

STATEMENT OF POLICY REGARDING THE  
EXERCISE OF DISCRETION WITH REGARD TO THE  
APPLICATION OF THE LOCAL GOVERNMENT  
PENSION SCHEME REGULATIONS

Care Quality Commission  
CQC

**St Nicholas Building  
St Nicholas Street  
Newcastle upon Tyne  
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**Discretions from 1.4.08. in relation to post 31.3.08. active members (excluding councillor members) and post 31.3.08. leavers (excluding councillor members), being discretions under:**

- ◆ **the Local Government Pension Scheme (Administration) Regulations 2008 [prefix A]**
- ◆ **the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) [prefix B]**
- ◆ **the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [prefix T]**
- ◆ **the Local Government Pension Scheme Regulations 1997 (as amended) [prefix L]**
- ◆ **the Local Government Pension Scheme (Transitional Provisions) Regulations 1997 (as amended) [prefix OT]**

<b>Discretion</b>	<b>Regulation</b>	<b>Employer policy</b>
Whether to agree to an admission agreement with a transferee body	<b>A6(1) &amp; A6(10)(a)</b> <i>Old 5A</i>	Regulation A6(1)&A6(10)(a) does not apply to the Commission.
Define what is meant by "employed in connection with"	<b>A6(12)</b> <i>Old 5A</i>	Regulation A6(12) does not apply to the Commission.
Which employees to nominate for membership (admission bodies)	<b>A7(1) &amp; A12(6)</b> <i>Old 5B and 6</i>	Regulation A7(1)&A12(6) does not apply to the Commission.
Whether to set off against payments due to a transferee admission body any sums due to the Fund by that body	<b>ASch3, para 12(b)</b> <i>Old Sch2A</i>	Regulation ASch3,para 12(b) does not apply to the Commission.
Whether to extend the 12 month option period for aggregation of deferred benefits	<b>A16(4)(b)(ii)</b> <i>Old 32</i>	The Commission will not utilise regulation A16(4)(b)(ii) unless an administrative error has been made resulting in the election to transfer being made outside the 12 month time limit.
Determine rate of employees' contributions	<b>B3 &amp; T9</b>	The Commission will determine the rate of employee contributions, under regulation B3&T9 on all elements of whole time equivalent pensionable pay, including pensionable pay increases or decreases throughout the year, on a cumulative basis.  This stance is currently under preparation for consideration by Senior Management, for a final decision.
Allow an "outsourced" manual worker to make	<b>T9 &amp; L12(3) &amp; L14(3)(b)</b>	Regulation

<p>a late option to continue to pay 5% contribution rate upon return to the LGPS (where option is made more than 30 days after rejoining the LGPS)</p>		<p>T9&amp;L12(3)&amp;L14(3)(b) does not apply to the Commission.</p>
<p>Specify in an employee's contract what other payments or benefits, other than those specified in <b>B4(1)(a)</b> and not otherwise precluded by <b>B4(2)</b> or (3), are to be pensionable</p>	<p><b>B4(1)(b)</b> <i>Old 13</i></p>	<p>All payments and benefits made by the Commission to its employees, fall within the remit of those specified in regulation <b>B4(1)(b)</b>.</p> <p>Therefore this regulation does not apply to the Commission.</p>
<p>Whether to recover employee contributions that had been reduced or waived after 40 years pensionable local government service prior to the deletion of <b>L15</b> by SI 2006/966</p>	<p>Reg 8 of SI 2006/966</p>	<p>The Commission has made no decision relating to regulation 8, as no applications under this discretion have been made.</p> <p>The Commission will, however, consider any future applications on an individual basis if and when they should occur.</p>
<p>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</p>	<p><b>A22(2)</b> <i>Old 18(6)</i></p>	<p>The Commission will consider applications made under regulation <b>A22(2)</b> on an individual basis.</p> <p>Agreement will then be dependant on the merits of each case and will also be subject to any cost implications.</p>
<p>Whether to augment membership of an active member (by up to 10 years)</p>	<p><b>B12*</b> <i>Old 52</i></p>	<p>The Commission will consider applications made under regulation <b>B12</b> on an individual basis.</p> <p>Agreement will then be dependant on the merits of each case and will also be subject to any cost implications.</p>
<p>Whether to grant additional pension to a member (by up to £5,000 p.a.)</p>	<p><b>B13*</b></p>	<p>The Commission will consider applications made under regulation <b>B13</b> on an individual basis.</p> <p>Agreement will then be dependant on the merits of each case and will also be subject to any cost implications.</p> <p>This stance is currently</p>

