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Pension Discretions
Policy

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1.00	Authorised version	28/03/2013
2.00	Re-worded as part of Policy Review	27/09/2016
3.00	Re-worded as part of the policy simplification project. <ul style="list-style-type: none">• List of Legislation applied in table 1 updated to include: The Local Government Pension Scheme (Scotland) Regulations 2018• Regulation R29(5) & (13) removed as members can now retire voluntarily after age 55.• Regulation B30(2) updated to reflect maximum age 55.• Regulation B12* removed due to expired deadline.	22/12/2020

Appendices

Appendix 'A'	List of the Individual Discretions
Appendix 'B'	List of Associated Legislation

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Pensions Discretions Policy

Police Scotland and the Scottish Police Authority (SPA) are committed to ensuring our people make good choices when it comes to their future financial plans. Pension discretions are a part of that role and we will use discretionary powers in accordance with the relevant legislation and with the best interests of our people in mind.

All of our people who are members of the Local Government Pension Scheme (LGPS), are covered by the following pension discretion statements. These statements set out the maximum level of discretion we can apply in relation to the LGPS regulations. We will apply these discretions in a way that makes sure we can provide our people with a fair, helpful and efficient response.

Appendix A contains 5 tables where each of the pension discretions are outlined. If the regulations require us to have a policy statement it will be marked with an * and a policy statement will follow in the relevant box.

Table 1 details our discretions from 01/04/2015 in relation to members who are active or who are leavers after 31/03/15.

Table 2 details our discretions in relation to scheme members who ceased active membership on or after 01/04/09 and before 01/04/15.

Table 3 details our discretions in relation to pre 01/04/09 scheme leavers.

Table 4 details our discretions in relation to pre 01/04/98 scheme leavers.

Table 5 details our discretions under the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 (as amended).

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Table 1

The following table details our discretions from 01/04/15 in relation to members who are active or who are leavers after 31/03/15 under the following regulations:

- The Local Government Pension Scheme (Scotland) Regulations 2018 [prefix S]
- The Local Government Pension Scheme (Scotland) Regulations 2014 [prefix R]
- The Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 [prefix TP]
- The Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 [prefix A]
- The Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (as amended) [prefix B]
- The Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008 [prefix T]
- The Local Government Pension Scheme (Scotland) Regulations 1998 (as amended) [prefix L]

Regulation	Discretion	Employer's policy on the exercise of this discretion
R3(1)(b)	Decide which employees to nominate for membership (admission bodies).	All employees of SPA.
R9(1) to R9(4)	Determine the rate of employee's contributions.	Determined in accordance with these regulations and guidance produced by the Scottish Ministers.
R9(10)	Determine intervals at which employees' contributions are to be made.	Determined in accordance with these regulations and guidance produced by the Scottish Ministers.
R16(2)(e)* & R16(4)(d)*	Whether, how much, and in what circumstances to contribute to a shared cost Additional Pension Contributions (APC) scheme.	The policy of SPA is not to establish or contribute to a shared cost APC scheme.
R16(16)	Whether to extend 30 day deadline for member to elect for a shared cost APC upon return from a period of absence from work with permission with no pensionable pay (otherwise than	SPA may extend the time limit in exceptional circumstances such as the member may not have been informed of the right to repay contributions but

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	because of illness or injury, child-related leave or reserve force service leave).	each case will be decided on an individual basis.
R17(1) & definition of SCAVC in RSch 1	Whether, and in what circumstances to contribute to a shared cost AVC scheme.	The policy of SPA is not to establish or contribute to a shared cost AVC scheme.
TP15(1)(b) & L65(8) & former L65(9)(b)	Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership (where Additional Voluntary Contribution (AVC) arrangement was entered into before 30/6/05).	SPA will not have a general policy to allow late application to convert scheme AVCs into membership credit but may do so if exceptional circumstances can be proved such as the member being unaware of this right. Each case will be considered on an individual basis.
R19(2)	No right to a return of contributions due to an offence of a fraudulent character or grave misconduct unless the employer directs a total or partial refund is to be made.	SPA will not direct a return of contributions in the event of an offence of a fraudulent character or grave misconduct.
R20(1)(b)	Specify in an employee's contract what other payments or benefits, other than those specified in R20(1)(a) and not otherwise precluded by R20(2), are to be pensionable.	Elements of pay received by an employee other than those specified in these regulations and not otherwise excluded will only be pensionable if specified as such in the member's contract of employment.
R21(5)	In determining Assumed Pensionable Pay, whether a lump sum payment made in the previous 12 months is a "regular lump sum".	Elements of pay received by an employee other than those specified in these regulations and not otherwise excluded will only be pensionable if specified as such in the member's contract of employment.
S30(2)	Whether to grant application for early payment of benefits on or after age 50 and before age 55.	SPA may exercise this discretion where a sound business case can be made for doing so or where other exceptional

