

To: Chief Executives  
 Salaries and Wages  
 Human Resources  
 Pension Contacts

Circular 06/2016  
 9 May 2016

At: All Employing Authorities

Dear Colleagues,

**The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2016**

The Department of Environment made the above regulations (SRNI 2016 No. 128) on 8 March 2016 and they came into operation on 1 April 2016.

As well as giving deferred members who left before 1 April 2015 the ability to draw their benefits between the ages of 55 and 60 without needing employer consent, these amendments contain several minor clarification and technical amendments. It is important to note that all amendments have retrospective effect to 1 April 2015, the date the new Scheme was introduced. The key amendments are detailed below and any immediate actions that employers need to take are listed at Section 12.

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## **1. Deferred members – drawing benefits between ages 55 and 60**

- 1.1 When the new Scheme was introduced in April 2015 it allowed deferred members leaving the Scheme after 31 March 2015 to draw their pension benefits from age 55 without needing employer consent. Employers have two discretions that can be applied: whether to apply the Rule of 85 in these circumstances and whether to waive reductions. However, deferred members who left under earlier Schemes continued to need employer consent if they wished to draw their benefits from age 55 to age 60.
- 1.2 The new amending regulations allow **all** deferred members, irrespective of when they left, to draw their benefits from age 55. As these retirements are occurring earlier than expected, reductions will apply. Employers may waive these reductions on compassionate grounds only for former employees who left during the period from 1 February 2003 to 31 March 2015. Employers cannot waive reductions for those deferred members who left before 1 February 2003. Employers should already have policy statements that cover these discretions and therefore should not need to take any further action in this respect.
- 1.3 In addition to the discretions to waive reductions, employers have a new discretion to apply the Rule of 85 for those members who left during the period from 1 February 2003 to 31 March 2015. This discretion already exists in respect of members leaving the Scheme after 31 March 2015. **Employers will need to update their policy statement to include members who left from 1 February 2003 within this discretion.** The template policy statement has been updated and is available on our [website](#). A tracked changes template policy is attached to this Circular for ease of reference.
- 1.4 NILGOSC will be writing to all active and deferred members in May 2016 to advise them of the changes in regulations. As employers are likely to receive queries, they may wish to have determined their policy under paragraphs 1.2 and 1.3 above in advance of this member communication.

## **2. Pensionable Pay and Assumed Pensionable Pay**

### 2.1 Pensionable Pay

It is clarified that a clerk of a district council who is carrying out functions under Article 9(2) (conduct of elections) of the Electoral Law (Northern Ireland) Order 1972 shall have their pay in relation to those functions treated as pensionable pay. This additional payment should be included with their normal CARE pensionable pay and contributions deducted as per normal.

### 2.2 Assumed Pensionable Pay (APP)

The regulations have been amended to cover the scenario where a person on child-related leave receives pensionable pay that is greater than APP. In these cases pensionable pay applies and not APP.

The regulations have been amended to fix some of the minor drafting errors e.g. they now refer to looking at the three months or 12 weeks before the pay period

in which the relevant circumstances arose. It is also confirmed that any reduction in pay due to absence because of a trade dispute or an absence with employer's permission is ignored when calculating APP. No further action is required by employers as they should have already been anticipating these regulatory amendments.

### **3. Combining Benefits**

- 3.1 The regulations relating to combining benefits on re-joining the Scheme as an active member have been redrafted and extensive clarification provided. NILGOSC has updated its [Rejoining the Scheme](#) guide, which explains the considerations and impact of combining benefits. It is now available on our website.
- 3.2 Due to the delays making the Amendment Regulations and the complexity of implementing these amendments we have until now been unable to advise members who re-joined the Scheme from 1 April 2015 of their options. In light of this, the Department has provided any members who re-joined the Scheme after the 31 March 2015 with 12 months from 1 April 2016 to make a decision on whether they wish to combine their benefits. NILGOSC will now be writing to all these members to advise them of their options.
- 3.3 As the regulations relating to combining benefits have been redrafted, the employer's discretions have changed slightly. Previously members were to have their benefits automatically aggregated on re-joining or on a concurrent post ending and had 12 months to choose not to do so or such longer period as their employer may have allowed. The new regulations allow the member to choose whether to have their deferred benefits aggregated within 12 months of re-joining, within 12 months of 1 April 2016 or such longer period as their employer may allow. Active members will have a concurrent post that has ended automatically aggregated onto their active record but they have 12 months from the date the post ended or such longer period as the employer may allow to decide that they wish to keep them separate. **Employers will need to update their policy statements to reflect the correct wording and regulatory references.**
- 3.4 It is also confirmed that a member who previously opted out and re-joins the Scheme while in the same employment does not have an option to combine their benefits.

### **4. Ill-health Retirement – Reductions in hours or grade**

- 4.1 Employers will already be aware that if an employee reduces their hours due to ill-health and subsequently is approved for ill-health retirement (or dies) due to the same medical condition, then the reduction in pay due to working reduced hours is ignored when calculating their pension benefits and those of their dependants. This provision has now been extended to also cover reductions in grade due to ill-health. **It is important that employers record the reason**

**for the reduction in hours or grade so that they can provide NILGOSC with evidence at a later date e.g. on ill-health retirement.**

## **5. Additional Voluntary Contributions (AVCs)**

- 5.1 As expected, the Scheme's regulations have been amended to continue the same AVC contribution rules as applied before 1 April 2015. These amendments confirm that members can contribute 50% of their pensionable pay in any pay period to AVCs. It has also been confirmed that at retirement a member may combine their AVC fund with their main Scheme benefits and draw 25% of that total fund value as a tax-free lump sum. No action should be needed in respect of these amendments as we have already anticipated that the pre-April 2015 position would be carried forward.
- 5.2 A new amendment allows new AVC contributors (from 1 April 2015) to include their AVC fund in their Expression of Wish for distribution of benefits on death. We will shortly be sending an updated Expression of Wish form to all new AVC contributors, which they can complete and return if they wish to include their AVC fund. As before, NILGOSC retains discretion on the distribution of death grants – this discretion ensures that these benefits can be paid outside of a member's estate and are therefore not liable for inheritance tax. An updated [Expression of Wish form](#), LGS20, is available on our website.
- 5.3 Members now have the option to transfer out their AVC benefits but not their main Scheme benefits and vice versa.

## **6. Death Grants – Active members**

- 6.1 It is confirmed that on the death of an active member who has other deferred and/or pensioner memberships only the highest death grant will be payable. The sum of the active death grants (if more than one active record) is either payable or the sum of the deferred and pensioner death grants, if higher. This change does not affect any members who left active membership before 1 April 2015.

## **7. Revaluation Adjustment**

- 7.1 It is clarified that the revaluation adjustment that will apply to pension accounts each year will be the percentage change in prices in the relevant Order made by the Department of Finance and Personnel (DFP). The change in prices is based on changes in the Consumer Prices Index (CPI) to September the previous year. The change in CPI to September 2015 was -0.1%. In other words there was negative inflation. This means that NILGOSC will be applying a small negative revaluation adjustment to every active pension account on 1 April 2016. For example, a member earning £20,000 per year and in the main Scheme will have a reduction of 41p applied to their post-31 March 2015 pension element.

## **8. Payments to NILGOSC**

- 8.1 It is clarified that employers will make additional payments to NILGOSC such as strain costs and awards of additional pension within one month from the relevant date or such longer period as the employer and NILGOSC may agree. Depending on the reason for the additional payment, the relevant date is defined as one of the following: the date the member becomes entitled to benefits, the date the employer agrees to waive an actuarial reduction or the date the resolution is passed by the employer for an award of additional pension.
- 8.2 Employers are also required to pay over to NILGOSC any amounts they have received from the Ministry of Defence (MOD) in respect of a member on reserve forces service leave. It is expected that most payments will be made directly to NILGOSC by the MOD and this amendment simply covers payover of any exceptions.

## **9. Annual Returns and Pension Benefit Statements**

- 9.1 It is confirmed that employers have **ONE** month from the end of the Scheme year to send NILGOSC their annual returns. We have already advised employers of this shorter deadline and this year's annual returns were to be submitted by 29<sup>th</sup> April.
- 9.2 The regulations have been amended to comply with the Public Service Pensions Act (Northern Ireland) 2014 and state that NILGOSC now has five months from year end to issue annual benefit statements. In order to meet this challenging timetable we aim to issue deferred members' benefit statements in June 2016 and active members' pension benefit statements in August 2016.

## **10. Policy Statements**

- 10.1 The regulations relating to policy statements are amended to state that any new employer has four months from its date of admission to send a copy of its policy statement to NILGOSC and publish it.

## **11. Cessations**

- 11.1 The 2015 Scheme regulations omitted to carry forward some of the provisions relating to cessations. This has now been remedied and the 'missing' regulations reinserted. These regulations include the ability for NILGOSC to nominate a cessation date if it believes that a body is likely to cease to employ active members in the near future. They also allow NILGOSC, with Departmental approval, to require an employer's active members to cease accrual if it is apparent that the liabilities relating to that employer could fall onto other employers.

## 12. Action list for employers

### 12.1

	Action	Completed
1.	Update policy statement to: <ul style="list-style-type: none"><li>• include the discretion to apply the Rule of 85 for those members who left between 1 February 2003 and 31 March 2015 (see section 1.3);</li><li>• revise wording and discretion to reflect regulatory amendments for when employers will allow a member to aggregate their benefits after the end of the 12 month window (see section 3.3);</li><li>• include the discretion to allow a member a period longer than 30 days to elect to pay APCs following an authorised break (with employer contribution); and</li><li>• delete the discretions that no longer apply</li></ul>	
2.	Send approved final policy statement to NILGOSC and publish it	
3.	Record any medical reason for a member's reduction in hours or grade so that you can provide NILGOSC with evidence later e.g. on ill-health retirement.	
4.	Note that you have ONE month from year end (31 March) to submit your annual return (see section 9.1)	
5.	Note minor changes to pensionable pay and calculation of assumed pensionable pay (see section 2)	

If you have any questions regarding the content of this Circular, please contact any member of the Pensions Development Team or myself.

Yours sincerely



Zena Kee  
Pensions Manager

## **[Name of employer] discretionary policies under the Local Government Pension Scheme (Northern Ireland) Regulations and other related Regulations**

### **Summary**

1. This report makes recommendations for **[name of employer]** policies on discretions to be exercised:
  - i) under the LGPS Regulations (Northern Ireland) 2014 from 1 April 2015 in respect of members of the Career Average Revalued Earnings (CARE) scheme,
  - ii) under earlier LGPS Regulations (Northern Ireland) in respect of members of the LGPS who left prior to 1 April 2015, and
  - iii) under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007 and earlier compensation regulations

as amended.

### **Background**

2. On **[DDMMYYYY]** the **[name of relevant decision maker]** agreed the discretionary policies **[name of employer]** would operate under the provisions of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007.

*[Note: if the employer does not have any existing published policies, please delete paragraph 2, and all subsequent paragraphs (and any cross-references to them within this document) should be re-numbered]*
3. On **[DDMMYYYY]** the **[name of relevant decision maker]** agreed the discretionary policies **[name of employer]** would operate in relation to the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009.

*[Note: if the employer does not have any existing published policies, please delete paragraph 3, and all subsequent paragraphs (and any cross-references to them within this document) should be re-numbered]*
4. The policies were updated on **[DDMMYYYY]**.

