



Statement of Policy on Administering Authority LGPS Discretions (Draft)

December 2023

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1. Introduction

Derbyshire County Council, as the administering authority for the Derbyshire Pension Fund (the Fund), has determined its discretionary policies in accordance with the Local Government Pension Scheme Regulations 2013, as amended, and related legislation.

The Fund's full administering authority discretions policies are set out in this statement.

The policies will apply to all current members, including pension credit members, in the Fund. Where relevant, the policies also apply to members who have left pensionable service, including councillor members.

In all cases, the discretion outlines the normal approach the Fund will use but the Fund reserves the right to waiver from a discretion stated in extraordinary circumstances where the Fund deems it appropriate and reasonable to do so.

The discretions held within this policy originate from various versions of the LGPS Regulations and related legislation, as listed.

The Committee [considered] this updated Statement of Policy at its meeting on 6 December 2023.

The Committee retains the right to review and change the policies at any time and will ensure that any amended policy will be published within one month of changes coming into force.

The policies do not grant any contractual rights to any member of the Fund, and the discretions set will be applied in line with the provisions of existing LGPS Regulations and related legislation.

The policies will be reviewed as required in the light of future changes to the LGPS and / or other relevant legislation, or at least every three years.

Key to legislation referenced in the policy

- **2013** - The Local Government Pension Scheme Regulations 2013
- **2014 (Transitional Provisions)** - The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014
- **2008 (Admin)** - The Local Government Pension Scheme (Administration) Regulations 2008
- **2008 (Transitional Provisions)** - The Local Government Pension Scheme (Transitional Provisions) Regulations 2008
- **2007 (Benefits)** - The Local Government Pension Scheme (Benefits, Membership, and Contributions) Regulations 2007
- **1997** - The Local Government Pension Scheme Regulations 1997
- **1995** - The Local Government Pension Scheme Regulations 1995
- **2011 Registered Pension Schemes** - The Registered Pension Schemes (Modification of Scheme Rules) Regulations 2011

2. Governance of the Fund - Key Strategies and Policies

Administering authority discretions relating to governance matters

Reference	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
1	2013 Regulation 55	Publish a Governance Policy stating how functions are delegated and whether the Administering Authority complies with guidance given by the Secretary of State	Governance Policy and Compliance Statement: derbyshirepensionfund.org.uk/ governanceandcompliance
2	2013 Regulation 58	Decide on the funding strategy for inclusion in Funding Strategy Statement.	Funding Strategy Statement (Agreed in co-operation with the Fund's actuary and in consultation with employers): derbyshirepensionfund.org.uk/fss
3	2013 Regulation 61	Publish a Communication Policy setting out the format, frequency, and method of communications, and how the Administering Authority communicates with: <ul style="list-style-type: none"> • Members • representatives of members • prospective members • employing authorities 	Communications Policy : derbyshirepensionfund.org.uk/ communications policy
4	2013 Regulation 59 (1) Regulation 59 (2)	Decide whether to have a written Pensions Administration Strategy and, if so, the matters it should include.	Pension Administration Strategy: derbyshirepensionfund.org.uk/PAS
5	2013 Regulation 80(1)(b) 2014 (Transitional Provisions) Regulation 22(1) Regulation 23	Specify information to be supplied by employers to enable the administering authority to discharge its functions	Pension Administration Strategy: derbyshirepensionfund.org.uk/PAS

6	2013 Regulation 105(2)	Decide whether to delegate any administering authority functions under the Regulations.	Administering Authority functions may be delegated where it is considered appropriate to do so.
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3. Governance of the Fund – Local Pension Board

