

## Summary for fund employers in the Oxfordshire Fund of items to include in Policy statement

### Introduction

It is a statutory requirement to prepare, consult and publish your policy statement, which promotes open administration, helps build awareness of pension provisions and ensures correct pension benefit payments. All employers should:

- prepare and publish written policy statements under LGPS Regulations, Compensation Regulations and Injury Allowance Regulations.
- send a copy to Oxfordshire Pension Fund.
- set out and implement a review process

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**How to use this policy summary:**

1. Where XXX appears in the document, complete to show the formal name of your employer /authority
2. Delete or add wording in the final column, where applicable, to indicate the decision that you have made
3. Sign the document, before sending to [pension.employers@oxfordshire.gov.uk](mailto:pension.employers@oxfordshire.gov.uk)
4. Required / mandatory areas are shown in shaded boxes. These must be included in published statements.
5. Other areas where the employer can use discretion, and which are the most frequently applied are shown too. It is recommended you include these in your statements, to help ensure all parties are clear on employer intention and process.
6. The summary shows the required and the frequently used ‘other’ areas to include in a statement of discretionary policies from May 2021. For complete listing contact Pension Services
7. Check you apply the parts appropriate to your employer status in the LGPS (admitted, designated, etc)
8. Simplified suggestions have been provided however all employers should prepare their policy being aware of the full requirements and precautions – the full list of discretionary policies can be found <https://lgpsregs.org/resources/guidesetc.php>

Policy statement prepared and submitted by *Marcia Slater*

Date 6 May 2022

To be reviewed ...../...../ .....

## 1: Summary of discretions affecting Active members and Leavers on and after 2 April 2014

An employer has discretion to exercise in these areas	Regulation reference	Background and points to consider (shaded sections are mandatory)	Simplified suggestions
Employer to determine who will join the scheme ( <b>Admitted and Designated Bodies</b> )	2013 LGPS regulation 2	<p>Your committee minutes/ admission agreement must specify who will be eligible to join the scheme - either by the name, or by type of employment and from which date.</p> <p>Ensure employee has details including scheme brief guide and <a href="http://www.lgpsmember.org">www.lgpsmember.org</a> link</p> <p><b>NB Scheduled Bodies</b> including county, district councils, FE colleges, academies, university must follow LGPS regulatory admission not discretionary, however new joiners should be given link to the scheme brief guide and advised how their contribution rate is assessed</p>	<p>Capita contract commenced on 1 August 2016, previous contract was awarded on 31 July 2006 when the financial services contract was outsourced to Capita.</p> <p>Vinci contract which included Acadis and Indigo commenced on 1 August 2016. Indigo contract has been subsequently novated to SABA from 1 April 2018.</p>
Employer to determine member contribution band and terms of review. This decides the member contribution rate.	2013 LGPS regulations 9/10	<p>When joining and at every April (the start of the fund year) allocate the contribution band determined by the employee's expected annual actual pay – pensionable pay.</p> <p>Your policy should show if the allocation would change mid-year following a material change in pay. Inform member of your process</p> <p>Ideally members contract should specify what other pay and benefits to be 'pensionable' (20)(1)(a)</p>	South Oxfordshire District Council will review employee contribution band every April and <b>will</b> generally review monthly following a material change to pay.
Will employer grant extra annual pension?	2013 LGPS regulation 31	Employer can pay the fund to increase the member's pension up to an additional £7,316 a year (2021 rate). Grant possible to active member, or within 6 months of someone leaving on redundancy or business efficiency. Full cost is with the employer	South Oxfordshire District Council <b>will not</b> grant extra annual pension unless under exceptional compassionate grounds, which will be considered by the Senior Management Team. (See paragraph 34 in policy)