		under preparation for consideration by senior management, for a final decision.
Whether, how much, and in what circumstances to contribute to a shared cost AVC scheme	<b>A25(3) &amp; B15(3)</b> <i>Old 67</i>	The Commission has decided not to establish SCAVC arrangements for employees.  Under these circumstances, regulations A25(3) and B15(3) do not apply.
Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership	<b>TSch1 &amp; L66(8) &amp; former L66(9)(b)</b>	The Commission has made no decision relating to regulation TSch1&L66(8)&former L66(9)(b), as no applications under this discretion have been made.  The Commission will, however, consider any future applications on an individual basis if and when they should occur.
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	<b>A47(2)</b> <i>Old 87</i>	The Commission has made no decision relating to regulation A47(2), as the need to utilise this discretion has not occurred.  The Commission will, however, consider utilising this discretion should any such cases arise in the future.
Employer may deduct contributions from an employee's pay or reserve forces pay	<b>A45(1) &amp; (2)</b> <i>Old 89</i>	Under regulation A45(1)&(2), the Commission will deduct contributions from employee's pay/reserve forces pay as appropriate.
Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund	<b>A49(1) &amp; (2)</b> <i>Old 92</i>	The Commission has made no decision relating to regulation A49(1)&(2), as the need to utilise this discretion has not occurred.  The Commission will, however, consider utilising this discretion should any such cases arise in the future.
Whether to apply to Secretary of State for a	<b>A72(1)</b>	The Commission has made

<p>forfeiture certificate (where member is convicted of a relevant offence)</p>	<p><i>Old 111</i></p>	<p>no decision relating to regulation A72(1), as the need to utilise this discretion has not occurred.</p> <p>The Commission will, however, consider utilising this discretion should any such cases arise in the future.</p>
<p>Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited</p>	<p><b>A72(3)</b> <i>Old 111</i></p>	<p>The Commission has made no decision relating to regulation A72(3), as the need to utilise this discretion has not occurred.</p> <p>The Commission will, however, consider utilising this discretion should any such cases arise in the future.</p>
<p>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</p>	<p><b>A73(1) &amp; (2)</b> <i>Old 112</i></p>	<p>The Commission has made no decision relating to regulation A73(1)&amp;(2), as the need to utilise this discretion has not occurred.</p> <p>The Commission will, however, consider utilising this discretion should any such cases arise in the future.</p>
<p>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</p>	<p><b>A74(2)</b> <i>Old 113</i></p>	<p>The Commission has made no decision relating to regulation A74(2), as the need to utilise this discretion has not occurred.</p> <p>The Commission will, however, consider utilising this discretion should any such cases arise in the future.</p>
<p>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</p>	<p><b>A76(2) &amp; (3)</b> <i>Old 115</i></p>	<p>The Commission has made no decision relating to regulation A76(2)&amp;(3), as the need to utilise this discretion has not occurred.</p> <p>The Commission will, however, consider utilising this discretion should any such cases</p>

		arise in the future.
Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	<b>A83(8)</b> <i>Old 121</i>	The Commission will not utilise regulation A83(8) unless where an administration error has occurred on the part of the Commission resulting in the election to transfer being made outside the 12 month time limit.
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	<b>B11(2)</b> <i>Old 22</i>	The Commission has made no decision relating to regulation B11(2).  This regulation is currently under preparation for consideration by senior management for a final decision.
Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)	<b>B18(1)*</b> <i>Old 35</i>	The Commission will consider applications made under regulation B18(1) on an individual basis.  Agreement will then be dependant on the merits of each case and will also be subject to any cost implications.
Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement	<b>B18(3)*</b> <i>Old 35</i>	The Commission will consider applications made under regulation B18(3) on an individual basis.  Agreement will then be dependant on the merits of each case and will also be subject to any cost implications.
Decide which ill health tier leaver falls into	<b>B20</b> <i>Similar in principle to Old 27/97</i>	The Commission will consider applications made under regulation B20 on an individual basis.  Agreement will then be dependant on the merits of each case, taking into account medical opinion and certification from a doctor suitably qualified under scheme regulations.
Whether to grant application for early payment of benefits on or after age 50/55 and before age 60	<b>B30(2)*</b> <i>Old 31</i>	The Commission will consider applications made under regulation B30(2) on an individual basis.  Agreement will then be dependant on the merits of each case and will also

		be subject to any cost implications.
Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early	<b>B30(5)*</b> <i>Old 31</i>	The Commission will consider applications made under regulation B30(5) on an individual basis.  Agreement will then be dependant on the merits of each case and will also be subject to any cost implication.
Decide whether deferred beneficiary meets permanent ill health criteria	<b>B31</b> <i>Old 31/97</i>	The Commission will consider applications made under regulation B31 on an individual basis.  Agreement will then be dependant on the merits of each case, taking into account medical opinion and certification from a doctor suitably qualified under scheme regulations.

\*These are matters about which the regulations require there must be a written policy.

Items highlighted in blue are 'new' discretions.

Orange items are ones that, despite not being absolute requirements within a written policy, we strongly recommend that you include as a minimum.

