



LAURUS

—
TRUST

Discretionary Policy

Policy Title and Summary	Discretionary
Author	Jen Jenkins
Last Review Date	December 2020
Next Review Date	December 2023
Reviewed By	J Jenkins W Mason W Eastwood S Carty
Date and Responsibility of next update/review	The Discretionary Policy will be monitored and reviewed every 3 years unless legislative changes
Trade Union Consultation	TBA
Ratification Date	24/03/2021
Audience	All Support Staff employees
Equality Impact Assessment	
Related Documents	Flexible Retirement Policy
Legal Framework	Local Government Pension Scheme Regulations 2013 [SI 2013/2356] Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] Equality Act 2010
Glossary	

Contents

Content	Page number
Introduction	4
Scope	4
Principles	5
Roles	5
Mandatory Discretions	5
Non-Mandatory Discretions	8
Summary of the discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to members (excluding councillor members) who ceased active membership between 1 April 2008 and 31 March 2014	9
Summary of the discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to active and deferred councillor members and any other members who ceased active membership between 1 April 1998 and 31 March 2008	10
Summary of the discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to members who ceased active membership before 1 April 1998	11
Summary of the discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006	11
Summary of the discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000	12
Summary of the discretions to be exercised under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011	13

Introduction

The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014 so that benefits for service after 31 March 2014, build-up on a defined benefit career average revalued earnings (CARE) basis, rather than on a defined benefit final salary basis.

The provisions of the CARE scheme, together with the protections for members' pre 1 April 2014 final salary rights, are contained in the Local Government Pension Scheme Regulations 2013 [SI 2013/2356] and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525].

Scheme employers participating in the LGPS in England or Wales must formulate, publish and keep under review a statement of policy on all mandatory discretions (or where the discretion is non-mandatory, are recommended to) which they have the power to exercise in relation to members of the CARE Scheme and earlier schemes.

Scheme employers are also required to formulate, publish and keep under review a statement of policy on all other mandatory discretions (or where the discretion is non-mandatory, are recommended to) they may exercise in relation to members of the LGPS.

Scope

1. **Prepare, publish and keep under review a written statement of policy under the LGPS Regulations:**
 - The 2014 Scheme Regulations – regulation 60 of the LGPS Regulations 2013 and paragraph 2(2) of Schedule 2 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014,
 - The 2008 Scheme Regulations – regulation 66 of the LGPS (Administration) Regulations, and
 - LGPS Regulations 1997 – regulation 106
2. **The Laurus Trust** must formulate, publish and keep under review a statement of their policy concerning all mandatory discretions under these regulations.
3. There are a number of non-mandatory discretions which Scheme employers may exercise under these regulations. There is, however, no requirement to have a written policy in respect of these but there are some where it would be appropriate for Scheme employers to have a written policy in order that both members and the Pension Fund administering authority can be clear on the Scheme employer's policy on these matters. These are described herein under the heading of 'non-mandatory discretion'.
4. **Prepare, publish and keep under review a written statement of policy under the Discretionary Compensation and Injury Allowance Regulations:**
 - The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 – Regulation 7,
 - The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 – Regulation 26, and
 - The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 – Regulation 14.
5. Each employing authority (other than an Admitted Body) must formulate, publish and keep under review a statement of their policy concerning all mandatory discretions under these regulations.
6. The Trust as an LGPS Employer, is legally required to provide employees and LGPS scheme members with information regarding their decision to include or omit many of the

following discretions in their LGPS scheme. Additional discretions are also included which are non-mandatory but have been included as best practice and for transparency.

Principles

1. The purpose of this policy is to set out the approach that the Laurus Trust will take to deal with certain discretionary decisions in respect of the LGPS.
2. To ensure value for money and financial stability, The Laurus Trust has adopted an approach that befits the size, finances and current staffing levels at the Trust. In addition, the decisions regarding the discretionary powers have been taken to ensure the affordability of the scheme to all members.
3. This policy confers no contractual rights and the Laurus Trust retains the right to change this policy at any time subject to the Board of Trustees approval.
4. Only the policy which is current at the time a relevant event occurs to the scheme member will be the one applied to that member.
5. The Laurus Trust is committed to equality and this policy has been created in accordance with anti-discrimination laws, the Equality Act 2010 and with regard to Age Regulations.
6. The LGPS is administered on a regional basis, often based on Local Authority area. Which LGPS an employee is a member of for administrative purposes will depend on the Local Authority in which the school they work is situated. The discretions outlined below apply equally to all LGPS members in all schools within the Trust and in all Local Authority areas.

