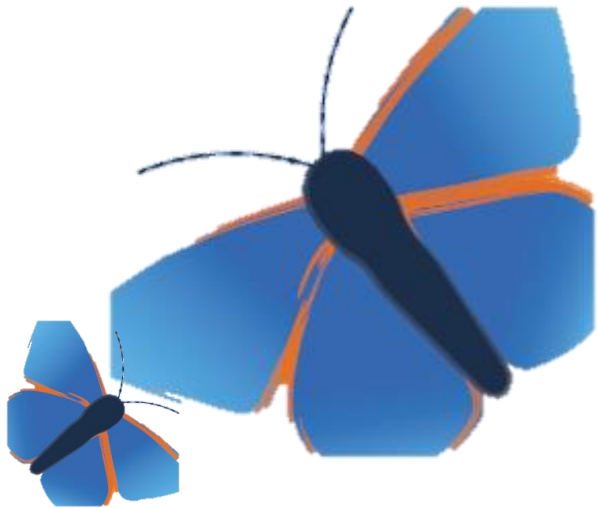




# LGPS employer discretions

**Dorset County Pension Fund  
March 2019**



# Why have discretions?

Statutory national scheme

Rules laid out in legislation

Discretions provide local flexibility

## Considerations

- Maintaining confidence in public service
- Costs and meeting those costs
- Avoiding fettering the use of discretions
- Avoiding discrimination
- All employers are different

## Administration Regulation 60

### Employers must prepare a written statement to cover Benefit Regulations:

- Contribute to a shared cost APC
- Apply 85 Year Rule before age 66
- Flexible Retirement
- Waiving actuarial reductions
- Additional pension
- Early payment of deferred benefits
- Early payment of suspended tier 3 ill health pension

# Discretions

Regulation	Policy Decision
<p><b>Regulations 16(2)(e) and 16(4)(d) of the LGPS Regulations 2013</b></p> <p><u>Power of employing authority to contribute to a shared cost APC scheme</u></p> <p>Whether, where an active member wishes to purchase extra annual pension of up to £6,822 (figure at 1 April 2018) by making additional pension contributions (APCs), to <b>voluntarily</b> contribute towards the cost of purchasing that extra pension via a shared cost additional pension contribution (SCAPC)</p>	

- Meeting the cost
- SCAPC reduced if member retires early – except under ill health
- Does not relate to SCAPC for unauthorised unpaid leave buy back

# Discretions

Regulation	Policy Decision
<p><b>Sch 2, para 1 (1) (c) [TP]</b></p> <p><u>Power of employing authority to apply 85 Year Rule (always excludes flexible retirement) upon the voluntary early payment of deferred benefits</u></p> <p>Whether to "switch on" the 85 Year Rule for a member voluntarily drawing benefits on or after age 55 and before age 60.</p> <p>Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits where the employer has "switched on" the 85 Year Rule for a member voluntarily drawing benefits on or after age 55 and before age 60.</p>	

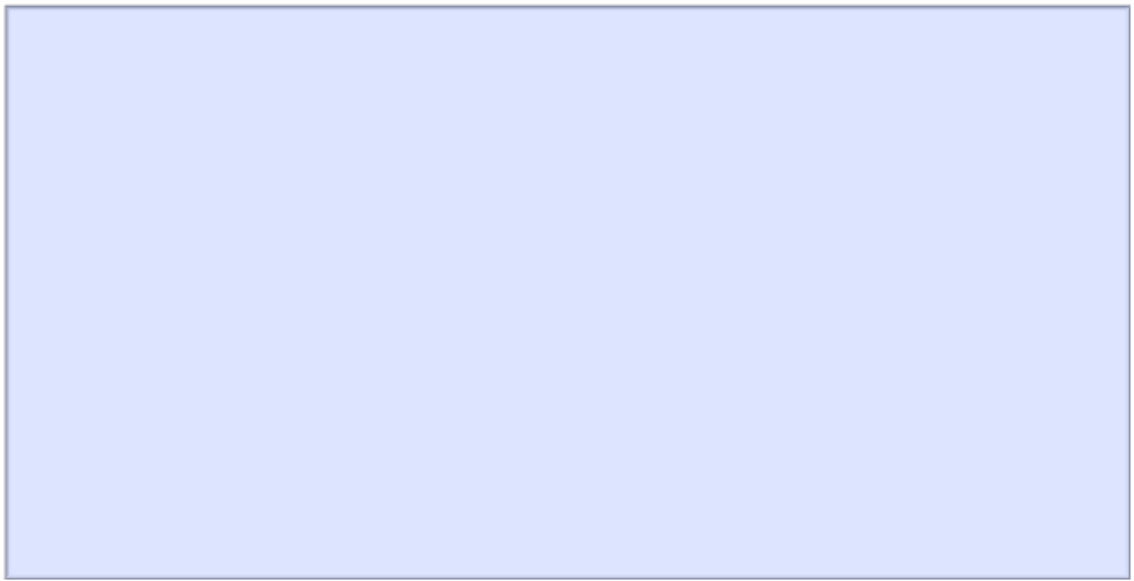
- Applying 85 Year Rule may cause a cost to employer
- Waiving actuarial reductions will be more expensive
- Could help to encourage members to retire early
- Compassionate grounds – employer reputation?  
Definition of compassionate?

