



Local Government Pension Scheme

Discretions on which employers must make policies and then publish those Policies – BANES requirement.

Each employer must prepare a written statement of its policy in relation to the exercise of its functions under the following Benefit Regulations:

- regulation 12 (power of employing authority to increase total membership of active members),
- regulation 13 (power of employing authority to award additional pension),
- regulation 18 (flexible retirement),
- regulation 30 (choice of early payment of pension)

The statement must be published (by 31st October 2008) to members of the LGPS and copied to the Avon Pension Fund by the same date.

An employer must:-

- keep its statement under review
- make appropriate revisions following a change in its policy

Power of employer to increase total membership of an active member (Benefits Regulation 12)

The Merchants' Academy has no intention of making a general use of this power but may wish to consider its use in exceptional cases in the future.

Power of employing authority to award additional pension (Benefits Regulation 13)

The Merchants' Academy has no intention of making general use of this power in the foreseeable future, but may wish to consider its use in exceptional cases.

Flexible retirement (Benefits Regulation 18)

An application for flexible retirement will only be approved where:-

- There are no pension costs to the Academy from the employee's flexible retirement. (Pension estimates for Flexible Retirement from Avon Pension Fund will reflect this policy).
- The Flexible Retirement will provide benefits to the Academy, for example financial savings or the facilitation of organisational or staffing changes and will not result in any detriment to the level of service.
- If the request is to work reduced hours, the Academy's assessment must be that there would be no operational problems caused, or recruitment difficulty anticipated, in making up the reduced hours.

Choice of early payment of pension (Benefits Regulation 30)

Applications for early payment of pension will only be accepted where it can be demonstrated as being in the Academy's interests or where there are compassionate grounds for the early release of pension benefits.

If the Academy agrees to permit early retirement with the immediate payment of pension benefits for reasons other than compassionate, an actuarial reduction will be applied to the person's accrued pension benefits.

If the Academy agrees on compassionate grounds, the accrued pension entitlement is paid without an actuarial reduction for early payment, but with no augmentation or enhancement. (However, as a general rule, the early release of pension benefits on compassionate grounds will only be considered if it can be demonstrated that the person is unable to continue working or resume employment due to circumstances outside of their control. Financial reasons alone will not normally be considered sufficient grounds for the early release of benefits.)

Further Discretionary Policies

Extending the time limit for members to pay contributions following a period of absence - Regulation 22 – Administration

A scheme member may elect to pay **optional contributions** to cover a period of absence from duty providing the option is made within 30 days of return to work/cessation of employment or such longer period as the employer allows.

Exclusion of rights to a return of contributions - Regulation 47 - Administration

A scheme member who meets the normal criteria for a refund of pension contributions is not entitled to such a refund if he / she left his / her employment because of:

- a) **an offence of a fraudulent character** – unless the employer directs that a total or partial refund may be made to the member.
- b) **grave misconduct** - unless the employer directs that a total or partial refund may be made to the member, his / her spouse, civil partner, nominated cohabiting partner or any dependant of his / her.

Forfeiture of pension rights after conviction of employment-related offences - Regulation 72 & 73 - Administration:

If a scheme member is convicted of, and ceases employment as a result of, an **offence** in connection with his/her employment which was gravely injurious to the State or liable to lead to a serious loss of confidence in the public service, the employer can apply to the Secretary of State for the issue of a forfeiture certificate. If a certificate is issued the employer may direct that any of the person's **rights be forfeited**.

Interim payments directions – Regulation 73 - Administration

Where the Secretary of State has issued a forfeiture certificate but the employer has not applied the certificate nor notified the scheme member of an award of benefits under the LGPS the employer may direct that **interim payments** are made out of the Pension Fund until such time as it decides to apply the forfeiture certificate or to make an award of benefits

Recovery or retention where former member has misconduct obligation - Regulation 74 - Administration:

Where a member

- (i) ceases employment in consequence of a criminal, negligent or fraudulent act or omission in connection with that employment and
- (ii) has incurred a **monetary obligation** arising therefrom to the employer and
- (iii) **is entitled to pension benefits** under the LGPS, the employer **may recover** the amount of the monetary obligation or the value of the members pension rights, if less (other than transferred in pension rights) from the Pension Fund and reduce the members benefits accordingly.

Transfers of sums from the pension fund to compensate for member's misconduct – Regulation 76 - Administration:

Where

- (i) a member ceases employment in consequence of an offence involving **fraud or due to grave misconduct** in connection with that employment, and
- (ii) the employer has suffered a **direct financial loss** resulting therefrom, and
- (iii) the member **is entitled to benefits** under the LGPS and a forfeiture certificate has been applied, or the member is entitled to a refund of pension contributions

the employer may direct that the **amount of the direct financial loss** (or the refund of contributions, if less) **be recovered** from the Pension Fund.

Forfeiture of pension rights after conviction of employment-related offences - Regulation 72, 73, 74 & 76 – Administration Regulations

If the Academy chooses to apply to the Secretary of State for the issue of a forfeiture certificate and a certificate is issued, the Academy may direct that any of the person's rights be forfeited. The Academy reserves the right to exercise this discretion in wholly exceptional circumstances.

Inward transfers of pension rights – Regulation 83(8):

If a scheme member wishes to **transfer pension rights** into the LGPS he/she must opt to do so **within 12 months of** joining the LGPS. Only in exceptional circumstances will a longer period be allowed, as long as there is no known reason or prospect of the employee having access to their pension within the next 12 months.