Roles

Key roles and responsibilities

1. The Board of Trustees has overall responsibility for the implementation and monitoring of the LGPS Discretionary Policy at the Laurus Trust.
2. The Board of Trustees has responsibility for ensuring that the LGPS Discretionary Policy, as written, does not discriminate on any grounds, including but not limited to: age, ethnicity/national origin, culture, religion, gender, disability or sexual orientation.
3. The Board of Trustees has overall responsibility for handling complaints regarding this policy as outlined in the Complaints Policy.
4. In the first instance, complaints should be directed to the Chief Financial Officer.
5. The Chief Financial Officer has responsibility for the day-to-day implementation and management of the LGPS Discretionary Policy at The Laurus Trust.
6. Staff members enrolled on the LGPS will be responsible for following the LGPS Discretionary Policy.

Mandatory discretions

1. Mandatory discretion - whether to grant extra annual pension?

Whether, at full cost to the Scheme employer, to grant extra annual pension of up to £6,822 (figure at 1 April 2018) to an active member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency [regulation 31 of the LGPS Regulations 2013].

The LGPS 2014 Regulations state that the Trust may agree, at its own cost, to award a member additional membership up to a maximum of ten years. It is not the Laurus

Trust's general policy to grant additional pension to scheme members under this regulation. The Trust will only consider doing so in cases where there is a clear financial or administrative advantage to the Trust and with the expressed permission of the Board of Trustees.

Note: The figure of £6,822 p.a. will be increased each April under the Pension (Increase) Act 1971.

2. Mandatory discretion - whether to share the cost of purchasing additional pension (SCAPC)?

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 **voluntarily** contribute towards the cost of purchasing that extra pension via a shared cost additional pension contribution (SCAPC) [regulations 16(2)(e) and 16(4)(d) of the LGPS Regulations 2013].

The Trust will only consider doing so in exceptional circumstances and with the approval of the Board of Trustees.

3. Mandatory discretion - whether to permit flexible retirement?

Whether to permit flexible retirement for staff aged 55 or over who, with the agreement of the Scheme employer, reduce their working hours or grade [regulation (6) of the LGPS Regulations 2013] and, if so, as part of the agreement to permit flexible retirement

The LGPS 2014 Regulations state that the Trust may agree, at its own cost (if there is any) for a member aged 55 or over, who reduces their grade, hours of work, or both, to receive all or part of their LGPS benefits immediately, even though they have not left the Trust's employment. The Trust will only consider doing so in cases where there is a clear financial or administrative advantage to the Trust and with the approval of the Board of Trustees. For an employee to retire on flexible grounds there must be a change to their conditions of employment and their pay must be adjusted to reflect these amendments. The anticipated amendments to employment would need to result in a pay reduction and we would expect a 'significant' reduction in hours with a guide of around 25%.

4. Whether to 'switch on' the 85 year rule (always excludes flexible retirement) upon the voluntary early payment of deferred benefits?

Whether, as the 85 year rule does not (other than on flexible retirement) automatically fully 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 [paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]. Where the Scheme employer **does not do so**, then:

a) if the member has already met the 85 year rule, the member's benefits are to be reduced in accordance with actuarial guidance issued by the Secretary of State (with the benefits from any pre 1 April 2008 membership for members who will not be 60 or more on 31 March 2016, and benefits from any pre 1 April 2016 membership for members who will be 60 or more on 31 March 2016, which would not normally have been subject to an actuarial reduction nonetheless being subject to a reduction calculated by reference to the period between the date the benefits are drawn and age 60) [paragraphs 1(2) and 1(4) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014], or

b) if the member has not already met the 85 year rule, the member's benefits are to be reduced in accordance with actuarial guidance issued by the Secretary of State (with the reduction on that part of the member's benefits subject to the 85 year rule being calculated by reference to the period between the date the benefits are drawn and age 60, or the date of attaining the 85 year rule, whichever is the later), and

c) the Scheme employer can exercise a discretion to waive any actuarial reductions (including where an actuarial reduction may still be applied to a member's benefits after 'switching back on' the 85 year rule in full) (at cost to the Scheme employer).

The Trust will only consider "switching on" the rule of 85 in cases where there is a clear financial or administrative advantage to the Trust and with the approval of the Board of Trustees.

5. Whether to waive upon the voluntary early payment of benefits, any actuarial reduction on compassionate grounds or otherwise.