Administering authority discretions relating to the local pension board

Reference	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
7	2013 Regulation 106(3)	Decide whether to establish a joint local pensions board (if approval has been granted by the Secretary of State).	Not applicable as Secretary of State approval has not been sought or granted for the administration and management of the Fund to be shared with another administering authority.
8	2013 Regulation 106(6)	Determine procedures applicable to the local pension board	The Pension Board's Terms of Reference are determined by the Full Council of the Administering Authority, Derbyshire County Council: derbyshirepensionfund.org.uk/pensionboard
9	2013 Regulation 107(1)	Decide appointment procedures, terms of appointment and membership of the local pension board	The Pension Board's Terms of Reference are determined by the Full Council of the Administering Authority, Derbyshire County Council: derbyshirepensionfund.org.uk/pensionboard

4. Appeals and the Adjudication of Disagreements

Administering authority discretions relating to the adjudication of disagreements

Reference	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
10	2013 Regulation 76(4) 2014 (Transitional Provisions) Regulation 23	Decide the procedure to be followed by the Administering Authority when exercising its Stage Two AADP (Application for the adjudication of disagreements procedure) functions (includes in relation to councillor members).	The administering authority has determined procedures to be followed for the appointment of Adjudicators to exercise the function of deciding on appeals at AADP Stage Two
11	2013 Regulation 79(2) 2014 (Transitional Provisions) Regulation 23	Whether the Administering Authority should appeal to the Secretary of State against an employer decision (or lack of a decision) – includes in relation to councillor members.	The Fund will appeal to the Secretary of State when there is sufficient evidence that an employer has made a decision or committed an act (or failed to act) that is both wrong in law and material, where we have been unable to persuade the employer to alter its actions (or inactions). Such matters will be decided by the Director of Finance and ICT.

5. Admission Agreements

Administering authority discretions relating to Admission Agreements for employers commencing participation in the Fund

Reference	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
12	2013 Regulation 3(1A), Regulation 3(5) Schedule 2 Part 3 Para 1	Whether to agree to an admission agreement with a body applying to be an Admission Body.	Formal agreement to admission as a scheme employer for an admission body is the delegated responsibility of the Director of Finance and ICT. The Administering Authority is required to admit bodies previously known as Transferee Admission Bodies.
13	2013 Schedule 2 Part 3 Para 14	Whether to agree that an Admission Agreement may take effect on a date before the date on which it is executed.	The Administering Authority will normally agree to an Admission Agreement taking effect before the date it is executed unless actions or inactions by the prospective admission body are deemed unreasonable and advice and guidance reflect that the agreement should not be executed.
14	2013 Regulation 4(2)(b)	Whether to agree to an admission agreement with a Care Trust, NHS Scheme employing authority or Care Quality Commission.	To be determined in consideration of the entry conditions for admission included in the Admission, Cessation and Bulk Transfer Policy. https://www.derbyshirepensionfund.org.uk/publications/policies-strategies-and-statements/admissions-cessations-and-bulk-transfer-policy.aspx
15	2013 Schedule 2 Part 3 Para 9(d)	Whether to terminate a transferee admission agreement in the event of: <ul style="list-style-type: none"> the insolvency, winding up or liquidation of the body a material breach by that body of its obligations under the admission agreement 	The Fund reserves the right to terminate any admission agreement (Community or Transferee) if the Admission Body is in breach of its obligations. This includes insolvency and failure to pay contributions. This right is included in the admission agreement.

		<ul style="list-style-type: none"> the failure by that body to pay over sums due to the Fund within a reasonable period of being requested to do so. 	
16	2013 Schedule 2 Part 3 Para 12(a)	Employees of a contractor are only entitled to remain in the LGPS whilst they continue to be employed in connection with the original services that were transferred. This expression should be defined by the Administering Authority.	The Fund defines 'Employed in connection with' as meaning "employed solely or mainly (for example, at least 75% of their time) in the management or delivery of such services as are set out in the Contract." This is included in the Admission Agreement.
17	2013 Regulation 54(1)	Whether to set up a separate admission agreement fund.	<p>The Administering Authority does not currently operate any separate admission agreement funds.</p> <p>Any proposal or legislative requirement to create an admission agreement fund would be subject to discussion between officers and the Fund's actuary.</p>

6. Employer Management

Administering authority discretions relating to the management of employers' participation in the Fund