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		circumstances arise that make payment of those benefits justifiable.
R29(6)* & TP11(2)	Whether all or some benefits can be paid if an employee reduces their hours or grade prior to age 60 (flexible retirement).	SPA will not have a general policy of exercising this discretion but may exercise this discretion where a sound business case can be made for granting flexible retirement with immediate access to all or part of the member's benefits. SPA will consider requests on an individual case basis.
R29(8)* and TPSch 2, para 2(1)	Whether to waive, in whole or in part, any actuarial reduction on benefits paid on flexible retirement. Note: any resultant strain cost from the exercise of this discretion will be charged to the employer regardless of the member's age at date of retirement.	SPA may waive, in whole or in part, the actuarial reduction on the benefits paid on flexible retirement where the business case for granting payment of benefits on flexible retirement in R29(6)* & TP11(2) above includes such a recommendation.
R29(8)*	Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age, other than on the grounds of flexible retirement (where the member only has post 31/3/15 membership) Note: any resultant strain costs due to the exercise of this discretion will be charged to the employer regardless of the employee's age.	SPA may consider waiving the actuarial reduction where exercising that discretion can be justified in terms of the sound businesses case made for initially paying those benefits or where other exceptional circumstances arise that make payment of those benefits justifiable. Each case will be considered on its individual merits.
TPSch 2, paras 1(2) and 2(1)*	Whether to apply the 85 year rule for a member voluntarily drawing benefits, with employer consent on, or after, age 55 and before age 60 (other than on the grounds of flexible retirement).	SPA may consider applying the rule of 85 where exercising that discretion can be justified in terms of the sound businesses case

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		made for initially paying those benefits or where other exceptional circumstances arise that make payment of those benefits justifiable. Each case will be considered on its individual merits.
TP3(1), TPSch 2, para 2(1) *	Whether to waive, in whole or in part, any actuarial reduction on pre and post April 2015 benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1/4/15 and post 31/3/15 membership and is subject to the 85 year rule).	SPA may consider waiving the actuarial reduction where exercising that discretion can be justified in terms of the sound businesses case made for initially paying those benefits or where other exceptional circumstances arise that make payment of those benefits justifiable. Each case will be considered on its individual merits.
TP3(1), TPSch 2, para 2(1) and B30(5)*	Whether to waive on compassionate grounds any actuarial reduction on pre April 2015 benefits and to waive, in whole or in part, any actuarial reduction on post April 2015 benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1/4/15 and post 31/3/15 membership and is not subject to the 85 year rule).	SPA may consider waiving the actuarial reduction where exercising that discretion can be justified in terms of the sound businesses case made for initially paying those benefits or where other exceptional circumstances arise that make payment of those benefits justifiable. Each case will be considered on its individual merits.
R30*	Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £5,000 p.a.).	SPA will not have a general policy to grant additional pension in this way but may consider doing so where a sound business case can be made for exercising this discretion. Each case will be considered on its individual merits.

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TP12(4)	Whether to use a certificate produced by an Independent Registered Medical Practitioner (IRMP) under the 2009 Scheme for the purposes of making an ill health determination under the 2015 Scheme.	SPA will consider individual cases based on their own merits.
R89(1) & (8) R89(4)	Whether to apply to Scottish Ministers for a forfeiture certificate (where a member is convicted of a relevant offence) and subsequently whether to direct that benefits are to be forfeited (other than rights to Guaranteed Minimum Payment (GMP) – but see R92 below).	SPA will apply for a forfeiture certificate where a member is convicted of a relevant offence and, following the issue of the certificate, direct that benefits are to be forfeited.
R90(2)	Whether to recover from the fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights or AVCs / Shared Cost Additional Voluntary Contributions) where the obligation was as a result of a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left the employment.	SPA will recover from the relevant pension benefits the amount of loss in cases of criminal, negligence or fraudulent acts by a member.
R92	Whether, if the member has committed treason or been imprisoned for at least 10 years for one or more offences under the Official Secrets Acts, forfeiture under R89 or recovery of a monetary obligation under R90 should deprive the member or the member's surviving spouse or civil partner of any Guaranteed Minimum Payment (GMP) entitlement.	SPA will consider individual cases based on their own merits.
R96(1)(b)	Agree to bulk transfer payment.	SPA will consult with relevant pension fund(s) and the fund(s) actuaries in this regard.
R98(6)	Extend normal time limit for acceptance of a transfer value beyond the 12 month time limit from joining the LGPS.	SPA will not generally extend the normal time limit for acceptance of a transfer value beyond 12 months from joining the scheme but may do so where exceptional circumstances can be proved. In any event