For active members voluntarily retiring on or after age 55 and before Normal Pension Age, who elect under regulation 30(5) of the LGPS Regulations 2013 to immediately draw benefits, and for deferred members and suspended tier 3 ill health pensioners who elect under regulation 30(5) of the LGPS Regulations 2013 to draw benefits (other than on ill health grounds) on or after age 55 and before Normal Pension Age, and who:

- **Group 4 members**

Were **not** members of the LGPS before 1 October 2006, whether to:

- waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits, if any, built up before 1 April 2014 [regulations 3(1) and (5) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 and regulations 30(5) or 30A(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007], and / or
- waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits built up after 31 March 2014 [regulation 30(8) of the LGPS Regulations 2013].

- **Group 1 members**

Were members of the LGPS before 1 October 2006 and who reached age 60 before 1 April 2016 (i.e. those members falling within paragraph 3(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014), whether to:

- waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits built up before 1 April **2016** [paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014], and / or
- waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits built up after 31 March **2016** [regulation 30(8) of the LGPS Regulations 2013].

- **Group 3 members**

Were members of the LGPS before 1 October 2006 and who will reach age 60 after 31 March 2020 (or who would reach age 60 between 1 April 2016 and 31 March 2020 inclusive, but who would not meet their Critical Retirement Age (CRA) before 1 April 2020 - in this instance CRA is the earlier of the date upon which the member would meet the 85 year rule or age 65) (i.e. those members falling within

paragraph 3(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014), whether to:

- waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits built up before 1 April 2014 [paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 re the membership before 1 April 2008 and regulations 3(1) and (5) of, and paragraph 2(1) of Schedule 2 to, the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 and regulation 30(5) or 30A(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 re the membership between 1 April 2008 and 31 March 2014], and / or
- waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits built up after 31 March 2014²⁸ [regulation 30(8) of the LGPS Regulations 2013].

- **Group 2 members**

Were members of the LGPS before 1 October 2006 and who will reach age 60 between 1 April 2016 and 31 March 2020 inclusive and who will also reach their Critical Retirement Age (CRA) (in this instance CRA is the earlier of the date upon which the member would meet the 85 year rule or age 65) before 1 April 2020 (i.e. those members falling within paragraphs 3(2) and 9 of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014), whether to:

- waive on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits built up before 1 April **2020** [paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014], and / or
- waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits built up after 31 March **2020** [regulation 30(8) of the LGPS Regulations 2013].

The Trust may agree, at its own cost, for a member aged 55 or over, who leaves its employment without an automatic entitlement to immediate LGPS benefits, to receive their benefits immediately. The Trust will only consider doing so in exceptional circumstances and with the approval of the Board of Trustees.

The Trust will consider applications made under this Regulation having regard to the particular circumstances surrounding the case. Decisions will be made on the merits of each case having particular regard to:

- The Trust's ability to meet the cost of granting such a request
- The member's personal circumstances

Non-mandatory discretions

1. Non-mandatory discretion - whether to extend the 12 month time limit for a member to elect to transfer pension rights from another registered pension scheme into the Scheme?

Whether, **with the agreement of the Pension Fund administering authority**, to permit a member to elect to transfer pension rights from another registered pension scheme into the LGPS, if they had not made such an election to do so within 12 months of first joining the LGPS in that employment [regulation 100(6) of the LGPS Regulations 2013].

The Trust will only allow an extension to the 12-month period to combine previous non-local government service where it can be shown that the member was not provided with the required information within 6 months of starting at the Trust.

2. **Non-mandatory discretions – whether to extend the 12 month time limit for a member to elect not to aggregate Post 31 March 2014 (or combinations of Pre April 2014 & Post March 2014) deferred benefits?**

Whether to extend the 12 month time limit within which a member who has a deferred LGPS benefit in England or Wales following the cessation of employment (or cessation of a concurrent employment) **after** 31 March 2014 may elect **not to have** their deferred benefits aggregated with their new LGPS employment (or ongoing concurrent LGPS employment) if the member has not made an election to retain separate benefits within 12 months of commencing membership of the LGPS in that new employment (or within 12 months of ceasing the concurrent membership) [regulations 22(7) and (8) of the LGPS Regulations 2013]. Aggregated periods of service: Members should be specifically asked, and their response recorded and dated, within the first 12 months of employment.

The Trust will only allow an extension to the 12-month period to combine previous non-local government service where it can be shown that the member was not provided with the required information within 6 months of starting at the Trust.