*[Note: please delete paragraph 4 if it is not applicable, and all subsequent paragraphs (and any cross-references to them within this document) should be re-numbered]*
5. In March 2011, the Independent Public Service Pensions Commission, chaired by Lord Hutton, published its final report of the review of public service pensions. The report made clear that change was needed to “make public service pension schemes simpler and more transparent, fairer to those on low and moderate earnings”.

6. As a result, it was decided that the Local Government Pension Scheme (LGPS) in Northern Ireland should be reformed so that, from 1 April 2015, benefits accrue on a Career Average Revalued Earnings (CARE) basis rather than on a final salary basis.
7. The provisions of the CARE scheme, together with the protections for members' accrued pre 1 April 2015 final salary pension rights, are contained in the Local Government Pension Scheme Regulations (Northern Ireland) 2014 and the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014.
8. As a result of the changes, **[name of employer]** is required to formulate, publish and send to the Northern Ireland Local Government Officers' Superannuation Committee by no later than 31 July 2015 a written Statement of Policy on certain discretions under the LGPS which **[name of employer]** has the power to exercise on and from 1 April 2015 in relation to members of the CARE scheme.
9. **[Name of employer]** is also required to (or where there is no requirement, is recommended to) formulate, publish and keep under review a Statement of Policy on certain other discretions it may exercise:
  - i) under earlier LGPS Regulations in relation to members of the LGPS who left prior to 1 April 2015, and
  - ii) under the Discretionary Compensation Regulations 2003 and 2007 in relation to employees who are, or are eligible to be, members of the LGPS.
10. Any amended policy under paragraph 9(i) above must be published and sent to the Northern Ireland Local Government Officers' Superannuation Committee within one month of the date the revisions to the policy were made.
11. Any amended policy under the paragraph 9(ii) above must be published and, in the case of a change to the policy under the Discretionary Compensation Regulations 2003, it must be published within one month of the decision to amend the policy.
12. Overall, **[name of employer]** is:
  - i) required to formulate, publish and keep under review a written Statement of Policy on certain discretions in accordance with:
    - regulation 66 of the Local Government Pension Scheme Regulations (Northern Ireland) 2014,
    - paragraph 2(2) of Schedule 3 to the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014,
    - regulation 62 of the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009 (in respect of leavers between 1 April 2009 and 31 March 2015), and
    - regulation 108 of the Local Government Pension Scheme Regulations (Northern Ireland) 2002 (in respect of leavers between 1 February 2003 and 31 March 2009);

[Note: the fourth indent above should be deleted if the employer was not a participant in the Scheme at 31 March 2009. The third and fourth indents should be deleted if the employer was not a participant in the Scheme at 31 March 2015]

- ii) recommended to formulate, publish and keep under review a written Statement of Policy on one discretion under the Local Government Pension Scheme Regulations (Northern Ireland) 2000 (in respect of leavers before 1 February 2003);

[Note: item (ii) should be deleted if the employer was not a participant in the Scheme at 31 January 2003.]

- iii) required to formulate, publish and keep under review a written Statement of Policy on certain discretions in accordance with regulation 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007, effective from 1 October 2006; and

- iv) required to formulate, publish and keep under review a written Statement of Policy on certain discretions in accordance with regulation 25 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003, operative from 24 March 2003 for terminations of employment on redundancy or efficiency grounds that occurred prior to 1 April 2007.

[Note: item (iv) should be deleted if the employer has not awarded compensatory added years under the Discretionary Compensation Regulations 2003]

13. In formulating and reviewing its policies under the LGPS Regulations referred to in paragraphs 12(i) and (ii) above **[name of employer]** is required to consider whether and to what extent the policy might lead to a serious loss of confidence in the public service.

[Note: the reference to “paragraphs 12(i) and (ii)” should be amended to “paragraph 12(i)” if item (ii) has been deleted in paragraph 12 above]

14. In formulating and reviewing its policies under the Discretionary Compensation Regulations referred to in paragraphs 12(iii) and (iv) above **[name of employer]**:

- i) is required to have regard to the extent to which the exercise of its discretionary powers (in accordance with the policy), unless properly limited, could lead to a serious loss of confidence in the public service, and
- ii) must be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

[Note: amend the reference to “paragraphs 12(iii) and (iv)” to the correct references if any of the items in paragraph 12 above have been deleted]

#### Decisions required

15. **[Name of relevant decision maker]** is asked:

- i) to approve the policies on the discretions to be exercised under the LGPS Regulations in relation to those employees who are active scheme members after 31 March 2015 and members who cease active membership after 31 March 2015, as set out in the table at Annex 1, and

- ii) to approve the policies on the discretions to be exercised under the LGPS Regulations in relation to those scheme members who left prior to 1 April 2015, as set out in the table at Annex 2, and

[Notes:

- if the employer already has policies on all of these matters and does not wish to change them, amend (ii) to read “endorse the continuation of [name of employer] current LGPS discretions policies for scheme members who left prior to 1 April 2015, as set out in the table at Annex 2
- item (ii) should be deleted if the employer was not a participant in the Scheme on 31st march 2015]

- iii) to approve the policies on the discretions to be exercised under the Discretionary Compensation Regulations, as set out in the table at Annex 2.  
[Note: if the employer already has policies on all of these matters and does not wish to change them, amend (iii) to read “endorse the continuation of [name of employer] current policies on the discretions to be exercised under the Discretionary Compensation Regulations, as set out in the table at Annex 2]

## Consultation

16. **[Insert some appropriate wording regarding consultation – see following for example]**  
**[Name of employer]** is not required to consult with **[add name of recognised union(s)]** when **[name of employer]** intends to adopt new, or change existing, discretionary policies. However, it was considered appropriate to give advance notification to **[add name of recognised union(s)]** that this report would be considered by **[name of relevant decision maker]**.

## Effective date of policies

17. The policies on discretions to be exercised under the LGPS Regulations (Northern Ireland) 2014 take immediate effect from the date **[name of employer]** agrees the policies, or from 1 April 2015 (if later). Any change to the policies on existing discretions to be exercised under the LGPS Regulations in respect of pre 1 April 2015 leavers take immediate effect from the date **[name of employer]** agrees the policies.
18. Any change to the discretions exercised under the Discretionary Compensation Regulations 2003 or the Discretionary Compensation Regulations 2007 cannot take effect until one month after the date **[name of employer]** publishes a statement of its amended policy.  
[Note: delete the words “the Discretionary Compensation Regulations 2003 or” if item (iv) in paragraph 12 has been deleted]

## Non-fettering of discretions

19. The recommendations contained within this report, if approved, will form **[name of employer]** policies on pension and compensation discretions. It should be noted that:
- the policies will confer no contractual rights
  - subject to paragraphs 17 and 18, **[name of employer]** will retain the right to change the policies at any time without prior notice or consultation **[plus, if**

appropriate, add a suitable caveat – for example: “but [name of employer] will endeavour to discuss changes with [add name of recognised union(s)]”, and

- only the policy which is current at the time a relevant event occurs to an employee / scheme member will be the one applied to that employee / member.

**Contact Officer:** Name:

Tel:

E-mail:

**Date:**

When considering the options in the following tables it will be necessary to have regard to the question of fettering of discretion.

There are two trains of thought on this particular subject.

The first is that, in order not to be seen to fetter in any way an employer's discretion, the policy should state that each case will be determined based on its circumstances and merits and, if relevant to the discretion in question, up to a maximum of **XX** will be awarded. The policy should set out the criteria upon which the discretion will be based.

It is argued that constructing a policy in this way helps to satisfy the requirements set out in paragraphs 13 and 14 above.

The second type of approach is that, for a particular discretion, an employer might wish to adopt a standard policy (e.g. all redundancy payments will be based on an actual week's pay where this exceeds the statutory week's pay for redundancy payments) but make it plain in the policy statement that:

- the policy confers no contractual rights
- subject to paragraphs 17 and 18 above, the employer retains the right to change the policies at any time without prior notice or consultation, and
- only the policy which is current at the time a relevant event occurs to an employee / scheme member will be the one applied to that employee / member.

It may be argued that the employer is not fettering its discretion because it retains the right to amend/change the policy at any time and that the approach is seen to be fairer in that the policy is applied consistently across all employees. However, it can also be argued that such policies do fetter an employer's discretion (because they leave no scope to deal with individual, perhaps exceptional, cases) and may not adequately take into account the requirements set out in paragraphs 13 and 14 above.

A view given by the Pensions Ombudsman is that:

- where regulations allow an employer to exercise discretion a policy should be in place to set out how to exercise that discretion
- a policy is there to guide the decision-maker on how to exercise discretion
- an employer cannot generally bind itself as to how it will exercise discretion – fettering discretion is unlawful
- every case should be considered on its merits; a decision is to be made on whether to follow the policy or make an exception
- policies do not override the law; they should not apply a stricter test

**Annex 1**

<p><b>Table A: Discretions to be exercised on and after 1 April 2015 under the LGPS Regulations (Northern Ireland) 2014 in relation to active scheme members and members who cease active membership after 31 March 2015.</b>  <b>[Note that employers MUST have a policy on the first 5 items in this list and are recommended to have a policy on items 6 to 9]</b></p>	<p><b>[Name of employer] policy</b>  <b>[The employer should choose and insert an appropriate option from the sample options shown below or insert its own wording if the sample options offered below do not suffice]</b></p>
<p>1. Whether, at full cost to <b>[name of employer]</b>, to grant extra annual pension of up to £6,<del>578</del> (figure at 1 April 201<del>6</del>) to an active scheme member or within 6 months of leaving to a member who is dismissed by reason of redundancy or business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency.</p> <p>Notes:</p> <ul style="list-style-type: none"> <li>- Scheme employers should, prior to 1 April 2015, already have prepared and published a policy on granting extra annual pension of up to £5,000 under the 2009 Scheme (in accordance with the LGPS (Administration) Regulations (Northern Ireland) 2009). Employers may, therefore, wish to simply carry forward their existing policy (assuming they have one), but suitably amended to refer to the LGPS Regulations (Northern Ireland) 2014 and the increased limit of £6,<del>578</del>.</li> <li>- The cost of any extra annual pension awarded would have to be paid to the Pension Fund by the employer as a lump sum payment unless the employer agrees with the Northern Ireland Local Government Officers' Superannuation Committee to pay increased contributions to meet the cost.</li> <li>- The extra annual pension would form part of the Scheme member's main LGPS pension and so the member could, upon</li> </ul>	<p><b>Option 1</b>            Carry forward the employer's existing policy <b>[the details of which should be inserted here, suitably amended to reflect the provisions in 1 opposite]</b>.</p> <p><b>Option 2.</b>  <b>[Name of employer]</b> will not make use of the discretion to grant extra annual pension of up to £6,<del>578</del> (figure at 1 April 201<del>6</del>) to an active scheme member or within 6 months of leaving to a member who is dismissed by reason of redundancy or business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency.  <b>[Note: option 2 may be open to challenge or complaint that it fetters the employer's discretion]</b></p> <p><b>Option 3.</b>  <b>[Name of employer]</b> will not make use of the discretion to grant extra annual pension of up to £6,<del>578</del> (figure at 1 April 201<del>6</del>) to an active scheme member or within 6 months of leaving to a member who is dismissed by reason of redundancy or business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency except in exceptional</p>