An employer has discretion to exercise in these areas	Regulation reference	Background and points to consider (shaded sections are mandatory)	Simplified suggestions
Will employer extend time limits for member to make decision on transfer of pension rights from an approved pension scheme?	2013 LGPS regulation 100(6)	The member has 12 months from first joining LGPS in that employment to receive details, seek advice and make decision on transfer. There may have been reasons for delays out of the member's control. Employer may want to seek advice on any potential financial cost from Pension Services before approving request to extend deadline	South Oxfordshire District Council will not extend time limits for transfer decisions. See paragraph 13 in policy
Will employer extend time limit for members to NOT link (aggregate) their LGPS memberships?	2013 LGPS regulation 22(7)+(8)	A member joining after April 2014 who has previous LGPS membership can elect to keep pension records separate but this must be done within 12 months of starting in that employment. Without the written election pension records will be linked together. There may be reasons for delays out of the member's control.	South Oxfordshire District Council <b>will not</b> extend the time limits the member has to make an election to keep pension records separate See paragraph 14 in policy
Will employer extend time limit for members to link (aggregate) their LGPS memberships?	Amendment LGPS regulations 2018 27 and TP 2014 Regulations 10	Quite specific - for those joining scheme again after May 2018 but were in scheme during March/April 2014 and have previous Deferred Benefit. The link will not be automatic, must have written election within 12 months, employer may allow a later election	South Oxfordshire District Council will extend time limits for transfer decisions. See paragraph 14 in policy
Will employer contribute to Shared Cost Additional Voluntary Contributions (SCAVC) ?	2013 LGPS regulation 17	Whether, how much and in what circumstances to contribute to the SCAVC arrangement (Recommend consult with Pension Services on any payroll / benefit implications before setting this up. )	South Oxfordshire District Council will not contribute to SCAVC arrangement. (Provide details of circumstances if entering this arrangement)
Will employer include regular lump sums when assessing value for Assumed Pensionable Pay (APP)?	2013 LGPS regulation 21	There are times when the pension value must be protected yet the member has no or reduced pay. Employers assess an assumed value, based on three months or twelve weeks of pay immediately before the reduction. If in the twelve months before the member would have ordinarily received a lump sum payment, consider if this should be added back to the APP assessment as a reasonable expectation	South Oxfordshire District Council will when appropriate, add back the regular lump sum payment to provide the assumed pensionable pay figure for purposes. *when on reduced pay during child related leave *reserves forces leave *no or reduced pay during sickness or injury *retirement on tier 1 or tier 2

An employer has discretion to exercise in these areas	Regulation reference	Background and points to consider (shaded sections are mandatory)	Simplified suggestions
		<p>Check on <a href="http://www.LPGSregs.org">www.LPGSregs.org</a> for more details on APP and when to use and report if you are unsure</p> <p>NB separate calculations are required if member dies in service or retires on ill health even if APP already assessed for monthly returns</p>	<p>*death in service</p> <p>Consider stating in policy how checks will be made and how member and fund are informed.</p>
Will employer substitute a higher value of pensionable pay when assessing APP ?	2018 amendment regulations 7	Introduced in 2018, but backdated to April 2014, an employer may substitute a higher pensionable pay if, in their opinion, the value assessed by APP is materially lower than member would ordinarily have received in the previous year . Could occur during child related leave, reduced on no pay sickness etc and be used for ill health retirement on tier 1 or 2, death in service. Intention retains level of benefit	<p>South Oxfordshire District Council will in specific circumstances consider substituting a higher value of pay in place of APP (-in cases where an honorarium may have been paid for a considerable time period and that time period has lapsed in recent months)</p> <p>The decision will be made by the Head of Paid Service (Chief Executive) in consultation with wider senior management team.</p> <p>Consider stating in policy how checks will be made and how member and fund are informed.</p> <p>Employee/manager would submit a written application to Strategic HR, who would agree eligibility prior to submission to Head of paid Service/Joint Audit &amp; Governance Committee.</p>
Will employer share the cost of purchasing additional pension (SCAPC) with a member?	2013 LGPS regulation 16(2) and (4)	<p>When an active member elects to buy additional pension by extra contributions, would the employer voluntarily contribute towards this? What circumstances might prompt the action?</p> <p>NB be careful not to confuse with restoring lost pension after approved absence when employer <b>MUST</b> share 2/3rds cost.</p>	South Oxfordshire District will not share the cost for a member's purchase for additional pension.
Will employer extend time limit for member to decide to restore lost pension by shared cost additional pension contributions (SCAPC) after a period of no pay (other than	2013 LGPS regulation 16(16)	After a period of approved unpaid leave, a member has 30 days from return to work to receive information to enable election for (SCAPC) shared cost additional pension contribution, to restore lost pension.	South Oxfordshire District Council will extend deadlines beyond 30 days of return to work when application shows good reason for the delay in decision.