# Discretions

Regulation	Policy Decision
<p><b>Regulation 30 (6) [R]</b></p> <p><u>Flexible retirement</u></p> <p>Whether all or some benefits can be paid if an employee aged 55 or over reduces their hours or grade (flexible retirement)</p> <p>whether, in addition to the benefits the member has accrued prior to 1 April 2008 (which the member must draw), to permit the member to choose to draw</p> <ul style="list-style-type: none"><li>▪ all, part or none of the pension benefits they accrued after 31 March 2008 and before 1 April 2014, and / or</li><li>▪ all, part or none of the pension benefits they accrued after 31 March 2014</li></ul> <p>Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement.</p>	

- Flexible retirement may have a cost to employer
- Could create efficiency savings
- Waiving of actuarial reductions for employers under NPA would have a cost to employer

# Discretions

Regulation	Policy Decision
<p><b>Regulation 30 (8) [R]</b></p> <p><u>Power of employing authority to waive actuarial reduction</u></p> <p>Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age.</p>	

- Cost to employer
- Can cost be offset against gain for employer?

# Discretions

Regulation	Policy Decision
<p><b>Regulation 31 [R]</b></p> <p><u>Power of employing authority to grant additional pension</u></p> <p>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 maximum amount).</p>	

- Gender and Age equality
- Additional pension actuarially equivalent to the value of any lump sum termination payment (in excess of the redundancy payment)
- Annual Allowance / Lifetime Allowance
- Benefits are reduced, unlike main scheme



# Discretions – written policy not compulsory

Regulation	Policy Decision
<p><b>Regulation 9 &amp; 10 [R]</b></p> <p><u>Contributions payable by active members</u></p> <p>How the pensions contribution band 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 the Scheme employer will, in addition to the review each April, review the pension contribution band to which an employee has been allocated following a material change which affects the member's pensionable pay in the course of a Scheme year</p>	

- Casual members
- Over time
- Re-attribution throughout the year

# Discretions – written policy not compulsory

Regulation	Policy Decision	Regulation	Policy Decision
<p>Regulation 22 (7) (b) and (8) &amp; 10(6) [TP]</p> <p><u>Facility to extend time limits for active members to not aggregate deferred periods of LGPS membership</u></p> <p>Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with a new employment or ongoing concurrent employment.</p>		<p>Regulation 100 (6) [R]</p> <p><u>Facility to extend time limits for active members to request a transfer of previous pension rights into the LGPS</u></p> <p>Where an active member requests to transfer previous pension rights into the LGPS, the member must make a request within 12 months of becoming an active member. Employers, with agreement of Administering Authority, may allow a longer period than 12 months.</p> <p>JOINT DISCRETION WITH ADMINISTERING AUTHORITY</p>	

May be reasonable to accept a late election

Did the employer ensure the member was aware?

Original election lost in post

Transfer / Aggregation will increase member's pension liability

# Discretions – written policy not compulsory

Regulation	Policy Decision
<p><b>Reg 17 &amp; 15(2A) [TP]</b></p> <p><u>Power of employing authority to determine whether to, how much and in what circumstances to contribute to a shared-cost Additional Voluntary Contribution (SCAVC) arrangement</u></p>	

Increase member's pension  
Saving to employer with NI contributions  
Can be used to retain or recruit

# Discretions – written policy not compulsory

Regulation	Policy Decision
<p><b>Reg 17 &amp; 15(2A) [TP]</b></p> <p><u>Power of employing authority to determine whether to extend the time limit for a member to elect to purchase additional pension by way of a shared cost additional pension contribution (SCAPC) upon return from a period of absence</u></p> <p>Whether to extend the 30 day deadline for member to elect for a SCAPC upon return from a period of absence from work with permission with no pensionable pay (otherwise than because of illness or injury, relevant child-related leave or reserve forces service leave)</p>	

Able to use employer discretion

Was the member aware of timescales?

# Discretions – written policy not compulsory

Regulation	Policy Decision
<p><b>Reg 21(4)(a)(iv), 21(4)(b)(iv) and 21(5) [R]</b></p> <p><u>Power of employing authority to determine whether to include a regular lump sum payment when calculating assumed pensionable pay (APP)</u></p>	
Regulation	Policy Decision
<p><b>Reg 21(5A) and 21(5B) [R]</b></p> <p><u>Power of employing authority to determine whether, subject to qualification, to substitute a higher level of pensionable pay when calculating assumed pensionable pay (APP)</u></p>	

The aim is to achieve an Assumed Pensionable Pay figure which is fair, equitable and justifiable

## Employers must also:

- Send a copy to Dorset Pension Fund
- Publish the Statement
- Keep it under review
  - Send copy & publish within 1 month



# Other discretions

There are a variety of other employer discretions in the regulations, which do not require a written policy

It may be advisable to include a written policy to avoid appeals and to make processes easier



# Help on formulating your policy

- Policy guidance notes
- Discretions template
- List of LGPS discretions

All available at

<https://dcpfemployers.org/employer-discretions/>





# Help on formulating your policy

- How else can we help?