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<p>drawing pension benefits, commute up to 25% of the capital value of their LGPS pension benefits for a lump sum at the rate of £12 lump sum for each £1 of pension given up.</p> <ul style="list-style-type: none"> <li>- Any extra annual pension granted by the employer would be subject to an actuarial reduction where, other than in a case of ill health retirement or retirement on redundancy or business efficiency grounds, that extra annual pension is drawn before the member's Normal Pension Age.</li> <li>- The limit of £6,578 includes the amount of extra annual pension purchased (or being purchased) by the employer under a Shared Cost Additional Pension Contributions (SCAPC) arrangement (see 2 below).</li> <li>- The extra annual pension provides a benefit for the scheme member only i.e. a share does not flow through to any survivor's pension payable upon the death if the scheme member.</li> <li>- Employers cannot grant extra annual pension if the employer makes an award of lump sum compensation (of up to 104 weeks' pay) under regulation 5 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007 (see entry 2 in Table E below).</li> <li>- Employers can, however, grant extra annual pension if the employer makes an award under regulation 4 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007 i.e. bases a redundancy payment on an employee's actual weeks' pay where this exceeds the statutory weeks' pay limit (see entry 1 in Table E below). The difference between the statutory</li> </ul>	<p>circumstances where <b>[name of employer]</b> considers it is in its financial or operational interests to do so. Each case will be considered on the merits of the financial and / or operational business case put forward.</p> <p>[Note: option 3 does not fetter the employer's discretion and leaves the option open for the employer to grant extra annual pension in exceptional circumstances e.g. where it is felt necessary in order to attract an employee who has the specialist skills and experience an employer needs, or where it is felt necessary in order to induce an employee with specialist skills and experience not to leave]</p> <p>Option 4.</p> <p><b>[Name of employer]</b> will not make use of the discretion to grant extra annual pension of up to £6,578 (figure at 1 April 2016) to an active Scheme member except in exceptional circumstances where <b>[name of employer]</b> considers it is in its financial or operational interests to do so. Each case will be considered on the merits of the financial and / or operational business case put forward. However, <b>[Name of employer]</b> will make use of the discretion to grant extra annual pension to a member who is dismissed by reason of redundancy or business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency. <b>[Employer to insert here the details of its policy including the criteria for deciding to whom to grant such pension and for determining the amount of extra annual pension to grant in each case.]</b></p>
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redundancy payment and the redundancy payment based on the employee's actual week's pay is, in this paper, termed the discretionary redundancy payment

- Employers considering granting extra annual pension to members of the LGPS will need to take a view on whether doing so could leave them open to challenge on age or gender discrimination grounds (e.g. if those not in the Pension Scheme tend to be younger employees and part-time female workers). Compare this to an award of lump sum compensation (see entry 2 in Table E below) which can be awarded to not only those who are members of the LGPS but also to those who are eligible for membership of the LGPS (and so can be less open to challenge on age or gender discrimination grounds).
- If an employer wishes to award extra annual pension, the employer will need to consider the criteria for deciding to whom to grant such pension and for determining the amount of extra annual pension to grant in each case. The criteria should be included in the employer's policy statement. The policy should not use criteria that are directly or indirectly discriminatory (unless objectively justified e.g. the employer could demonstrate that the policy pursues a legitimate aim and that it is proportionate and is an appropriate and necessary means of achieving that aim).
- An alternative approach that employers who wish to award extra annual pension could consider (for members whose employment is being terminated on the grounds of redundancy or business efficiency) is what might be termed 'extra annual pension by conversion'. In effect, the employer would have a policy that would permit the employer to:
  - award a lump sum compensation payment (of up to

104 weeks' pay) under regulation 5 of the of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007, inclusive (in redundancy cases) of any statutory redundancy payment and any increase in the redundancy payment made under regulation 4 of those Regulations (where an employee's actual weeks' pay exceeds the statutory weeks' pay limit) - (see entries 1 and 2 in Table E below)

Or

- having considered the view of the employee, to make an award of extra annual pension that is actuarially equivalent to the lump sum compensation payment that the employer would otherwise have made.

The employer would need to reflect this in their policy in relation to a discretionary lump sum compensation payment (see entries 1 and 2 in Table E below). It is important to stress that the employee would not be sacrificing a lump sum compensation payment in return for extra annual pension in the LGPS and would not be using lump sum compensation payment that is paid or due to him/her in return for extra annual pension. Instead, the employer would, having considered the view of the employee, simply be making a determination to award extra annual pension and not to award a lump sum compensation payment. Where the employer decides to make an award of extra annual pension, the employer would award extra annual pension that was actuarially equivalent in value to the lump sum compensation payment (in excess of any redundancy payment) that would otherwise have been payable to the employee following cessation of employment. The policy could allow only the excess above any statutory and

discretionary redundancy payment to be converted in this way, in which case any statutory and discretionary redundancy payments would still be payable, or allow all of the excess above any statutory redundancy payment to be converted, in which case any statutory redundancy payment would still be payable. It should be noted, however, that the amount of extra annual pension cannot exceed £6,578. Extra annual pension that would exceed this limit is not permitted and so conversion would not be possible if it would produce extra annual pension above that limit. It is not permissible to split the award and award part as extra annual pension (up to the aforementioned limit) and the balance as a lump sum compensation payment.

- The facility for employers to grant extra 'augmented' membership of the Pension Scheme ceases after 31 March 2015. Employers who have, prior to 1 April 2015, had a policy to allow 'extra membership by conversion' to members being made redundant or being retired on business efficiency grounds i.e. granting the member extra membership equivalent to any lump sum termination payment (in excess of the statutory redundancy payment or in excess of the redundancy payment based on an actual week's pay where this exceeds the statutory weeks' pay limit) the employer would otherwise have awarded under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007 will no longer be able to do so for retirements on or after 1 April 2015. Instead, the employer could grant the member extra annual pension actuarially equivalent to the value of any lump sum termination payment (in excess of the redundancy payment) the employer would otherwise have awarded under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007 i.e. 'extra annual pension by conversion'.

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- Employers wishing to award extra annual pension upon termination of employment on the grounds of redundancy or business efficiency might wish to consider including in their policy a clause that they will not grant extra annual pension in cases where an employee declines to accept:
  - an offer of what the employer considers to be suitable alternative employment, or
  - (for those employers who are subject to the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order (Northern Ireland) 1999 or who, whilst not subject to the Modification Order, choose to recognise service with employers on the Modification Order for redundancy payment purposes) an offer from another employer covered by the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order (Northern Ireland) 1999 which the current employer would consider to be suitable alternative employment and which would have started within four weeks\* of the termination date.

(\* If the contract ends on a Friday, Saturday, or Sunday the four weeks is counted from the following Monday.)

- An issue that potentially arises in granting extra annual pension is that, in some cases, it can result in the value of the scheme member's benefits being increased by more than the permitted standard Annual Allowance of, currently, £40,000 (2016/17). Any increase in value above that figure could result in a tax charge for the individual. Any additional pension granted will also count towards the capitalised value of a person's pension benefits which have to be assessed against the member's Lifetime Allowance (LTA) under the tax regime governing

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<p>pension schemes. Each time a person retires and draws benefits from a pension scheme they use up a part of their LTA. If, on retirement under the LGPS, the capitalised value of their total LGPS benefits is more than the person's remaining LTA, they will have to pay tax on the excess (at the rate of 25% if the excess is paid in the form of pension and 55% if paid in the form of a lump sum). For more information see <a href="http://www.hmrc.gov.uk/manuals/rpsmmanual/RPSM06105000.htm">http://www.hmrc.gov.uk/manuals/rpsmmanual/RPSM06105000.htm</a> and <a href="http://www.hmrc.gov.uk/manuals/rpsmmanual/RPSM11100000.htm">http://www.hmrc.gov.uk/manuals/rpsmmanual/RPSM11100000.htm</a></p>	
<p>2. Whether, where an active scheme member wishes to purchase extra annual pension of up to £6,578 (figure at 1 April 2016) by making Additional Pension Contributions (APCs), <b>[name of employer]</b> will voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC).</p> <p>Notes:</p> <ul style="list-style-type: none"> <li>- This discretion does not relate to cases where a member has a period of authorised unpaid leave of absence and elects within 30 days of return to work to pay a SCAPC to cover the amount of pension 'lost' during that period of absence (see <a href="#">Discretion 10</a>). That is because, in those cases, the employer <b>must</b> contribute 2/3rds of the cost to a SCAPC. There may be some cases, even if it is not the employer's general policy to voluntarily contribute to a SCAPC, where an employer might wish to do so (see Options 2 and 3 opposite).</li> <li>- Any extra annual pension granted by the employer under a SCAPC arrangement would be subject to an actuarial reduction where, other than in a case of ill health retirement, that extra pension is drawn before the member's Normal Pension Age.</li> </ul>	<p><b>Option 1.</b>  <b>[Name of employer]</b> will not make use of the discretion to voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC).  [Note: option 1 may be open to the challenge or complaint that it fetters the employer's discretion]</p> <p><b>Option 2.</b>  <b>[Name of employer]</b> will only voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC) where:</p> <ul style="list-style-type: none"> <li>- an active scheme member returns from a period of authorised leave of absence, and</li> <li>- the member does not, within 30 days of returning from the leave of absence, make an election to buy-back the amount of pension 'lost' during that period of leave of absence, and</li> <li>- the member subsequently makes an election to do so and it can be demonstrated that the reason for</li> </ul>

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- The amount of extra annual pension purchased (or being purchased) by the employer under a Shared Cost Additional Pension Contributions (SCAPC) arrangement (including a SCAPC arrangement where an employer is contributing 2/3rds of the cost of purchasing pension 'lost' during a period of absence) reduces the amount of extra annual pension the employer could award under 1 above.

- the member missing the original 30 day deadline was because the member had not been made aware of that deadline, and
- the election is made no more than 6 months after the member returns from the period of leave of absence or such longer period as **[name of employer]** may deem reasonable in any individual case.

A decision on whether the member meets the above criteria (and on whether the 6 month period referred to should be extended in any individual case) will be taken by **[enter appropriate details]** and, where it is agreed that the conditions are met, **[name of employer]** will contribute 2/3rds of the cost of buying back the 'lost' pension via a SCAPC.

[Note: option 2 covers cases where it would be reasonable to contribute to a SCAPC to deal with an administrative error]

**Option 3.**

**[Name of employer]** will only voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC) in two situations. Firstly, where:

- an active scheme member returns from a period of authorised leave of absence, and
- the member does not, within 30 days of returning from the leave of absence, make an election to buy-back the amount of pension 'lost' during that period of leave of absence, and
- the member subsequently makes an election to do so and it can be demonstrated that the reason for

	<p>the member missing the original 30 day deadline was because the member had not been made aware of that deadline, and</p> <ul style="list-style-type: none"> <li>- the election is made no more than 6 months after the member returns from the period of leave of absence or such longer period as <b>[name of employer]</b> may deem reasonable in any individual case.</li> </ul> <p>A decision on whether the member meets the above criteria (and on whether the 6 month period referred to should be extended in any individual case) will be taken by <b>[enter appropriate details]</b> and, where it is agreed that the conditions are met, <b>[name of employer]</b> will contribute 2/3rds of the cost of buying back the 'lost' pension via a SCAPC.</p> <p>Secondly, in exceptional circumstances where <b>[name of employer]</b> considers it is in its financial or operational interests to do so. Each case to contribute to a SCAPC (and a decision on the amount to be contributed) will be considered on the merits of the financial and / or operational business case put forward.</p> <p><i>[Note: option 3 covers cases where it would be reasonable to contribute to a SCAPC to deal with an administrative error and any other exceptional cases that might arise]</i></p>
<p>3. Whether to permit flexible retirement for staff aged 55 or over who, with the agreement of <b>[name of employer]</b>, reduce their working hours or grade and, if so, as part of the agreement:</p> <ul style="list-style-type: none"> <li>- whether, in addition to the benefits the member has accrued prior to 1 April 2009 (which the member must draw if flexible retirement is</li> </ul>	<p><b>Option 1</b> Carry forward the employer's existing policy <b>[the details of which should be inserted here, suitably amended to reflect the provisions in 3 opposite].</b></p>

agreed), to permit the member to choose to draw

- all, part or none of the pension benefits they accrued after 31 March 2009 and before 1 April 2015, and / or
  - all, part or none of the pension benefits they accrued after 31 March 2015, and
- whether to waive, in whole or in part , any actuarial reduction which would otherwise be applied to the benefits taken on flexible retirement before Normal Pension Age (NPA) <sup>1</sup>.