An employer has discretion to exercise in these areas	Regulation reference	Background and points to consider (shaded sections are mandatory)	Simplified suggestions
due to sickness or paid child related leave.) ?		<p>Employer must provide lost pay details and advise member of opportunity.</p> <p>Employer must share costs when election made within time limits.</p> <p>Increasing time limit would allow for any delays in administration process.</p>	<p>Any extension must not exceed three months from return to work and decision will be made by Head of Corporate Services</p> <p>Ideally show process of application: Strategic HR will engage with employee to assist with the calculation for lost pay details, agree repayment terms, obtain OCC agreement and implement deduction within three months of employee returning to work.</p>
Will employer permit flexible retirement?	2013 LGPS regulation 30(6)	<p>For members aged at least 55, and with agreement of their employer, reduce hours or grade and releases pension, giving member choice on taking all, part or none of post 31 March 2008 benefits. Early payment may mean pension is reduced for the member,</p> <p>Employer can waive the reduction completely or in part, and this is wholly employer cost.</p> <p>Always seek guidance on costs from Pension Services. Some members may have protected rights to unreduced pension, which would increase employer costs.</p> <p>Member stays in fund in ongoing employment</p>	<p>Employer has several parts to this discretion which should be included-</p> <p>South Oxfordshire District Council</p> <p>a) will consider applications for flexible retirement and subject to cost/ business case will agree flexible retirement arrangements (see paragraph 46-48)</p> <p>If it considers a)</p> <p>then b) South Oxfordshire District Council will not waive any pension reductions and</p> <p>c) will not permit member to choose which part of their pension to draw (subject to employer cost/ business need)</p>
Will employer switch back on '85-year rule' protections?	2014 Transitional Provisions regulations Sched 2	<p>Unlikely to apply when membership only starts from 1 April 2014 with no linked previous membership. Intention enables employers to pay unreduced pension to those voluntarily retiring between 55 and 60, who could have had 85-year rule protection – cost falls all to employer.</p>	<p>South Oxfordshire District Council has no pre 2014 liabilities and this regulation will not apply. (This section will be reviewed in the future/ we will not switch on this option should any employee bring earlier protected rights with them to this employment)</p>
When would employer waive actuarial reductions to benefits being drawn on early voluntary retirement?	2013 LGPS regulation 30(5)	<p>Can apply from active, from deferred status and from deferred tier 3 ill health retirees, between age 55 and normal pension age. Pensions taken early voluntarily will be reduced and employer can waive the reductions at their own cost.</p>	<p>South Oxfordshire District Council will not consider applications to waive actuarial reduction for early voluntary retirement from active members, unless in exceptional circumstances and in accordance with LGPS regulations. Any</p>

An employer has discretion to exercise in these areas	Regulation reference	Background and points to consider (shaded sections are mandatory)	Simplified suggestions
		Employers should be clear in their policy on how this could apply and under which circumstances. For post 2014 membership there is no longer the requirement to satisfy compassionate grounds as a regulation requirement to release pension early.	such decision will be made by the Head of Paid Services (Chief Executive) in conjunction with the Joint Audit & Governance Committee. South Oxfordshire District Council will not consider applications to waive actuarial reductions made by members with deferred pensions etc. ( As above)

**2: Other mandatory provisions to be included in a policy, under different regulations and which can apply to active employees regardless of LGPS membership**

An employer has discretion to exercise in these areas	Regulation reference	Background and points to consider (shaded sections are mandatory)	Simplified suggestions
<p>Will employer make an injury award to compensate for loss of</p> <p>a) pay, or b) job, or c) death due to injury or disease sustained at work?</p>	<p>Regulation 3-7 of the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 employers (LGPS employers),</p>	<p>The requirement to have a policy is 14(1) of these regulations. Under what circumstances, for how much and for how long would an employee be compensated if in performing their duties a person sustains injury or disease leading to loss of pay, employment or death? Injury award could apply to all employees regardless of LGPS membership. Awards are not funded through the pension scheme, all costs rest with employer.</p>	<p>South Oxfordshire District Council has set up an injury award scheme under these regulations- it's referred to as employers liability insurance.</p> <p>If <b>will</b> set out the terms of assessment and arrangements to apply.</p>
<p>Will employer pay enhanced redundancy payments and /or compensation for loss of employment on redundancy etc. ?</p>	<p>Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006</p>	<p>Two decisions in this section available for employees 1) in the event of a redundancy, and person week's pay would be higher than the relevant statutory week's pay – which would you use to assess redundancy payment? (Regulation 5) 2) an employer can make a termination payment of up to 104 weeks pay to an LGPS member or someone eligible to be a member when leaving due to redundancy, efficiency or cessation of a joint appointment. <b>Cannot use</b> this if you are awarding additional pension under 2013 LGPS regulation 31.</p> <p>Neither 1 nor 2 are funded - all at employer cost.</p>	<ol style="list-style-type: none"> <li>1) South Oxfordshire District Council already bases redundancy pay on actual pay which is greater than the 'statutory week's pay' for a redundancy payment, namely 1.5 x ready reckoner</li> <li>2) South Oxfordshire District Council may award termination compensation lump sum on a case by case basis as agreed with Head of Paid Service (Chief Executive).</li> </ol>