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		the maximum extension will be a period of two years from the member's date of joining the scheme. Each case will be considered on its individual merits.
TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) & B11(2)	Whether to allow a member to select final pay period for fees to be any three consecutive years ending in the 10 years prior to leaving and ending on the anniversary of the date of leaving	SPA will allow a member to select final pay for fees to be any three consecutive years ending 31st March in the 10 years prior to leaving. SPA agree that this will automatically be done by the relevant pension fund.
TP3(1)(a), A43(5)	Issue a certificate of protection of pension benefits where eligible member fails to apply for one.	SPA will issue a certificate of protection of pension benefits if requested by the employee within twelve months of the date of reduction. A certificate may be issued on application from the member out with the 12 month period specified in the regulations if exceptional circumstances can be proved such as the employee being unaware of this facility.

Table 2

The following table details our discretions in relation to scheme members who ceased active membership on or after 01/04/19 and before 01/04/15, being discretions under:

- the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 [prefix A]
- the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (as amended) [prefix B]
- the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008 [prefix T]
- the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 [prefix TP]
- the Local Government Pension Scheme (Scotland) Regulations 2014 [prefix R]

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- the Local Government Pension Scheme (Scotland) Regulations 1998 (as amended) [prefix L]

Regulation	Discretion	Employer's Policy on the exercise of this discretion
A42(2)	No right to a return of contributions due to an offence of a fraudulent character or grave misconduct unless the employer directs a total or partial refund is to be made	SPA will not direct a return of contributions in the event of an offence of a fraudulent character or grave misconduct.
A43(5)	Employer may issue a certificate of protection where an employee fails to apply for one.	SPA will issue a certificate of protection of pension benefits if requested by the employee within twelve months of the date of reduction. A certificate may be issued on application from the member outwith the 12 month period specified in the regulations if exceptional circumstances can be proved such as the employee being unaware of this facility.
A45(1) & (2)	Whether Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund	SPA authorise recovery of the CEP in excess of the CA from the relevant pension fund(s).
A66(2) & (6) A67(1) & (2)	Whether to apply for a forfeiture certificate (where a member is convicted of a relevant offence) and subsequently whether to direct that benefits are to be forfeited.	SPA will apply for a forfeiture certificate where a member is convicted of a relevant offence and, following the issue of the certificate, direct that benefits are to be forfeited.
A68(2)	Whether to recover from the fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights or AVCs / SCAVCs) where the obligation was as a result of a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of	SPA will recover from the relevant pension benefits the amount of loss in cases of criminal, negligence or fraudulent acts by a member.

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	which the person has left the employment.	
A70(2) & (3)	Whether to recover from the fund any financial loss caused by fraudulent offence or grave misconduct of an employee (who has left because of that) or amount of refund if less	SPA will recover from the relevant pension benefits the amount of loss caused by fraudulent offence or grave misconduct of employee (who has left because of that), or the amount of refund if less.
B11(2)	Whether to allow a member to select a final pay period for fees to be any three consecutive years ending with 31st March in the 10 years prior to leaving.	SPA will allow a member to select final pay for fees to be any three consecutive years ending 31st March in the 10 years prior to leaving. SPA agree that this will automatically be done by the relevant pension fund.
B30(2)*	Whether to grant application for early payment of benefits on or after age 50/55 and before age 60	SPA may exercise this discretion where a sound business case can be made for doing so or where other exceptional circumstances arise that make payment of those benefits justifiable.

Table 3

The following table details our discretions under the Local Government Pension Scheme (Scotland) Regulations 1998 (as amended) in relation to pre 01/04/19 scheme leavers.

Regulation	Discretion	Employer's policy on the exercise of this discretion.
30(2)*	Grant application from a post 31/03/98 / pre 01/04/19 leaver for early payment of benefits on or after age 50 and before age 60	SPA may exercise this discretion where a sound business case can be made for doing so or where other exceptional circumstances arise that make payment of those benefits justifiable.