Notes:

- Scheme employers should, prior to 1 April 2015, already have prepared and published a policy on flexible retirement for flexible retirements under the 2009 Scheme and for waiving any actuarial reduction in whole or in part (in accordance with the LGPS (Administration) Regulations (Northern Ireland) 2009). Employers may, therefore, wish to simply carry forward their existing policy (assuming they have one), but suitably amended for post 31 March 2015 flexible retirements to reflect the above provisions.
- If flexible retirement is agreed for a scheme member aged 55 or over but under 60 who is subject to the 85 year rule and who, at the date of flexible retirement, has either met the 85 year rule or would have met the rule before age 60, there would be a strain

Option 2

Flexible retirement

**[Name of employer]** will not agree to requests for flexible retirement.

[Note: option 2 may be open to the challenge or complaint that it fetters the employer's discretion]

Option 3

Flexible retirement

**[Name of employer]** will not agree to flexible retirement except in circumstances where **[name of employer]** considers it is in its financial or operational interests to do so. Each case

- will be considered on the merits of the financial and / or operational business case put forward,
  - will set out whether, in addition to any pre 1 April 2009 benefits, the member will be permitted, as part of the flexible retirement agreement, to take
    - a) all, some or none of their 1 April 2009 to 31 March 2015 benefits, and /or
    - b) all, some or none of their post 31 March 2015 benefits, and
  - will require the approval of **[enter appropriate details]**.
- [Note: employers might wish to include in their policy that where flexible retirement is being considered, there must be a reduction of at least one grade or, in the case of a flexible retirement due to a reduction in working hours, be

<sup>1</sup> Normal pension age (NPA) means the member's normal pension age under the 2015 Scheme which is linked to the member's State Pension Age (SPA) but with a minimum of age 65. State Pension Age is currently age 65 for men. State Pension Age for women is currently being increased to be equalised with that for men and will reach 65 by November 2018. The State Pension Age will then increase to 66 for both men and women from December 2018 to October 2020. Under current legislation the State Pension Age is due to rise to 67 between 2026 and 2028 and to 68 between 2044 and 2046. However, the government has announced plans to link rises in the State Pension Age above age 67 to increases in life expectancy.

on fund cost to be met by, and paid to the Pension Fund by, the employer in respect of the pension benefits paid following flexible retirement. The 85 year rule is satisfied if the person was a member of the LGPS on 30 September 2006 and the member's age at the date they draw their benefits and their scheme membership (each in whole years) add up to 85 or more. If they are part-time, their membership counts towards the 85 year rule at its full calendar length.

- Where flexible retirement is agreed for an employee aged 55 or over but under Normal Pension Age the cost of waiving any actuarial reduction, in whole or in part, would have to be met by, and paid to the Pension Fund by, the employer.
- Overall, the benefits of flexible retirement include:
  - it assists in reducing capacity if required, and helps avoid redundancies (and associated costs)
  - it can be a useful tool to support change management
  - it helps achieve and retain a balanced age profile within the workforce
  - it aids retention of required skills / knowledge / experience and enables transfer of skills / knowledge in the period leading up to an employee's full retirement
  - it offers a potentially acceptable solution to staff who may currently be a 'blockage' to promotion or re-organisation
  - it helps to alleviate 'burn out' and 'stress', improves morale, and assists in achieving Work-Life balance
  - it may assist a return to work after a medical related absence where ill health retirement is not appropriate
  - it assists employees to ease into retirement, making a gradual adjustment to full retirement.

a minimum reduction in hours of, say, 20% e.g. the equivalent of the hours for one working day].

#### Waiver of any actuarial reduction on flexible retirement

Where flexible retirement is agreed, the benefits payable will be subject to any actuarial reduction applicable under the Local Government Pension Scheme Regulations (Northern Ireland) 2014 and the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014. **[Name of employer]** will only waive any such reduction, in whole or in part, where it considers it is in its financial or operational interests to do so. Each case will be considered on the merits of the financial and / or operational business case put forward and will require the approval of **[enter appropriate details]**.

<p>4. Whether, as the 85 year rule does not (other than on flexible retirement – see 3 above) automatically apply to members who would otherwise be subject to it and who choose to voluntarily draw their benefits on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members.</p> <p>Notes:</p> <ul style="list-style-type: none"> <li>- If the employer does agree to switch back on the 85 year rule in full, the employer will have to meet the cost of any strain on fund resulting from the payment of benefits before age 60 i.e. where the member has already met the 85 year rule, or would meet it before age 60.</li> <li>- The 85 year rule is satisfied if the person was a member of the LGPS on 30 September 2006 and the member's age at the date they draw their benefits and their scheme membership (each in whole years) add up to 85 or more. If they are part-time, their membership counts towards the 85 year rule at its full calendar length.</li> </ul>	<p><b>Option 1</b>  <b>[Name of employer]</b> will not agree to switch the 85 year rule on in full where members choose to voluntarily draw their benefits on or after age 55 and before age 60.  [Note: option 1 may be open to the challenge or complaint that it fetters the employer's discretion]</p> <p><b>Option 2</b>  <b>[Name of employer]</b> will not agree to switch the 85 year rule on in full where members choose to voluntarily draw their benefits on or after age 55 and before age 60 except in circumstances where <b>[name of employer]</b> considers it is in its financial or operational interests to do so. Each case</p> <ul style="list-style-type: none"> <li>- will be considered on the merits of the financial and / or operational business case put forward, and</li> <li>- will require the approval of <b>[enter appropriate details]</b>.</li> </ul>
<p>5. For active members voluntarily retiring on or after age 55 and before Normal Pension Age who elect under regulation 31(5) of the LGPS Regulations (Northern Ireland) 2014 to immediately draw benefits, and for deferred members who elect under regulation 31(5) of the LGPS Regulations (Northern Ireland) 2014 to draw benefits (other than on ill health grounds) on or after age 55 and before Normal Pension Age, and who:</p> <ul style="list-style-type: none"> <li>- were <u>not</u> members of the LGPS before 1 October 2006 [Group 4 members], whether to: <ul style="list-style-type: none"> <li>o waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits, if any, accrued before 1 April 2015, and / or</li> </ul> </li> </ul>	<p><b>Option 1</b>  <b>[Name of employer]</b> will not agree</p> <ul style="list-style-type: none"> <li>- to waive on compassionate grounds any reduction on pre 1 April 2015 benefits for Group 3 or 4 members, on pre 1 April 2016 benefits for Group 1 members, or on pre 1 April 2020 benefits for Group 2 members, and / or</li> <li>- to waive in whole or in part on any grounds (including compassionate grounds) any reduction on post 31 March 2015 benefits for Group 3 or 4 members, on post 31 March 2016 benefits for Group 1 members, or on post 31 March 2020 benefits for Group 2 members</li> </ul>

<ul style="list-style-type: none"> <li>○ waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March <u>2015</u></li> <li>- <u>were</u> members of the LGPS before 1 October 2006 and <u>will</u> be 60 or more on 31 March 2016 [Group 1 members], whether to: <ul style="list-style-type: none"> <li>○ waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2016</u>, and / or</li> <li>○ waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March <u>2016</u></li> </ul> </li> <li>- <u>were</u> members of the LGPS before 1 October 2006 and will <u>not</u> be 60 or more on 31 March 2016 and will <u>not</u> attain age 60 between 1 April 2016 and 31 March 2020 [Group 3 members], whether to: <ul style="list-style-type: none"> <li>○ waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2015</u>, and / or</li> <li>○ waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March <u>2015</u></li> </ul> </li> <li>- <u>were</u> members of the LGPS before 1 October 2006 and will <u>not</u> be 60 or more on 31 March 2016 but <u>will</u> attain age 60 between 1 April 2016 and 31 March 2020 [Group 2 members], whether to:</li> </ul>	<p>where members choose to voluntarily draw their benefits on or after age 55 and before Normal Pension Age.  [Note: option 1 may be open to the challenge or complaint that it fetters the employer's discretion]</p> <p>Option 2  [Name of employer] will not agree</p> <ul style="list-style-type: none"> <li>- to waive on compassionate grounds any reduction on pre 1 April 2015 benefits for Group 3 or 4 members, on pre 1 April 2016 benefits for Group 1 members, or on pre 1 April 2020 benefits for Group 2 members, and / or</li> <li>- to waive in whole or in part on any grounds any reduction on post 31 March 2015 benefits for Group 3 or 4 members, on post 31 March 2016 benefits for Group 1 members, or on post 31 March 2020 benefits for Group 2 members</li> </ul> <p>where members choose to voluntarily draw their benefits on or after age 55 and before Normal Pension Age except in circumstances where [name of employer] considers it is in its financial or operational interests to do so or there are compelling compassionate<sup>2</sup> reasons for doing so.</p> <p>Each case</p> <ul style="list-style-type: none"> <li>- will be considered on the merits of the financial and</li> </ul>
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<sup>2</sup> There is no definition in the Regulations of "compassionate grounds". However, one could take the view that, for example, releasing benefits because the member is short of funds / out of work would not be appropriate (as the pension scheme is not a social security scheme); whereas, for example, releasing benefits because the member has had to give up work to look after orphaned grandchildren would clearly be a case where an employer might wish to exercise compassion.