### 3: Summary of discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to members (excluding councillor members) who ceased active membership between 1 April 2008 and 31 March 2014

Occasionally an employer will receive request from a former employee who left the employment and the LGPS under earlier pension scheme regulations. The following table shows the mandatory discretions under different regulations according to the leaving date. These are all mandatory and to be included in your policy statement.

Where bodies have amalgamated, or services transferred check on your level of inherited responsibility to ensure you include the right category.

An employer has discretion to exercise in these areas	Regulation x reference	Background and points to consider (shaded sections are mandatory)	Simplified suggestions
Will employer switch on '85-year rule' protections for early payment of deferred benefit? Request made from May 2018	LGPS Administration Regulations 2018 66 and sched 2 of 2014 TP Regulations	<p>Early payment of a deferred benefit – on and after May 2018, for those between ages 55-60 does not automatically carry the 85-year rule protection to unreduced pension.</p> <p>The opportunity to request early payment of DB for those in this age group only available from May 2018. Before then, agreement to early payment before age 60 required protection of 85-year rights and full employer costs.</p> <p>Costs fall to the employer, ask Pension Services for estimate for decision process</p>	<p>South Oxfordshire District Council <b>will not</b> consider applications to switch on 85-year rule to provide early unreduced pension to former scheme members. Ideally, include details you need from the member to make the decision, if appropriate</p> <p>South Oxfordshire District Council will not consider applications to waive actuarial reductions made by members with deferred pensions under any circumstance etc.</p>
Will you 'switch on' the 85-year rule upon the voluntary early payment of a suspended tier 3 ill health pension? from 14 May 2018	LGPS Administration Regulations 2018 66 and sched 2 of 2014 TP Regulations	<p>Background, points and costs like those in line above – introduced from May 2018 for post 2014 leavers with suspended tier 3 pension.</p> <p>Costs fall to the employer, ask Pension Services for estimate for decision process</p>	<p>South Oxfordshire District Council <b>will not</b> consider applications to switch on 85-year rule to provide unreduced pension paid early on request to former scheme members after the third-tier ill health pension has ceased, and voluntary request made for early payment between from age 55-60</p> <p>South Oxfordshire District Council will not consider applications to waive actuarial reductions made by members with deferred pensions under any circumstance etc.</p>
Will the employer waive actuarial reductions due to compassionate grounds for an early payment of deferred	LGPS regulations 2007 30(5)	The additional costs rest with the employer, waiving the reduction for early payment is for the lifetime of the pension. Apply to Pension Services for details of costs.	South Oxfordshire District Council will not consider applications to waive actuarial reduction for early pension payments, except in exceptional circumstances)

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<b>An employer has discretion to exercise in these areas</b>	<b>Regulation x reference</b>	<b>Background and points to consider</b> (shaded sections are mandatory)	<b>Simplified suggestions</b>
pension - before age 65? Can apply for member with DB or with suspended tier 3 ill health pension, left scheme before 1.4.2008. finding compassionate grounds is only reason for waiving reduction.	Sched 2 of TP regulations 2014  And 2007 regulations 30A(5) Sched 2 of TP regulations 2014	Notes for the release of pension early for post 14 members could also be read here	Include where to present the request

**4: Discretions to be exercised on and after 1 April 2014 (for requests made from 14 May 2018) in relation to members (including councillor members) who ceased active membership between 1 April 1998 and 31 March 2008**

1. Will the employer waive reductions on compassionate grounds for an early voluntary payment of pension?
2. Will the employer switch on the 85-year rule for early payment of DBs requested between ages 55-60?
3. Will the employer permit early payment of benefit from age 50 and under 55 (always check on the tax situation as may result in unauthorised payment charge)?

Contact Pension Services for cost estimates. These areas follow principles mentioned earlier in this table and the LGA [www.lgpsregs.org](http://www.lgpsregs.org) guide to Employer Discretions provide more detailed reference

**A note about Councillors / elected members:** Although elected members may not now join the LGPS in England, this fund does hold the deferred pensions for former councillors from some Districts and the County Council. Authorities enabling the elected members to join should have the 3 mandatory policy areas above prepared for leavers between 1 April 1998 and 31 March 2008 (effective from 14 May 2018).