3. **Non-mandatory discretions – how an employee’s contribution band will be initially determined and thereafter reviewed?**

How the pension 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 (1 April to 31 March) [regulations 9 and 10 of the LGPS Regulations 2013].

The Trust will review all employees’ contribution bands as at 1 April each year. However, if during the year the member has been promoted on a permanent basis or their hours have changed and as a result of this their revised salary falls into a higher or lower contribution banding they will be allocated to that banding with immediate effect.

Summary of the discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to members (excluding councillor members) who ceased active membership between 1 April 2008 and 31 March 2014

1. **Mandatory discretion – *NEW*: whether to ‘switch on’ the 85 year rule upon the voluntary early payment of deferred benefits?**

Whether, as the 85 year rule does not automatically fully apply to members who would otherwise be subject to it and who choose to voluntarily draw their deferred benefits (on or after 14 May 2018) on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members [paragraph 1(1)(c) & 1(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014].

The Laurus Trust will consider the exercise of this discretion on a case by case basis.

2. **Mandatory discretion – *NEW*: whether to ‘switch on’ the 85 year rule upon the voluntary early payment of a suspended tier 3 ill health pension?**

Whether, as the 85 year rule does not automatically fully apply to members who would otherwise be subject to it and who choose to voluntarily draw their suspended tier 3 ill health pension (on or after 14 May 2018) on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members [paragraph 1(1)(c) & 1(2) of Schedule

2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]. For more information see paragraph 4 within the section titled 'Summary of the key discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to active members (excluding councillor members) and members (excluding councillor members) who cease active membership after 31 March 2014'.

The Laurus Trust will consider the exercise of this discretion on a case by case basis.

3. Mandatory discretion - whether to waive upon the voluntary early payment of deferred benefits, any actuarial reduction on compassionate grounds?

Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65 [regulation 30(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014].

This discretion will only be considered in exceptional circumstances.

4. Mandatory discretion - whether to waive upon the voluntary early payment of a suspended tier 3 ill health pension, any actuarial reduction on compassionate grounds?

Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to any suspended tier 3 ill health pension benefits which are brought back into payment before age 65 [regulation 30A(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014].

This discretion will only be considered in exceptional circumstances.

Summary of the discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to active and deferred councillor members and any other members who ceased active membership between 1 April 1998 and 31 March 2008

1. Mandatory discretion – *NEW*: whether to 'switch on' the 85 year rule upon the voluntary early payment of deferred benefits?

Whether, as the 85 year rule does not automatically fully apply to members who would otherwise be subject to it and who choose to voluntarily draw their deferred benefits (on or after 14 May 2018) on or after age 55 and before age 60, to switch the 85 year rule back on in full for such members [paragraph 1(1)(f) & 1(2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]. For more information see paragraph 4 within the section titled 'Summary of the key discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to active members (excluding councillor members) and members (excluding councillor members) who cease active membership after 31 March 2014'.

The Laurus Trust will consider the exercise of this discretion on a case by case basis.

2. Mandatory discretion – *AMENDED*: whether to grant early payment of benefits on or after age 50 and prior to age 55?

Whether to grant applications for the early payment of pension benefits on or after age 50 and before age 55 [regulation 31(2) of the LGPS Regulations 1997].

All applications will be sensitively and carefully considered by the Laurus Trust, who will assess a detailed business case for the retirement.

3. Mandatory discretion - whether to waive upon the payment of benefits, any actuarial reduction on compassionate grounds?

Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to benefits which are paid before age 65 [regulation 31(5) of the LGPS Regulations 1997 and paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014]. For more information see paragraph 5 within the section titled 'Summary of the key discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to active members (excluding councillor members) and members (excluding councillor members) who cease active membership after 31 March 2014'.

This discretion will only be considered in exceptional circumstances.

Summary of the discretions to be exercised on and after 1 April 2014 (as at 14 May 2018) in relation to members who ceased active membership before 1 April 1998

1. Mandatory discretion - whether to grant early payment of benefits on compassionate grounds?

Whether to grant applications for the early payment of deferred pension benefits on or after age 50 and before NRD on compassionate grounds [regulation D11(2)(c) of the LGPS Regulations 1995].

The Laurus Trust will consider the exercise of this discretion on a case by case basis.

Summary of the discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006

1. Mandatory discretion - whether to base redundancy payments on an actual week's pay where this exceeds the statutory week's pay limit?

Whether to base a redundancy payment on an employee's actual weeks' pay where this exceeds the statutory week's pay limit of, currently, £508 per week (as at 6 April 2018) [regulation 5 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006].