Reference	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
18	2013 Regulation 64(2ZAB)	Whether to extend the period beyond 6 months from the date an Employer ceases to be a Scheme Employer, by which to pay an exit credit	The Fund will normally apply its discretion dependent upon the circumstances of the case, with a decision made in line with its Exit Credit Policy, which is located within the Fund's Admission, Cessation and Bulk Transfer Policy: derbyshirepensionfund.org.uk/publications/policies-strategies-and-statements/admissions-cessations-and-bulk-transfer-policy.aspx
19	2013 Regulation 64(2A)	Whether to suspend (by way of issuing a suspension notice), for up to three years, an employer's obligation to pay an exit payment where the employer is again likely to have active members within the specified period of suspension.	The Fund will consider on a case-by-case basis taking into consideration all relevant factors.
20	2013 Regulation 64(4)	Whether to obtain a revision of the rates and adjustments certificate if there are circumstances that make it likely that a Scheme Employer will be ceasing.	The Fund will determine whether a revised rates and adjustment certificate is obtained in anticipation of the termination of an admission agreement (community or transferee) or where a scheduled body is likely to cease, taking into consideration the advice of the Fund Actuary.
21	2013 Regulation 65	Whether to obtain a new rates and adjustments certificate if the Secretary of State amends the Regulations as part of the "cost sharing" valuation.	To be determined by the Fund taking into consideration the advice of the Fund's Actuary.

22	<p>2013 Regulation 68(2)</p> <p>2014 (Transitional Provisions) Schedule 2 Para 2(3) 1997 Regulation 80(5)</p>	<p>Whether to require any strain on Fund costs to be paid “up front” by an employer following:</p> <ul style="list-style-type: none"> • redundancy / business efficiency, flexible retirement, • the waiver (in whole or in part) of any actuarial reduction on voluntary or flexible retirement, or where rule of 85 is switched on before age 60. 	<p>The Fund’s policy is to recharge the full strain costs as a single lump sum in accordance with the Pension Administration Strategy</p> <p>derbyshirepensionfund.org.uk/PAS</p> <p>Director of Finance and ICT may agree exemptions from the normal practice in exceptional circumstances.</p>
23	<p>2013 Regulation 80(1)(b)</p> <p>2014 (Transitional Provisions) Regulation 22(1)</p> <p>2008 (Admin) Regulation 64(1)(b)</p>	<p>Specify information to be supplied by employers to enable the Administering Authority to discharge its functions.</p>	<p>Employers are required to provide information in accordance with the Pension Administration Strategy:</p> <p>derbyshirepensionfund.org.uk/PAS</p>
24	<p>2013 Regulation 69(1)</p>	<p>Decide frequency of payment of contributions to the Fund by employers and whether to make an administration charge.</p>	<p>The due date for employer’s contributions is the 19th of the month following the month to which they relate. Administration charges relating to Regulation 68 of the 2013 regulations are required to be paid via a single payment to the Fund unless otherwise agreed by the Director of Finance and ICT. Details relating to the payment of pension contributions by employers are set out in the Fund’s Pension Administration Strategy:</p> <p>derbyshirepensionfund.org.uk/PAS</p>
25	<p>2013 Regulation 69(4)</p>	<p>Decide the format and frequency of information from employers to accompany payments of contributions to the Fund.</p>	<p>Employers (or their payroll provider) must provide monthly remittance advice (Form CR1) to the Fund along with their payment. Details are included in the Pension Administration Strategy:</p>