**5: Summary of the discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to members (excluding councillor members) who ceased active membership before 1 April 1998**

<b>An employer has discretion to exercise in these areas</b>	<b>Regulation x reference</b>	<b>Background and points to consider</b> (shaded sections are mandatory)	<b>Simplified suggestions</b>
Will employer grant early payment of deferred benefit on compassionate grounds, under what circumstances?	LGPS regulations 1995 (Transitional Provisions 1997 2)	Employer cost involved in agreeing to this early payment from age 50 and HMRC charge for unauthorised payment	South Oxfordshire District Council will not consider applications to waive actuarial reduction for early voluntary retirement from members with deferred pensions unless in exceptional circumstances....

## 6: 2000 Discretionary Regulations

These regulations still apply in so far as benefits have been awarded in the past for certain leavers before 1.4.2007. Employers, most likely to be County, District Councils and Oxford City, using these in the past should maintain **their mandatory policies** concerning

- Reduction or suspension of annual compensation (added years) during periods of re employment in local government and after leaving and having opportunity to re-join the LGPS ( even if doesn't) what level of pension abatement to apply
- If survived by more than one civil partner or spouse how will the pension be apportioned
- Whether to suspend spouse or civil partner pension during periods of re marriage/ partnership or co habitation
- Whether to reinstate spouse or civil partnership added year's compensatory pension after remarriage etc has ended
- Would children's pension be payable under compensatory regulations when not under LGPS main scheme

## Help for Parish Councils

### Suggestion of items to include in report to introduce the discretions policy statement for parish councils - designating bodies (2020 joining)

#### Introduction

1. Having resolved to become an employer with the Oxfordshire County Pension Fund from [xxxx date] this report introduces the regulatory background to the pension scheme and the requirement for fund employers, regardless of size or membership to prepare and maintain a policy concerning the discretions this authority can use.
2. The draft policy statement at [ below, annex .. cross refer/ specify] covers
  - a. the mandatory areas this authority is required to prepare under these regulations and publish and
  - b. non mandatory areas to assist administration

#### Background

The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014 so that benefits for service after 31 March 2014, build-up on a defined benefit career average revalued earnings (CARE) basis, rather than on a defined benefit final salary basis. The provisions of the CARE scheme, together with the protections for members' pre 1 April 2014 final salary rights, are contained in the Local Government Pension Scheme Regulations 2013 [SI 2013/2356] and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525].

Scheme employers participating in the LGPS in England or Wales must formulate, publish and keep under review a statement of policy on all mandatory discretions (or where the discretion is non-mandatory, are recommended to) which they have the power to exercise in relation to members of the CARE Scheme.

This body/authority has no members with any LGPS pension rights before 1 April 2014, therefore the policy statement drafted only concerns relevant regulations for our current membership. Should a future employee bring previous and linked membership, this committee/ body will consider any appropriate changes during a regular policy review, which will happen every xxx years or earlier in the event of significant material change caused by amending LGPS regulations or .... (provide a reason to review)

In formulating and reviewing its policy a Scheme employer 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 the public service.

A Scheme employer should always ensure that their discretionary policies are kept up to date and changes must be agreed and published at least one month ahead being used.

The following regulations outline the need for a policy and are relevant for our current member(s) and is reflected in the draft policy attached :

- 1) Must formulate, publish and keep under review a statement of policy on all mandatory discretions (or where the discretion is non-mandatory, are recommended to) in accordance with:
  - regulation 60 of the LGPS Regulations 2013 [SI 2013/2356],
  - paragraph 2(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2015/525],
- 2) Must also formulate, publish and keep under review a statement of policy on all mandatory discretions in accordance with regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 [SI 2006/2914], operative from 1 October 2006.
- 3) Must formulate, publish and keep under review a statement of policy on all discretions relating to injury allowances in accordance with regulation 14 of the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 [SI 2011/2954].

The areas within these regulations for an employer to exercise a decision will often involve additional cost. The Oxfordshire Pension Fund expects every employer to consider their own policy and does not issue 'one size fits all' employer templates however will supply individual costs to assist employers in preparing for decisions.

## **Recommend**

Commend the draft for decision and copy to the pension fund and set a review timetable.

Referring to the paper above take the columns 1,2 and 4 to be the basis for your policy having regard to local needs, employment practices, consultation and expected processes.