<ul style="list-style-type: none"> <li>○ waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits accrued before 1 April <u>2020</u>, and / or</li> <li>○ waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March <u>2020</u></li> </ul> <p>Note:</p> <ul style="list-style-type: none"> <li>- If the employer does agree to waive any actuarial reduction, the employer will have to meet the cost of the strain on fund resulting from that waiver.</li> </ul>	<p>/ or operational business case put forward, or</p> <ul style="list-style-type: none"> <li>- will be considered on the merits of the compassionate case put forward, and</li> <li>- will require the approval of <b>[enter appropriate details]</b> including, where the reduction is only to be waved in part, approval for the amount of reduction to be waived</li> </ul>
<p>6. Whether, how much, and in what circumstances to contribute to a shared-cost Additional Voluntary Contribution (SCAVC) arrangement entered into on or after 1 April 2015 and whether, how much, and in what circumstances to continue to contribute to any shared cost Additional Voluntary Contribution (SCAVC) arrangement entered into before 1 April 2015.</p> <p>Note:</p> <ul style="list-style-type: none"> <li>- Scheme employers should, prior to 1 April 2015, already have prepared and published a policy on SCAVCs under the 2009 Scheme (in accordance with the LGPS (Administration) Regulations (Northern Ireland) 2009). Employers may, therefore, wish to simply carry forward their existing policy (assuming they have one), but suitably amended to reflect both of the elements referred to above.</li> </ul>	<p><b>Option 1</b> Carry forward the employer's existing policy <b>[the details of which should be inserted here, suitably amended to reflect the provisions in 6 opposite]</b>.</p> <p><b>Option 2</b> <b>[Name of employer]</b> will not enter into a shared cost AVC arrangement <b>[Note: option 2 may be open to the challenge or complaint that it fetters the employer's discretion]</b></p> <p><b>Option 3</b> <b>[Name of employer]</b> will not enter into a shared cost AVC arrangement other than: a) in exceptional circumstances in which case the decision to contribute, and the amount of the contribution, will be subject to the approval of <b>[enter</b></p>

	<p><b>appropriate details], or</b></p> <p>b) where the scheme member enters into a SCAVC salary sacrifice arrangement<sup>3</sup>, or</p> <p>c) where the scheme member enters into a SCAVC to increase the death in service lump sum, in which case <b>[name of employer]</b> will contribute <b>[enter appropriate amount or percentage]</b> of the cost.</p> <p>[Note: employer to delete any of (a) to (c) above that are not appropriate.]</p>
<p><u>7. (a)</u></p> <p><u>Whether to extend the 12 month time limit within which:</u></p> <p><u>A scheme member with concurrent employments ceases an employment with entitlement to a deferred pension may elect <b>not</b> to have their deferred benefits aggregated with those in their ongoing employment's active member pension account.</u></p>	<p>Option 1</p> <p><b>[Name of employer]</b> will not extend the 12 month time limit within which:</p> <p><u>A scheme member with concurrent employments ceases an employment with entitlement to a deferred pension may elect <b>not</b> to have their deferred benefits aggregated with those in their ongoing employment's active member pension account.</u></p> <p>[Note: option 1 may be open to the challenge or complaint that it fetters the employer's discretion and it does not allow for circumstances where it may be reasonable to accept a late election to retain separate benefits]</p> <p>Option 2</p> <p><b>[Name of employer]</b> will only extend the 12 month time limit within which:</p> <p><u>A scheme member with concurrent employments ceases</u></p>

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<sup>3</sup> See the article on SCAVCs in Circular 244 at [http://www.local.gov.uk/c/document\\_library/get\\_file?uuid=f5665e21-e865-4f54-ad18-81f7e5df57bd&groupid=10180](http://www.local.gov.uk/c/document_library/get_file?uuid=f5665e21-e865-4f54-ad18-81f7e5df57bd&groupid=10180)

	<p><u>an employment with entitlement to a deferred pension may elect <b>not</b> to have their deferred benefits aggregated with those in their ongoing employment's active member pension account.</u></p> <p>▼</p> <p>a) where <b>[name of employer]</b> agrees that the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration;</p> <p>b) where <b>[name of employer]</b> agrees that the available evidence indicates the member had made an election within <u>12 months of ceasing the concurrent employment</u>, but the election was not received by the Northern Ireland Local Government Officers' Superannuation Committee (e.g. the election form was lost in the post); or</p> <p><u>c) where the member has pre 1 April 2015 membership and <b>[name of employer]</b> agrees the available evidence indicates that, due to maladministration, the member had not been informed of the implications of having <u>separate benefits</u> <u>[Option 2 allows for circumstances where it would be <b>reasonable to accept</b> a late election to retain separate benefits]</u></u></p>
<p><u>7 (b)</u> <u>Whether to extend the 12 month time limit within which;</u>  <u>A deferred member who becomes an active member again may elect to</u></p>	<p><u>Option 1</u> <u><b>[Name of employer]</b> will not extend the 12 month time limit within which;</u></p>

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<p><u>aggregate</u> the benefits in the <u>deferred pensions account</u> with those in the <u>new active member's pension account</u>.</p>	<p>A deferred member who becomes an active member again may elect <u>to aggregate</u> the benefits in the <u>deferred pensions account</u> with those in the <u>new active member's pension account</u>.  <u>[Note: option 1 may be open to challenge or complaint that it fetters the employer's discretion and it does not allow for circumstances where it may be reasonable to accept a late election to retain separate benefits.]</u></p> <p><u>Option 2</u>  <u>[Name of employer]</u> will only extend the 12 month time limit within which:</p> <p>A deferred member who becomes an active member again may elect <u>to aggregate</u> the benefits in the <u>deferred pensions account</u> with those in the <u>new active member's pension account</u></p> <p>a) <u>Where [name of employer] agrees that the available evidence indicates the member had not been informed of the 12 month limit due to maladministration</u></p> <p>b) <u>Where [name of employer] agrees that the available evidence indicated the member had made an election within 12 months of joining the LGPS but the election was not received by the Northern Ireland Local Government Officers' Superannuation Committee (e.g.the election form was lost in the post); or</u></p> <p>c) <u>Where the member has pre 1 April 2015 membership and [name of employer] agrees the available evidence indicates that due to maladministration, the member had not been</u></p>
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	<p><u>informed of the implications of having benefits aggregated and would in consequence, suffer a detriment to their pension benefits (for example, where member's whole-time equivalent pensionable pay on commencing, with [name of employer] is, in real terms after allowing for inflation, significantly <del>more</del> than the whole-time equivalent pensionable pay upon which the deferred benefits were calculated).</u></p> <p><u>[Option 2 allows for circumstances where it would be reasonable to accept a late election to retain separate benefits].</u></p>
<p>8. How the pension contribution band/rate to which an employee is to be allocated on joining the Scheme, and at each subsequent April, will be determined and the circumstances in which, following a material change to the terms and conditions of a member's employment which affects the member's pensionable pay in the course of a Scheme year (1 April to 31 March), the pension contribution band/rate to which an employee has been allocated will be reviewed.</p> <p>Notes:</p> <ul style="list-style-type: none"> <li>- If an employee holds more than one employment and these are treated as separate jobs, each job (and the pensionable pay from that job) is assessed separately when determining the contribution band/rate for each job (so an employee may be paying different contribution rates in each job, depending on the pay levels in those jobs).</li> <li>- Any reductions in pensionable pay due to sickness, child related leave, reserve forces service leave or other absence from work are to be disregarded when assessing / reviewing the appropriate band / contribution rate.</li> </ul>	<p><b>[Having considered the matters in 8 opposite, the employer is to insert details here of its policy on</b></p> <ul style="list-style-type: none"> <li><b>a) allocating a member to a contribution rate on 1 April 2015</b></li> <li><b>b) allocating a member to a contribution rate on joining the Scheme (after 1 April 2015)</b></li> <li><b>c) reallocating a member to a new contribution rate during a Scheme year (1 April to 31 March) following a material change to the terms and conditions of a member's employment which affects the member's pensionable pay (e.g. on promotion, demotion, re-grading, variation to a member's contractual hours, a change of job, or a move from a casual to a post with contractual hours)</b></li> <li><b>d) reallocating a member to a new contribution rate each 1 April ]</b></li> </ul>

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- As from 1 April 2015, part-time members' contribution rates will be assessed on actual pensionable pay rather than full-time equivalent rates of pay.
- The move to using actual pensionable pay in the assessment of the contribution band/rate within which an employee falls will necessitate employers making an assumption as to what pensionable pay a person will probably receive in the Scheme year.

This can be done in a number of ways. For example:

- the annual rate of contractual pay
  - the annual rate of contractual pay plus an estimation of the non-contractual overtime or hours worked in excess of the contractual hours which might be worked in a full year
  - the hourly contractual rate multiplied by an estimate of the number of hours to be worked in a full year
  - the weekly contractual rate multiplied by 52.143 (or whatever multiplier an employer deems appropriate)
  - the weekly contractual rate multiplied by 52.143 (or whatever multiplier an employer deems appropriate) plus an estimate of other pensionable payments to be made in a full year
- Each employer should assess the appropriate contribution band/rate in a reasonable and consistent manner.
  - Allocating employees to an appropriate band/rate is relatively straight forward where the employee is not expected to undertake any additional hours or overtime. However, it is less straight forward where the number of hours an employee may work in a year is not known.
  - Where an employee is likely to undertake a number of additional hours in excess of their contractual hours, the employer could:

<ul style="list-style-type: none"><li>i) use one of the methods in the first and fourth bullet points above i.e. allocate the employee to the band/rate applicable to their contractual hours only and subsequently review the band/rate allocation at an appropriate time (see 'Reallocation' below), or</li><li>ii) use one of the methods set out in the second, third or fifth bullet points above, perhaps taking account of the hours worked by the post holder in previous years or, if the member is a new employee, the hours worked by the previous holder (if any) of the post, and subsequently review the band/rate allocation at an appropriate time (see 'Reallocation' below).</li></ul> <ul style="list-style-type: none"><li>- The advantage of option (i) is that it is less likely to lead to an appeal by the employee against the band/rate to which they have been allocated and the employer can, in any case, review the band/rate allocation at the following April (or attribute an employee to a different band/rate part way through the Scheme year where there is a material change to the terms and conditions of a member's employment which affects the member's pensionable pay).</li><li>- The disadvantage of option (i) is that it can initially result in a lesser contribution being collected from an employee's pay for a period of time than the actual hours eventually worked might have warranted.</li><li>- The advantage of option (ii) is that it results in a contribution band/rate that the employer deems reasonable based on the employer's expectation of the number of hours to be worked by the employee. It could result in a higher or lower contribution rate than the actual hours eventually worked might have warranted (depending on how many hours the employee actually works) and this could, respectively, result in an appeal by the employee against the band/rate to which they have been allocated or result in a 'loss' to the Pension Fund (which, in turn, would become a cost to the employer).</li></ul>	
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<ul style="list-style-type: none"><li>- Matters become more complicated with employees who have no contractual hours of employment e.g. casual employees, or employees on zero hours contracts. In these cases employers will need to either:<ul style="list-style-type: none"><li>a) make a reasonable initial assessment of the number of hours the person is likely to work on an annual basis, perhaps taking account of the hours worked by the post holder in previous years or, if the member is a new employee, the hours worked by the previous holder (if any) of the post, and subsequently review the band/rate allocation at an appropriate time (see 'Reallocation' below), or</li><li>b) allocate the employee to the lowest band (5.5%) and subsequently review the band/rate allocation at an appropriate time (see 'Reallocation' below), or</li><li>c) allocate the employee to the 6.5% band (on the basis that this is the closest to the average expected contribution rate for Scheme members of 6.4%) and subsequently review the band/rate allocation at an appropriate time (see 'Reallocation' below).</li></ul></li><li>- The advantage of option (a) is that it results in a contribution band/rate that the employer deems reasonable based on the employer's expectation of the number of hours to be worked by the employee. It could result in a higher or lower contribution rate than the actual hours eventually worked might have warranted (depending on how many hours the employee actually works) and this could, respectively, result in an appeal by the employee against the band to which they have been allocated or result in a 'loss' to the Pension Fund (which, in turn, would become a cost to the employer).</li><li>- The advantage of option (b) is that it is less likely to lead to an appeal by the employee against the band/rate to which they have been allocated. The disadvantage of option (b) is that it can initially result in a lesser contribution being collected from an employee's pay for a period of time than the actual hours eventually worked might have</li></ul>	
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warranted.

