left because of that), or amount of refund if less	A70(2) & (3) 115 (2) & (3)	The Council will exercise this discretion in line with the national guidance on fraud and in situations where there is no provision through other policies.
Agree to bulk transfer	A76(1)(b)	The Council will exercise this discretion.
Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	A78(8)	The Council will exercise this discretion in accordance with Technical Bulletin no. 25.
Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending 31 <sup>st</sup> March in the 10 years prior to leaving	B11(2)	The Council will exercise this discretion in partnership with Strathclyde Pension Fund Office.
Whether all or some benefits can be paid if an employee reduces their hours or grade prior to age 60 (flexible retirement)	B18(2)*	The Council will exercise this discretion. Arrangements and eligibility criteria are set out in the Council's Flexible Retirement policy.
Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement	B18(4)*	The Council will not exercise this discretion.

<b>Discretion</b>	<b>Regulation</b>	<b>Council Position</b>
Decide which ill health tier leaver falls into	B20	The Council will exercise this discretion. This will be determined by an independent occupational health practitioner as appointed by the Council and in line with the regulations.
Whether to grant ill health gratuity for members who are terminated on ill health grounds but who are not permanently incapable of discharging their duties.	20(1)(a)	The Council will not exercise this discretion.
Whether to grant application for early payment of benefits on or after age 50/55 and before age 60	B30(2) 30 (2)	The Council will exercise this discretion. Each case will be considered on an individual basis taking into account costs to the Council, impact of service delivery and the particular personal circumstances of the member.
Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early	B30(5)*  30 (5)	The Council will exercise this discretion. Each case will be considered on an individual basis taking into account costs to the Council, impact of service delivery and the particular personal circumstances of the member.
Allow member to select final pay period for fees to be a period of not less than 3 or more than 5 years back from date of leaving	21(1)(b)	The Council will exercise this discretion in partnership with Strathclyde Pension Fund Office.
Issue a certificate of protection of pension benefits where eligible member fails to apply for one	22(5)	The Council will exercise this discretion. Resource personnel sections will be responsible for issuing a certificate of protection in appropriate circumstances.
Pre 1/4/09 optants out only to get benefits paid from NRD if employer agrees	30(7A)*	The Council will exercise this discretion
Consent to a member's former employer assigning to a new employer rights under any SCAVC life assurance policy	70(7)(a)	The Council will not exercise this discretion.
No right to return of contributions due to offence of a fraudulent character unless employer directs a total or partial refund is to be made (pre 1/4/09 leavers)	87(2)	The Council will exercise this discretion
Grant application from a pre 1/4/98 leaver for early payment of deferred benefits on or after age 50 on compassionate grounds	E2(6)(b)	The Council will exercise this discretion
To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks pay limit	4	The Council will exercise this discretion.
To award lump sum compensation of up to 104 weeks pay in cases of redundancy or termination of employment on efficiency grounds	20	The Council will exercise this discretion and will award lump sum compensation of up to 66 weeks pay in cases of redundancy or termination of employment on efficiency grounds.

<b>Discretion</b>	<b>Regulation</b>	<b>Council Position</b>
To award compensatory added years to a person aged 50 or over with 5 or more years membership or notional membership) of the LGPS in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment	8(1)	The Council will exercise this discretion and will award the maximum enhancement of 6 2/3 years on redundancy grounds and 10 years on efficiency grounds.
How to apportion any surviving spouse's annual compensatory added years payment where the deceased person is survived by more than one spouse	20(2)	The Council will exercise this discretion in partnership with Strathclyde Pension Fund Office.
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	26(2)	The Council will not exercise this discretion.
Whether, in respect of the spouse or civil [partner pf a person who ceased employment before 1 April 1998, the normal person suspension rules should be disapplied during a period of remarriage or new civil partnership i.e. whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid	20(6)	The Council will exercise this discretion.
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 of cohabitation	20(4)	The Council will not exercise this discretion
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 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 pr co-habitation lasts, should be disapplied i.e. whether the spouses' or civil partners' annual CAY payments should continue to be paid to both of them	20(6)	The Council will exercise this discretion in partnership with Strathclyde Pension Fund Office.
Amount of injury allowance following loss of employment through permanent incapacity after sustaining an injury or contracting a disease as a result of anything required to do in carrying out duties of job	39(2) & 43	The Council will not exercise this discretion. Provision has been made through the Council's public liability insurance.

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Suspend or discontinue injury allowance if person becomes capable of working again	39(4)	The Council will exercise this discretion.
Amount of injury allowance following reduction in pay after sustaining an injury or contracting a disease as a result if anything required to do in carrying out duties of job	40(3) and 43	The Council will not exercise this discretion. Provision has been made through the Council's public liability insurance
Amount and duration of injury allowance following cessation of employment where reg 40 payment was being made but reg 39 does not apply	41	The Council will not exercise this discretion as provision has been made through the Council's public liability insurance.
Amount and duration of a dependant's, spouse's or civil partner's injury allowance following death of employee after sustaining an injury or contracting a disease as a result of anything required to do in carrying out duties of job	42(93), 42(6) and 43	The Council will not exercise this discretion as provision has been made through the Council's public liability insurance.
Reinstate spouse's or civil partner's injury allowance following earlier cessation due to cohabitation, remarriage or registration of a new civil partnership	42(4)	The Council will not exercise this discretion as provision has been made through the Council's public liability insurance.
Amount of death in service gratuity payable to surviving dependant, spouse or civil partner	46	The Council will not exercise this discretion as provision has been made through the Council's public liability insurance.
Amount of retirement gratuity payable	47	The Council will not exercise this discretion as provision has been made through the Council's public liability insurance.
Amount of gratuity payable to surviving dependant, spouse or civil partner where amount of annuity payments fall short of their capital value at date of award	47(4)	The Council will not exercise this discretion as provision has been made through the Council's public liability insurance.
Amount of redundancy gratuity payable	48	The Council will not exercise this discretion as provision has been made through the Council's public liability insurance.
Amount of gratuity payable to surviving dependant, spouse or civil partner where amount of redundancy annuity payments fall short of their capital value at date of award	48(4)	The Council will not exercise this discretion as provision has been made through the Council's public liability insurance.
Amount of gratuity payable to any other surviving dependant, spouse or civil partner where amount of annuity payments paid under 48(4) fall short of their capital value at date of award	48(7)	The Council will not exercise this discretion as provision has been made through the Council's public liability insurance.