Costs relating to redundancy, whether enhanced or not are initially based on statutory redundancy pay (based on actual weeks' pay).

2. Mandatory discretion - whether to award lump sum compensation of up to 104 week's pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment?

Whether to make a termination payment (inclusive of any redundancy payment) of up to a maximum of 104 weeks' pay to an employee who is, or is eligible to be, a member of the LGPS and whose employment is terminated on the grounds of redundancy or in the interests of the efficient exercise of the employer's functions or, in the case of a joint appointment, because the other holder of the appointment has left it [regulation 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006].

The calculation for statutory redundancy pay is based on an Continuous Service, the employee's age and weekly pay. The employee is entitled to 0.5 week's pay for each full year of service where the employee is under 22, 1 week's pay for each full year of service where the employee is between 22 and 41, or 1.5 week's pay for each full year of service where the employee's age is 41 or above, up to a maximum of 20 years' service.

Summary of the discretions to be exercised under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000

1. Mandatory discretion - whether and to what extent to reduce or suspend a person's annual compensatory added year's payment during any period of re-employment in local government and thereafter?

How a person's annual compensatory added years payment 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 the LGPS in the new employment) [regulations 17 and 19 - Parts VI and VII of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000].

The Laurus Trust will consider this on a case by case basis.

2. Mandatory discretion - how to apportion any surviving spouses or civil partner's annual compensatory added years' payment?

How any surviving spouse's or civil partner's annual compensatory added years is to be apportioned where the deceased person is survived by more than one spouse or civil partner [regulation 21(4) of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000].

The Laurus Trust will consider this on a case by case basis.

3. Mandatory discretion - whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid following remarriage, commencement of a new civil partnership or cohabitation?

Whether, if the spouse or civil partner of a person who ceased employment before 1 April 1998 remarries, enters into a civil partnership or cohabits after 1 April 1998, the normal annual compensation suspension rules will be disapplied i.e. the spouse's or civil partner's annual compensatory added years will continue to be paid [regulation 21(5) of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000].

The Laurus Trust will consider this on a case by case basis.

4. Mandatory discretion - whether the spouse's or civil partner's annual compensatory added years payments should be reinstated following the cessation of a remarriage, a new civil partnership or cohabitation?

If, under the preceding decision, the employer's policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual compensatory added years payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation [regulation 21(5) of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000].

The Laurus Trust will consider this on a case by case basis.

5. Mandatory discretion – whether to suspend the payment of annual compensatory added years where the spouse or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partners annual CAY payment?

Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries or cohabits or enters

into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partners annual CAY payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or co-habitation lasts, should be disapplied i.e. whether the spouses' or civil partners' annual CAY payments should continue to be paid to both of them [regulation 21(7) of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000].

The Laurus Trust will consider this on a case by case basis.

6. Mandatory discretion - how to decide to whom any children's annual compensatory added years payments are to be paid (and apportioned) where children's pensions are not payable under the LGPS?

How, if compensatory added years were awarded to an employee who was not in the LGPS (because the employee had not joined or had opted out of the LGPS) the employer will decide to whom any children's annual compensatory added years payments are to be paid and, in such a case, how the annual added years will be apportioned amongst the eligible children cohabitation [regulation 25(2) of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000].

The Laurus Trust will consider this on a case by case basis.

Summary of the discretions to be exercised under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011

1. Mandatory discretion – whether to pay an injury award and in what circumstances?

Whether to make an injury award to those who sustain an injury or contract a disease as a result of anything they were required to do in performing the duties of their job and in consequence of which they:

- suffer a reduction remuneration, or
 - cease to be employed as a result of an incapacity which is likely to be permanent and which was caused by the injury or disease, or
 - die leaving a surviving spouse, civil partner, cohabiting partner (for awards made on or after 1 April 2008 the requirement to nominate a co-habiting partner has ceased due to the outcome of the *Elmes v Essex* high court judgement) or dependant.
- [regulations 3 to 7 of the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011].

The Trust will consider each case on its merits using the criteria listed in the **LGPS** Injury Allowance Payment Scheme and with the approval of the Board of Trustees.

2. Mandatory discretion – how to determine the amount of an injury award and for how long it will be paid?

How it will determine the amount of injury allowance to be paid and for how long to continue payment [regulations 3 to 7 of the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011].

The Trust will consider each case on its merits using the criteria listed in the **LGPS** Injury Allowance Payment Scheme and with the approval of the Board of Trustees.