- The advantage of option (c) is that it delivers the average contribution rate for Scheme members (upon which the LGPS 2015 has been costed). The disadvantage is that it is perhaps more likely to lead to an appeal by the employee against the band/rate to which they have been allocated if the member believes their pay falls within a lower band/rate. Conversely, placing the member in the 6.5% band could initially result in a lesser contribution being collected from an employee's pay for a period of time than the actual hours eventually worked might have warranted (if the employee's pay turns out to fall within a higher band).
- Employers have to notify scheme members, as soon as possible, of the contribution rate the member will pay and give the member notification of their right of appeal under the Internal Disputes Resolution procedure (IDRP).

'Reallocation'

- Although generally once set, the contribution rate remains in force for the rest of the Scheme year (1 April to 31 March), an employer is permitted to attribute an employee to a different band/rate part way through the Scheme year where there is a material change to the terms and conditions of a member's employment which affects their pensionable pay (e.g. on promotion, demotion, re-grading, variation to a member's contractual hours, a change of job, or a move from a casual post to a post with contractual hours). This can result in a retrospective reallocation to a different contribution band/rate with a consequential adjustment to the employee contributions due (e.g. where there is a retrospective pay award or retrospective re-grading) but the employer can decide to only apply the new rate from the date the pay award or re-grading is actioned on the payroll. Employers may take the view that a change in the number of non-contractual excess hours being worked by a member does not constitute a change to the

<p>terms and conditions of the member's employment and, therefore, would not result in a rate reassessment part way through a Scheme year. However, it is arguable that an increment or pay rise made part way through a Scheme year is not a material change to a member's terms and conditions of employment (but, rather, the fulfilment of an existing term or condition) and so would not, in itself, warrant a reassessment of the contribution rate part way through a Scheme year (but should be taken into account when assessing the rate at the next 1<sup>st</sup> April).</p> <ul style="list-style-type: none"> <li>- Employers must reassess the contribution rate for all scheme members each 1 April and reallocate members to a new band/rate where applicable.</li> <li>- Employers have to notify scheme members of any change in the contribution rate the member will pay, the date the new rate is effective from, and give the member notification of their right of appeal under the Internal Disputes Resolution procedure (IDRP). The notification has to be given to the member as soon as is reasonably practicable after the decision to change the rate has been made.</li> </ul>	
<p>9. Whether or not, when calculating assumed pensionable pay when a member is:</p> <ul style="list-style-type: none"> <li>- on reduced contractual pay or no pay on due to sickness or injury, or</li> <li>- absent during ordinary maternity, paternity or adoption leave or during paid additional maternity, paternity or adoption leave, or</li> <li>- absent on reserve forces service leave, or</li> <li>- retires with a Tier 1 or Tier 2 ill health pension, or</li> <li>- dies in service</li> </ul> <p>to include in the calculation the amount of any 'regular lump sum payment' received by the member in the 12 months preceding the date the absence began or the ill health retirement or death occurred.</p>	<p><b>Option 1</b> In assessing Assumed Pensionable Pay (APP) <b>[name of employer]</b> will not include in the calculation any regular lump sum payments. <i>[Note: option 1 may be open to the challenge or complaint that it fetters the employer's discretion]</i></p> <p><b>Option 2</b> In assessing Assumed Pensionable Pay (APP) <b>[name of employer]</b> will not, other than in exceptional circumstances, include in the calculation any 'regular lump sum payments' in which case the decision to include the</p>

Notes:

- A 'regular lump sum payment' is a payment for which the employer determines there is a reasonable expectation that such a payment would be paid on a regular basis
  
- Whilst all lump sum payments are, initially, ignored when calculating assumed pensionable pay, it is entirely at the employer's discretion whether or not to include in the calculation of assumed pensionable pay the amount of any 'regular lump sum payment' received by the member in the 12 months preceding the date the absence began or the ill health retirement or death occurred. Take, for example, the following two situations as examples:
  - i) if a 'regular lump sum payment' is added back for a member on reduced contractual pay or no pay on due to sickness or injury, or absent during ordinary maternity, paternity or adoption leave, or during paid additional maternity, paternity or adoption leave, or absent on reserve forces service leave, that member can finish up with a bigger pension accrual than if the member had not been absent and had, instead, been at work. Take the case where a member receives a £1,200 annual performance payment in May 2015 and goes onto reduced contractual pay due to sickness for the period 1 November 2015 to 31 December 2015, returning to full pay from 1 January 2016. The £1,200 has already been included in the member's pensionable pay cumulatives for 2015/16. If it was included in assumed pensionable pay for November and December 2015, 2/12 of £1,200 (i.e. £200) would be added into the cumulative pensionable pay. If the member had not been sick, that £200 would not have been included in pensionable pay

'regular lump sum payment' will be subject to the approval of **[enter appropriate details]**.

<p>(as the member was not next due to get a lump sum annual performance payment until May 2016)</p> <p>ii) it might seem reasonable to add back any 'regular lump sum payment' received by the member in the 12 months preceding ill health retirement or death in service into the assumed pensionable pay to be used to work out the amount of enhanced pension for a member who retires with a Tier 1 or Tier 2 ill health pension, or used to work out the survivor pension and / or death grant for a member who dies in service. However, what if the member is, say, only 40 at the time of the ill health retirement / death in service? Is it likely that the employer would have paid such a lump sum to the member every year between age 40 and the member's Normal Pension Age? That, in essence, would be implied as being the case if the employer were to add the lump sum back into the assumed pensionable pay figure to be used to calculate the amount of ill health enhanced pension and / or survivor pension.</p> <ul style="list-style-type: none"> <li>- Any decision as to whether or not to include in the calculation of a scheme member's assumed pensionable pay the amount of any 'regular lump sum payment' received by the member in the 12 months preceding the date the absence began or the ill health retirement or death occurred would need to be fair, equitable and justifiable.</li> <li>- For more information on assumed pensionable pay please see the guide at <a href="https://www.nilgosc.org.uk/employers-guide-and-guidance">https://www.nilgosc.org.uk/employers-guide-and-guidance</a></li> </ul>	
<p><u>10. Whether to allow an active member longer than 30 days following return to work after a period of absence with permission (not due to illness, child related leave or reserve forces service leave) to decide to apply to cover the lost pension through an Additional Pension Contract .</u></p>	<p><u>Option 1.</u>  <u>[Name of employer] will not extend the 30 day deadline following an active member's return to work after a period of authorised absence where they can decide to apply to</u></p>

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Note: If the employer allows a longer period then it remains responsible for meeting two-thirds of the cost of the arrangement up to a maximum period of 36 months

cover the lost pension through an Additional Pension Contract

Note: Option 2 may be open to the challenge or complaint that it fetters the employer's discretion.

Option 2

[Name of employer] will only extend the 30 day deadline following an active member's return to work after period of authorised absence where they can decide to apply to cover the lost pension through an APC;

- In cases where it is in the interests of operational business efficiency that the 30 day deadline is extended.

[Note: option 2 covers cases where it would be for the benefit of the operations and functioning of business to extend the deadline]

Option 3

[Name of employer] will only extend the 30 day deadline following an active member's return to work after a period of authorised absence where they can decide to apply to cover the lost pension through an APC where;

- an active scheme member returns from a period of authorised leave of absence (other than illness, child related leave or reserve forces service leave), and

- the member does not, within 30 days of returning decide to apply to cover lost pension through an APC, and

- the member subsequently makes an application and it can be demonstrated the reason for the member missing the deadline was because they had not been made aware of that deadline

[Note: option 3 covers cases where it would be reasonable to extend the deadline in cases of administrative errors]

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Option 4

[Name of employer] will only extend the 30 day deadline following an active member's return to work after a period of authorised absence where they can decide to apply to cover the lost pension through an APC.

Firstly where

- an active scheme member returns from a period of authorised leave of absence (other than illness, child related leave or reserve forces service leave), and
- the member does not, within 30 days of returning decide to apply to cover lost pension through an APC, and
- the member subsequently makes an application and it can be demonstrated the reason for the member missing the deadline was because they had not been made aware of that deadline

Secondly, in exceptional circumstances where [name of employer] considers it is in its financial or operational interests to do so. Each case will be considered on the merits of the financial and /or operational business case put forward.

[Note: option 4 covers cases where it would be reasonable to extend the deadline to deal with an administrative error and any other exceptional case that may arise]

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## Annex 2

<p><b>Table B: Discretions to be exercised on and after 1 April 2015 under the LGPS Regulations in relation to scheme members who ceased active membership between 1 April 2009 and 31 March 2015</b></p> <p><b>[Note that employers who were participating in the Scheme on 31 March 2015 MUST have a policy on the 3 items below]</b></p>	<p><b>[Name of employer] policy</b></p> <p><b>[The employer should choose and insert an appropriate option from the sample options shown below or insert its own wording if the sample options offered below do not suffice]</b></p>
<p>1. Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.</p> <p>Note:</p> <ul style="list-style-type: none"> <li>- Scheme employers should, prior to 1 April 2015, already have prepared and published a policy on the above matter under the 2009 Scheme (in accordance with the LGPS (Administration) Regulations (Northern Ireland) 2009). Scheme employers should ensure that their current policy is up to date.</li> </ul>	<p><b>Option 1</b></p> <p>Carry forward the employer's existing policy <b>[the details of which should be inserted here]</b>.</p> <p><b>Option 2</b></p> <p><b>[Name of employer]</b> will not waive, on compassionate grounds, any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.</p> <p><b>[Note: option 2 may be open to the challenge or complaint that it fetters the employer's discretion]</b></p>

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<#>Whether to grant applications for the early payment of deferred pension benefits on or after age 55 and before age 60 (on grounds other than ill health).¶

¶

Note:¶

<#>Scheme employers should, prior to 1 April 2015, already have prepared and published a policy on the above matter under the 2009 Scheme (in accordance with the LGPS (Administration) Regulations (Northern Ireland) 2009). Scheme employers should ensure that their current policy is up to date.¶

¶

<#>If the employer does agree to the request for early payment of deferred pension benefits on or after age 55 and before age 60, the employer will have to meet any strain on fund cost resulting from that decision.¶

¶

<#>Scheme employers have no discretion over whether or not to release deferred benefits on the grounds of permanent ill health. If a deferred member meets the criteria in the LGPS Regulations for release of benefits on the grounds of permanent ill health, the benefits are automatically payable.¶

¶

<ul style="list-style-type: none"> <li>- If the employer does agree to waive any actuarial reduction, the employer will have to meet the cost of the strain on fund resulting from that waiver.</li> </ul>	<p><b>Option 3</b>  <b>[Name of employer]</b> will consider an application to waive, on compassionate grounds<sup>5</sup>, any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65. Each case will be considered on its merits and will be subject to the approval of <b>[enter appropriate details]</b>.</p>
<p><u>2. Whether, as the 85 year rule does not (other than on flexible retirement see 3 of table A above) automatically apply to members who would otherwise be subject to it and who choose to voluntarily draw their deferred benefits on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members.</u></p> <p><u>Notes:</u></p> <ul style="list-style-type: none"> <li>- <u>If the employer does agree to switch back on the 85 year rule in full, the employer will have to meet the cost of any strain on the fund resulting from the payment of benefits before age 60 i.e. where the member has already met the 85 year rule, or would meet it before age 60.</u></li> <li>- <u>The 85 year rule is satisfied if the person was a member of the LGPS on 30 September 2006 and the member's age at the date they draw their benefits and their scheme membership (each in whole years) add up to 85 or more. If they are part-time, their membership counts towards the 85 year rule as its full</u></li> </ul>	<p><b>Option 1</b>  <u><b>[Name of employer]</b> will not agree to switch on the 85 year rule on in full where deferred members choose to voluntarily draw their deferred benefits on or after age 55 and before age 60.</u>  <u>[Note: option 1 may be open to challenge or complaint that it fetters the employer's discretion]</u></p> <p><b>Option 2</b>  <u><b>[Name of employer]</b> will not agree to switch the 85 year rule on in full where deferred members choose to voluntarily draw their deferred benefits on or after age 55 and before age 60 except in circumstances where [name of employer] considers it is in its financial or operational interests to do so. Each case</u></p> <ul style="list-style-type: none"> <li>- <u>will be considered on the merits of the financial and/or operational business case put forward, and</u></li> <li>- <u>will require the approval of <b>[enter appropriate details]</b>,</u></li> </ul>

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<sup>5</sup> There is no definition in the Regulations of "compassionate grounds". However, one could take the view that, for example, waiving a reduction because the member is short of funds / out of work would not be appropriate (as the pension scheme is not a social security scheme); whereas, for example, releasing benefits because the member has had to give up work to look after orphaned grandchildren would clearly be a case where an employer might wish to exercise compassion.