### **Discretions under the Local Government Pension Scheme Regulations 1997 (as amended) in relation to active councillor members and pre 1.4.08. Scheme leavers**

<b><u>Discretion</u></b>	<b><u>Regulation</u></b>	<b><u>Employer Policy</u></b>
Allow a councillor who has opted out more than once to rejoin	7(9)(a)	Regulation 7(9)(a) does not apply to the Commission.
Allow a late application by a councillor member to pay optional contributions for a period of absence	18(6) & (7)	Regulation 18(6)&(7) does not apply to the Commission.
Grant application from a post 31.3.98. / pre 1.4.08. leaver or from a councillor for early payment of benefits on or after age 50/55 and before age 60	31(2)*	The Commission will consider applications made under regulation B31(2) on an individual basis.  Agreement will then be dependant on the merits of each case and will also be subject to any cost implications.
Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31.3.98. / pre 1.4.08. leaver or a councillor leaver	31(5)*	The Commission will consider applications made under regulation 31(5) on an individual

		<p>basis.</p> <p>Agreement will then be dependant on the merits of each case and will also be subject to any cost implications.</p>
Councillor optants out only to get benefits paid from NRD if employer agrees	31(7A)*	Regulation 31(7a) does not apply to the Commission.
Whether to extend 12 month period for aggregation of deferred benefits (where deferred councillor member wishes to aggregate with current councillor membership in the same Fund)	32(8A)	Regulation 32(8A) does not apply to the Commission.
Decide, in the absence from a post 31.3.98. / pre 1.4.08. leaver of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership	34(1)(b)	<p>The Commission has made no decision relating to regulation 34(1)(b) as the need to utilise this discretion has not occurred.</p> <p>The Commission will, however, consider utilising this discretion should any such cases arise in the future.</p>
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 (councillors and pre 1.4.08. leavers)	88(2)	<p>The Commission has made no decision relating to regulation 88(2), as the need to utilise this discretion has not occurred.</p> <p>The Commission will, however, consider utilising this discretion should any such cases arise in the future.</p>
Employer may deduct contributions from an councillor's pay or reserve forces pay	89(1) & (2)	Regulation 89(1)&(2) does not apply to the Commission.
Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund (councillor leavers and pre 1.4.08. leavers)	92	<p>The Commission has made no decision relating to regulation 92, as the need to utilise this discretion has not occurred.</p> <p>The Commission will, however, consider utilising this discretion should any such cases arise in the future.</p>
Forfeiture of pension rights on issue of Secretary of State's certificate (councillors and pre 1.4.08. leavers)	111(2) & (5)	The Commission has made no decision relating to regulation 111(2)&(5), as the need to utilise this discretion has not

		<p>occurred.</p> <p>The Commission will, however, consider utilising this discretion should any such cases arise in the future.</p>
<p>Where forfeiture certificate is issued, direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits (councillors and pre 1.4.08. leavers)</p>	112(1)	<p>The Commission has made no decision relating to regulation 112(1), as the need to utilise this discretion has not occurred.</p> <p>The Commission will, however, consider utilising this discretion should any such cases arise in the future.</p>
<p>Recovery from Fund of monetary obligation owed by former employee or, if less, the value of the member's benefits (other than transferred in pension rights) (councillors and pre 1.4.08. leavers)</p>	113(2)	<p>The Commission has made no decision relating to regulation 113(2)), as the need to utilise this discretion has not occurred.</p> <p>The Commission will, however, consider utilising this discretion should any such cases arise in the future.</p>
<p>Recovery from Fund of financial loss caused by employee, or amount of refund if less (councillors and pre 1.4.08. leavers)</p>	115(2) & (3)	<p>The Commission has made no decision relating to regulation 115(2)&amp;(3) as the need to utilise this discretion has not occurred.</p> <p>The Commission will, however, consider utilising this discretion should any such cases arise in the future.</p>

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Orange items are ones that, despite not being absolute requirements within a written policy, we strongly recommend that you include as a minimum.

### **Discretions under the Local Government Pension Scheme Regulations 1995 (as amended) in relation to pre 1.4.98. scheme leavers**

<b><u>Discretion</u></b>	<b><u>Regulation</u></b>	<b><u>Employer policy</u></b>
Grant application from a pre 1.4.98. leaver for early payment of deferred benefits on or after age 50 on	D11(2)(c)	The Commission will consider

<p>compassionate grounds</p>		<p>applications made under regulation D11(2)(c) on an individual basis.</p> <p>Agreement will then be dependant on the merits of each case and will also be subject to any cost implications.</p>
<p>Decide, in the absence from a pre 1.4.98. leaver of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership</p>	<p>D10</p>	<p>The Commission has made no decision relating to regulation D10, as the need to utilise this discretion has not occurred.</p> <p>The Commission will, however, consider utilising this discretion should any such cases arise in the future.</p>

Orange items are ones that, despite not being absolute requirements within a written policy, we strongly recommend that you include as a minimum.

I warrant that the above policies reflect the policy intention of Care Quality Commission as at June 2009[date].

Signed:.. B Sheperia.....

Position: CQC Pensions & Payroll Co-ordinator.....