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30(5)*	Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31/03/98 / pre 01/04/19 leaver Note: any resultant strain cost from the exercise of this discretion will be charged to the employer regardless of the member's age at date of retirement.	SPA may consider waiving, in whole or in part, the actuarial reduction on the benefits paid on flexible retirement where the sound business case for granting payment of benefits on flexible retirement in 30(2)* above includes such a recommendation.
30(7A)*	Pre 01/04/19 optants out only to get benefits paid from NRD if employer agrees.	SPA agrees to benefits being paid from NRD for pre 01/04/19 optants out.
33(1)(b)	Decide, in the absence from a post 31/03/98 / pre 01/04/19 leaver of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership.	SPA will consider individual cases based on their merits.
70(7)(a)	Consent to a member's former employer assigning to the new employer rights under any Shared Cost Additional Voluntary Contributions (SCAVC) life assurance policy.	SPA will consider individual cases based on their merits.
87(2)	No right to return of contributions due to offence of a fraudulent character unless employer directs a total or partial refund is to be made (pre 01/04/19 leavers).	SPA will not direct a return of contributions in the event of an offence of a fraudulent character or grave misconduct.
91	Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund (pre 01/04/19 leavers).	SPA authorise recovery of the CEP in excess of the CA from the relevant pension fund(s).
111(2) &(5) 112(1)	Forfeiture of pension rights on issue of Secretary of State's certificate (pre 01/04/19 leavers).	SPA will apply for a forfeiture certificate where a member is convicted of a relevant offence and, following the issue of the

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	Where forfeiture certificate is issued, direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits (pre 01/04/09 leavers).	certificate, direct that benefits are to be forfeited.
113(2)	Recovery from Fund of monetary obligation owed by former employee or, if less, the value of the member's benefits (other than transferred in pension rights) (pre 01/04/09 leavers).	SPA will recover from the relevant pension benefits the amount of loss in cases of criminal, negligence or fraudulent acts by a member.
115(2) & (3)	Recovery from Fund of financial loss caused by employee, or amount of refund if less (pre 01/04/09 leavers).	SPA will recover from the relevant pension benefits the amount of loss caused by fraudulent offence or grave misconduct of employee (who has left because of that), or the amount of refund if less.

Table 4

The following table details our discretions under the Local Government Pension Scheme (Scotland) Regulations 1987 (as amended) in relation to pre 01/04/98 scheme leavers.

Regulation	Discretion	Employer's policy on the exercise of this discretion
E2(6)(b)	Grant application from a pre-01/04/98 leaver for early payment of benefits on or after age 50 and before age 60	SPA may exercise this discretion where a sound business case can be made for doing so or where other exceptional circumstances arise that make payment of those benefits justifiable.

Table 5

The following table details our discretions under the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 (as amended).

D 4(1)	Power to increase statutory redundancy payments above statutory weekly pay limit.	SPA reserves the right to increase statutory redundancy payments
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		above the weekly pay limit but will review this on a case by case basis with due regard to all the circumstances involved.
D 8(1)	Decision on whether to award compensatory added years to an individual on retirement on efficiency / redundancy Grounds.	Where SPA seeks volunteers for redundancy from employees aged over 50, employees may be offered compensatory added membership up to a maximum of 6 and 2 thirds years.
D 35	Decision to award up to 104 weeks compensation instead of compensatory added years.	In such cases, for employees aged between 50 and 64 inclusive, additional years membership may be awarded at the discretion of SPA. Employees may be offered compensatory added membership up to a maximum of 6 and 2 thirds years or, for those aged 50 – 59 inclusive, the option of a lump sum compensation payment (maximum 104 weeks pays) where a sound business case can be made for exercising this discretion. Each case will be considered on its individual merits.

List of Associated Legislation

All relevant legislation relating to this policy may be found at <http://www.legislation.gov.uk>

- The Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 (as amended)
- The Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (as amended)
- The Local Government Pension Scheme (Transitional provisions) (Scotland) Regulations 2008 (as amended)
- The Local Government Pension Scheme (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 (as amended)
- The Local Government Pension Scheme (Scotland) Regulations 2014
- The Local Government Pension Scheme (Scotland) Regulations 2018
- The Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014
- The Local Government Pension Scheme (Scotland) Regulations 1998 (as amended)
- The Local Government Pension Scheme (Scotland) Regulations 1987 (as amended)