<p style="text-align: center;"><u>calendar length.</u></p> <p><b>Table C: Discretions to be exercised on and after 1 April 2015 under the LGPS Regulations in relation to scheme members who ceased active membership between 1 February 2003 and 31 March 2009</b>  <b>[Note that employers who were participating in the Scheme on 31 March 2009 MUST have a policy on the 2 items below]</b></p>	<p><b>[Name of employer] policy</b>  <b>[The employer should choose and insert an appropriate option from the sample options shown below or insert its own wording if the sample options offered below do not suffice]</b></p>
<p>1. Whether, on compassionate grounds<sup>8</sup>, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.</p> <p>Note:</p> <ul style="list-style-type: none"> <li>- Scheme employers should, prior to 1 April 2015, already have prepared and published a policy on the above matter under the 2003 Scheme (in accordance with the LGPS Regulations (Northern Ireland) 2002). Scheme employers should ensure that their current policy is up to date.</li> <li>- If the employer does agree to waive any actuarial reduction, the employer will have to meet the cost of the strain on fund resulting from that waiver.</li> </ul>	<p><b>Option 1</b>  Carry forward the employer’s existing policy <b>[the details of which should be inserted here]</b>.</p> <p><b>Option 2</b>  <b>[Name of employer]</b> will not waive, on compassionate grounds, any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.  <b>[Note: option 2 may be open to the challenge or complaint that it fetters the employer’s discretion]</b></p> <p><b>Option 3</b>  <b>[Name of employer]</b> will consider an application to waive, on compassionate grounds, any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65. Each case will be considered on its merits and will be subject to the approval of <b>[enter appropriate details]</b>.</p>
<p><u>2. Whether, as the 85 year rule does not (other than on flexible</u></p>	<p><u>Option 1</u></p>

<sup>8</sup> There is no definition in the Regulations of “compassionate grounds”. However, one could take the view that, for example, waiving a reduction because the member is short of funds / out of work would not be appropriate (as the pension scheme is not a social security scheme); whereas, for example, releasing benefits because the member has had to give up work to look after orphaned grandchildren would clearly be a case where an employer might wish to exercise compassion.

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<#>Whether, within 6 months of the date of termination, to grant up to a maximum of 10 years extra membership in the pension scheme to a scheme member whose employment was terminated before 1 April 2015 on the grounds of redundancy or business efficiency.¶  
¶  
**Note:**¶  
<#>Scheme employers should, prior to 1 April 2015, already have prepared and published a policy on the above matter under the 2009 Scheme (in accordance with the LGPS (Administration) Regulations (Northern Ireland) 2009). Scheme employers should ensure that their current policy is up to date.¶  
¶  
<#>This is a time-limited discretion which expires on 30 September 2015.¶  
¶  
<#>The cost of any extra membership awarded would have to be paid to the Pension Fund by the employer as a lump sum ...

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<#>Whether to grant applications for the early payment of pension benefits on or after age 50<sup>6</sup> and before age 60 (on grounds other than ill health).¶  
¶  
**Note:**¶  
<#>Scheme employers should, prior to 1 April 2015, already have prepared and published a policy on the above matter under the 2003 Scheme (in accordance with the LGPS Regulations (Northern Ireland) 2002). Scheme employers should ensure that their current policy is up to date.¶ ...

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<p><u>retirement - see 3 in table A above) automatically to members who would otherwise be subject to it and who choose to voluntarily draw their deferred benefits on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members.</u></p> <p><u>Notes:</u></p> <p><u>- If the employer does agree to switch back on the 85 year rule in full, the employer will have to meet the cost of any strain on fund resulting from the payment of benefits before age 60 i.e. where the member has met the 85 year rule or would meet it before age 60.</u></p> <p><u>- The 85 year rule is satisfied if the person was a member of the LGPS on 30 September 2006 and the member's age at the date they draw their benefits and their scheme membership (each in whole years) add up to 85 or more. If they are part-time, their membership counts towards the 85 year rule at its full calendar length.</u></p>	<p><u><b>[Name of employer]</b> will not agree to switch the 85 year rule on in full where deferred members choose to voluntarily draw their benefits on or after age 55 and before age 60.</u></p> <p><u>[Note: option 1 may be open to the challenge or complaint that it fetters the employer's discretion]</u></p> <p><u>Option 2</u></p> <p><u><b>[Name of employer]</b> will not agree to switch the 85 year rule on in full where deferred members choose to voluntarily draw their deferred benefits on or after age 55 and before age 60 except in circumstances where [name of employer] considers it is in its financial or operational interests to do so. Each case</u></p> <p><u>- will be considered on the merits of the financial and / or operational business case put forward, and</u></p> <p><u>- will require the approval of <b>[enter appropriate details]</b>.</u></p>
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<p><b>Table D: Discretions to be exercised on and after 1 April 2015 under the LGPS Regulations in relation to scheme members who ceased active membership before 1 February 2003</b></p> <p><b>[Note that employers who were participating in the Scheme on 31 January 2003 are recommended to have a policy on the item below]</b></p>	<p><b>[Name of employer] policy</b></p> <p><b>[The employer should choose and insert an appropriate option from the sample options shown below or insert its own wording if the sample options offered below do not suffice]</b></p>
<p>1. Whether, with the agreement of the Northern Ireland Local Government Officers' Superannuation Committee, to grant</p>	<p><b>Option 1</b></p> <p>Carry forward the employer's existing policy <b>[the details of which</b></p>

<p>applications for the early payment of deferred pension benefits on or after age 50<sup>9</sup> and before age 65 on compassionate grounds.</p> <p>Note:</p> <ul style="list-style-type: none"> <li>- Scheme employers should, prior to 1 April 2015, already have prepared and published a policy on the above matter under the 2000 Scheme (in accordance with the LGPS Regulations (Northern Ireland) 2000). Scheme employers should ensure that their current policy is up to date.</li> <li>- If the employer does agree to the request for early payment of deferred pension benefits on or after age 50 and before age 65, the employer will have to meet any strain on fund cost resulting from that decision.</li> <li>- Scheme employers have no discretion over whether or not to release deferred benefits on the grounds of permanent ill health. If a deferred member meets the criteria in the LGPS Regulations for release of benefits on the grounds of permanent ill health, the benefits are automatically payable.</li> </ul>	<p><b>should be inserted here].</b></p> <p><b>Option 2</b> Where a former scheme member who left the scheme before 1 February 2003 requests early release of deferred benefits on or after age 50 and before age 65 on compassionate grounds, approval will not be given. [Note: option 2 may be open to the challenge or complaint that it fetters the employer's discretion]</p> <p><b>Option 3</b> Where a former scheme member who left the scheme before 1 February 2003 requests early release of deferred benefits on or after age 50 and before age 65 on compassionate grounds, the case will be considered on its merits and will be subject to the approval of <b>[enter appropriate details].</b></p>
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<p><b>Table E: Discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007</b> [Note that employers MUST have a policy on the 2 items below]</p>	<p><b>[Name of employer] policy</b> [The employer should choose and insert an appropriate option from the sample options shown below or insert its own wording if the sample options offered below do not suffice]</p>
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<sup>9</sup> It should be noted that benefits paid on or after age 50 and before age 55 will be subject to an unauthorised payments charge under the Finance Act 2004 and, where applicable, an unauthorised payments surcharge under that Act, but there would be no Scheme sanction charge.

1. Whether to base a redundancy payment on an employee's actual weeks' pay where this exceeds the statutory week's pay limit of, currently, £500 per week (as at 6 April 2016).

Notes:

- Scheme employers should, prior to 1 April 2015, already have prepared and published a policy on the above matter under the Discretionary Compensation Regulations 2007. Scheme employers should ensure that their current policy is up to date.
- Lump sum severance / compensation payments are subject to the normal rules in relation to the taxation of severance payments. The current rules (at 1 February 2015) are that the first £30,000 of severance pay is tax-free. Generally speaking, payments counting towards the £30,000 limit would include:
  - the statutory redundancy payment and any increase in the redundancy payment where the redundancy payment is based on the employee's actual pay, rather than being limited to the statutory weeks' pay limit,
  - pay in lieu of notice (PILON) - but in some circumstances PILON can be fully taxable (e.g. where it is contractual, or has become an implied contractual term through custom and practice), and
  - a lump sum compensation payment which is being paid under the 104 weeks' pay provision (see 2 below),

but employers should refer to HM Revenue and Customs guidance (see

<https://www.gov.uk/government/publications/cwg2-further->

Option 1

Carry forward the employer's existing policy [the details of which should be inserted here].

Option 2

Any redundancy payment will be calculated on an employee's weekly pay, but limited to the statutory weeks' pay limit where pay exceeds that limit.

Option 3

Any redundancy payment will be calculated on an employee's weekly pay but, other than in exceptional circumstances, limited to the statutory weeks' pay limit where pay exceeds that limit.

Option 4

Any redundancy payment will be calculated on an employee's actual week's pay and not limited to the statutory weeks' pay limit where pay exceeds that limit.

Option 5

Any redundancy payment will normally be calculated on an employee's actual week's pay but may, in exceptional circumstances, may be limited to the statutory weeks' pay limit where pay exceeds that limit.

Additional paragraph to add to the end of the above Options for those employers who are subject to the Modification Order or who, whilst not subject to the Modification Order, choose to recognise service with employers on the Modification Order for redundancy payment purposes.

Continuous local government service, as defined under the

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<p><a href="http://www.hmrc.gov.uk/manuals/eimanual/EIM12800.htm">guide-to-pay-and-national-insurance-contributions</a> and the detailed guidance at <a href="http://www.hmrc.gov.uk/manuals/eimanual/EIM12800.htm">http://www.hmrc.gov.uk/manuals/eimanual/EIM12800.htm</a>).</p> <ul style="list-style-type: none"> <li>- Unlike an award of extra annual pension (see entry 1 in Table A above): <ul style="list-style-type: none"> <li>• any increase in the redundancy payment where the redundancy payment is based on the employee's actual pay, rather than being limited to the statutory weeks' pay limit, and</li> <li>• any lump sum compensation payment which is being paid under the 104 weeks' pay provision (see 2 below)</li> </ul> </li> </ul> <p>does not count towards the members Annual Allowance or Lifetime Allowance.</p>	<p>Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order (Northern Ireland) 1999, will be taken into account in the calculation of redundancy payments.</p>
<p>2. Whether to make a termination payment (inclusive of any redundancy payment) of up to a maximum of 104 weeks' pay to employees whose employment is terminated on the grounds of redundancy or efficiency of the service.</p> <p>Notes:</p> <ul style="list-style-type: none"> <li>- Scheme employers should, prior to 1 April 2015, already have prepared and published a policy on the above matter under the Discretionary Compensation Regulations 2007. Scheme employers should ensure that their current policy is up to date.</li> <li>- A decision to make a termination payment under the 104 weeks' pay provision must be made within 6 months of the date of termination of the member's employment.</li> </ul>	<p><b>Option 1</b> Carry forward the employer's existing policy <b>[the details of which should be inserted here]</b>.</p> <p><b>Option 2</b> <b>[Name of employer]</b> will not make a termination payment (inclusive of any redundancy payment) of up to a maximum of 104 weeks' pay to employees whose employment is terminated on the grounds of redundancy or efficiency of the service.</p> <p><b>Option 3</b> Redundant staff will receive a termination payment (to incorporate redundancy pay) calculated using the statutory redundancy payment formula but limited to the statutory week's pay where the employee's pay exceeds the statutory weeks' pay limit, enhanced by a multiplier of <b>[enter an appropriate</b></p>

- A termination payment under the 104 weeks' pay provision cannot be made if the employer makes an award of extra membership under regulation 12 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 – see entry 3 in Table B above) or extra annual pension under regulation 32 of the Local Government Pension Scheme Regulations (Northern Ireland) 2014 – see entry 1 in Table A above)
- Lump sum severance / compensation payments are subject to the normal rules in relation to the taxation of severance payments. The current rules (at 1 February 2015) are that the first £30,000 of severance pay is tax-free. Generally speaking, payments counting towards the £30,000 limit would include:
  - the statutory redundancy payment and any increase in the redundancy payment where the redundancy payment is based on the employee's actual pay, rather than being limited to the statutory weeks' pay limit (see 1 above),
  - pay in lieu of notice (PILON) - but in some circumstances PILON can be fully taxable (e.g. where it is contractual, or has become an implied contractual term through custom and practice), and
  - a lump sum compensation payment which is being paid under the 104 weeks' pay provision
 but employers should refer to HM Revenue and Customs guidance (see <https://www.gov.uk/government/publications/cwg2-further-guide-to-pay-and-national-insurance-contributions> and the detailed guidance at <http://www.hmrc.gov.uk/manuals/eimanual/EIM12800.htm>).

**multiplier which cannot exceed 3.466].**

A termination payment will not automatically be paid to employees whose employment is terminated on the grounds of efficiency of the service. Instead, **[name of employer]** will determine each case on its merits, taking into account business and operational factors (with the maximum severance payment being no greater than would have applied under the redundancy severance policy).

#### Option 4

Staff whose employment is terminated on the grounds of redundancy or business efficiency will receive a termination payment (to incorporate any redundancy pay) calculated using the statutory redundancy payment formula but limited to the statutory week's pay where the employee's pay exceeds the statutory weeks' pay limit, enhanced by a multiplier of **[enter an appropriate multiplier which cannot exceed 3.466]**.

#### Option 5

Redundant staff will receive a termination payment (to incorporate redundancy pay) calculated using the statutory redundancy payment formula but based on actual pay, enhanced by a multiplier of **[enter an appropriate multiplier which cannot exceed 3.466]**.

A termination payment will not automatically be paid to employees whose employment is terminated on the grounds of efficiency of the service. Instead, **[name of employer]** will determine each case on its merits, taking into account business and operational factors (with the maximum severance payment being no greater than would have applied under the redundancy severance policy).

<ul style="list-style-type: none"> <li>- Unlike an award of extra annual pension (see entry 1 in Table A above): <ul style="list-style-type: none"> <li>• any increase in the redundancy payment where the redundancy payment is based on the employee's actual pay, rather than being limited to the statutory weeks' pay limit (see 1 above), and</li> <li>• any lump sum compensation payment which is being paid under the 104 weeks' pay provision</li> </ul> </li> </ul> <p>does not count towards the members Annual Allowance or Lifetime Allowance.</p>	<p><b>Option 6</b>  Staff whose employment is terminated on the grounds of redundancy or business efficiency will receive a termination payment (to incorporate any redundancy pay) calculated using the statutory redundancy payment formula but based on actual pay, enhanced by a multiplier of <b>[enter an appropriate multiplier which cannot exceed 3.466]</b>.</p>
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<p><b>Table F: Discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003</b>  [Note that employers MUST have a policy on the 3 items below, but ONLY IF the employer has awarded compensatory added years under these, or earlier, Regulations]</p>	<p><b>[Name of employer] policy</b>  [The employer should choose and insert an appropriate option from the sample options shown below or insert its own wording if the sample options offered below do not suffice]</p>
<p>1. How a person's annual compensatory added years pension is to be abated during, and following the cessation of, any period of re-employment by an employer who offers membership of the LGPS to its employees, regardless of whether or not the employee chooses to join the LGPS (except where the employer is an Admitted Body, in which case abatement only applies if the person is in, or eligible to be in, the LGPS in the new employment).</p>	<p><b>[Name of employer]</b> will, during any period of re-employment in local government (see note below), abate a person's annual compensatory added years' payment by the 'excess' if the aggregate of:</p> <ul style="list-style-type: none"> <li>- the annual compensation, and</li> <li>- the annual pension from the LGPS, and</li> <li>- the annual rate of pay from the new employment</li> </ul> <p>exceeds the pay the person would have received from the</p>

employment in respect of which the compensatory added years were granted, based on the annual rate of pay at the date of ceasing the former employment as increased by the relevant cost of living increases (i.e. as increased by the rate at which an 'official pension' is increased under the Pensions (Increase) Act 1971). Index.

Where compensatory added years were awarded on or after 24 March 2003, **[name of employer]** will reduce a person's annual compensatory added years' payment following the cessation of a period of re-employment in local government (see note below) to the extent necessary to secure that if:

- the period of compensatory added years granted in respect of the former employment,

plus

- the period of membership the person has accrued in the LGPS (or would have accrued had he / she joined the scheme when first eligible to do so) during the period of re-employment in local government, counted at its part-time length, if the person was part-time,

exceeds

- the period of membership the person would have accrued during the period from the cessation of the former employment until age 65 on the assumption that he / she had continued in that former employment to age 65 (again counted at its part-time length if the person was part-time at the date of cessation of the former employment),

then

- the annual pension and lump sum from the first job combined with the annual pension and lump sum from the second job (based on the assumption that the employee joined the LGPS when first eligible to do so), plus the annual compensation and lump sum compensation, shall not in aggregate exceed the pension and lump sum the person would have achieved if he / she had remained in the first job through to age 65.

Where there is an excess, the annual compensation will be reduced by the excess pension and, if the annual compensation is not reduced to nil, the amount of the remaining (reduced) basic annual compensation will then be suspended until the excess lump sum (if any) is recovered.

In calculating whether or not, in aggregate, the annual pension and lump sum from the first job, plus the annual pension and lump sum (if any) from the second job (based on the assumption that the employee joined the LGPS at the first opportunity), plus the annual compensation and lump sum compensation, exceeds the pension and lump sum the person would have achieved if he/she had remained in the first job through to age 65 it will be necessary to compare:

- a) the actual LGPS pre 1 April 2009 1/80th pension and 3/80ths lump sum, plus the actual LGPS post 31 March 2009 1/60th pension (ignoring any commutation for a lump sum), plus the actual 1/80th annual compensation and 3/80ths lump sum compensation, with
- b) the 1/80th LGPS pension and 3/80ths lump sum the member would have achieved in their first job to 31 March 2009, plus the 1/60th LGPS pension the member would have achieved in their first job (ignoring any potential commutation for a lump sum), if the

member had stayed in the first job through to age 65.

In determining the benefits the employee could have achieved had he / she remained in the first employment through to age 65 it will be necessary to determine the pensionable pay to be used in the calculation. For this purpose, the pensionable pay figure used in the calculation of the pension benefits in the first job will be used as brought up to date by increasing it in line with the Pensions Increase (Review) Orders.

If a person has been awarded more than one previous period of compensatory added years, e.g. as a result of being made redundant more than once, the abatement / claw back provisions are modified. In such a case, the rules under the former Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001 will be applied where a person ceases a period of re-employment in local government and has previously been granted more than one period of compensatory added years, but using the pay in the first job as increased in line with inflation (i.e. ignoring regulations 17(5)(a)(ii), 17(6) and 17(7) of the Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001.

Where compensatory added years were awarded before 24 March 2003, **[name of employer]** will reduce a person's annual compensatory added years' payment following the cessation of a period of re-employment in local government (see note below) in accordance with the Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001.

**Note:** 'local government' means employment with an employer who offers membership of the LGPS to its employees, regardless of whether or not the employee chooses to join the LGPS (except where the employer is an Admitted Body). Technically, an employee of an Admitted Body (i.e. a body that has applied to the

	<i>administering authority to allow its employees to join the LGPS and has entered into a formal admission agreement) is only employed in 'local government' if he / she is a member of the LGPS.</i>
2. How any surviving spouse's or civil partner's annual compensatory added years pension is to be apportioned where the deceased person is survived by more than one spouse or civil partner.	<p><b>Option 1</b>  <b>[Name of employer]</b> will apportion any surviving spouse's or civil partner's annual compensatory added years pension where the deceased person is survived by more than one spouse or civil partner in such proportions as, at its sole discretion, it sees fit (based on the merits of the individual cases).</p>
3. Whether, if the spouse or civil partner of a person who ceased employment before 1 February 2003 remarries, enters into a civil partnership or cohabits after 1 February 2003, the normal annual compensation suspension rules will be disapplied i.e. the spouse's or civil partner's annual compensatory added years pension will continue to be paid.	<p><b>Option 1</b>  If the spouse or civil partner of a person who ceased employment before 1 February 2003 remarries, enters into a new civil partnership or cohabits after 1 February 2003, the normal annual compensation suspension rules will be disapplied i.e. the spouse's or civil partner's annual compensatory added years pension will continue to be paid.  [Note: if Option 1 is chosen, it will <b>not</b> be necessary to have a policy on item 4 below]</p> <p><b>Option 2</b>  If the spouse or civil partner of a person who ceased employment before 1 February 2003 remarries, enters into a new civil partnership or cohabits after 1 February 2003, the normal annual compensation suspension rules will <b>not</b> be disapplied i.e. the spouse's or civil partner's annual compensatory added years pension will cease to be payable.  [Note: if Option 2 is chosen, it will also be necessary to have a policy on item 4 below]</p>

4. Whether, where a spouse's or civil partner's annual compensatory added years pension is suspended as a result of remarriage, entering into a new civil partnership or cohabitation, the spouse's or civil partner's annual compensatory added years pension should be reinstated after the end of the period of remarriage, new civil partnership or cohabitation.

**Option 1**

Where a spouse's or civil partner's annual compensatory added years pension is suspended as a result of remarriage, entering into a new civil partnership or cohabitation, the spouse's or civil partner's annual compensatory added years pension will be reinstated after the end of the period of remarriage, new civil partnership or cohabitation.

**Option 2**

Where a spouse's or civil partner's annual compensatory added years pension is suspended as a result of remarriage, entering into a new civil partnership or cohabitation, the spouse's or civil partner's annual compensatory added years pension will **not** be reinstated after the end of the period of remarriage, new civil partnership or cohabitation.

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#### Disclaimer

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