			derbyshirepensionfund.org.uk/PAS
26	2013 Regulation 70 2014 (Transitional Provisions) Regulation 22(2)	Whether to issue an employer with a notice to recover additional costs incurred as a result of the employer's level of performance.	<p>The Pensions Administration Strategy sets out measures in specific areas for when underperforming employers will be issued with additional administration charges.</p> <p>The Fund reserves the right to issue charges for additional administration incurred as a result of an employer's level of performance in areas not included in the Strategy on a case-by-case basis.</p>
27	2013 Regulation 71(1)	Whether to charge interest on payments by employers which are overdue.	The Administering Authority does not currently charge interest on late payment but proactively pursues employers to remedy any arrears. However, the Fund reserves the right to include a charge in exceptional circumstances as agreed by the Director of Finance and ICT on a case-by-case basis.
28	2013 Regulation 36(3) 2008 (Admin) Regulation 56(2) 1997 Regulation 97(10)	The Administering Authority is required to approve medical advisors used by employers (for the determination of ill health benefits) – including in relation to councillor members.	The Fund will determine whether an employer's appointed Occupational Health Provider is appropriate for the provision of medical certificates regarding members' incapacity and qualified in accordance with the criteria for an Independent Registered Medical Practitioner (IRMP) set out in Schedule 1 of the 2013 Regulations.

7. Payments relating to deceased members

Administering authority discretions relating to the determination of pension benefits following the death of a scheme member

Reference	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
29	2013 Regulation 82(2) 2008 (Admin) Regulation 52(2) 1997 Regulation 95	A death grant due to a scheme member's estate, can be paid to the personal representative(s), or anyone appearing to be, without the need for grant of probate / letters of administration if the death grant is less than the amount specified in any order under Section 6 of the Administration of the Estates (Small Payments) Act 1965 (£5,000 at the time of the making of this policy). This also relates to councillor members.	The Fund will normally pay the death grant without production of grant of probate / letters of administration where the sum due is less than £5,000, subject to review.
30	2013 Regulation 34(1)(b)	Decide whether to trivially commute a lump sum death benefit under section 168 of the Finance Act 2004.	The Fund will agree to, or may choose to, pay a lump sum to a dependant in lieu of a pension where the payment is in compliance with Schedule 29 (paragraph 20) of the Finance Act 2004
31	2013 Regulations 17(12), 40(2), 43(2), 46(2) 2014 (Transitional Provisions) Regulation 17(5) to (8) 2008 (Transitional Provisions) Schedule 1 1997 Regulations 38(1), 155(4)	The Administering Authority may, at its absolute discretion, pay any death grant due (including AVCs, SCAVCs and life assurance relating to AVCs) to or for the benefit of the member's nominee, personal representatives or any person appearing to the authority to have been a relative or dependant of the member. This also relates to councillor members.	Where it is clear, having taken account of all the circumstances, payment will normally be made in accordance with the member's expression of wish. If no expression of wish has been made, the Fund will consider evidence submitted and determine the appropriate recipient, on a case-by-case basis. In accordance with the Delegation of responsibilities approved by the Committee on 29 July 2015, where the Fund's decision is or may be subject to challenge, the decision to whom payment is made is delegated to the Director of Finance and ICT, or Probate is obtained.

	<p>1995 Regulation E8</p> <p>2007 (Benefits) Regulations 23(2), 32(2), 35(2)</p>		
32	<p>2013 Schedule 1</p> <p>2014 (Transitional Provisions) Reg (b)</p> <p>2007 (Benefits) Reg 25</p>	<p>The Administering Authority must decide the evidence required to determine financial dependence of a co-habitee on a scheme member or financial interdependence between the co-habitee and the scheme member.</p>	<p>Scheme regulations do not stipulate what constitutes “evidence”. The appropriate parties will be provided with details of the evidence required by the Fund to determine financial dependence or interdependence.</p>
33	<p>2014 (Transitional Provisions) Regulations 3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b)</p> <p>2008 (Transitional Provisions) Schedule 1</p> <p>2007 (Benefits) Regulation 10(2)</p>	<p>Where member dies before making an election in respect of the use of average of 3 years pay for final pay purposes (Regulation 10 of the 2007 Benefits regulations), the Administering Authority can decide whether to make that election on behalf of the deceased member.</p>	<p>Where a member has had a reduction/restriction in pay within 10 years of date of leaving they can elect for the “final pay” to be based on the average of any 3 consecutive years in the last 13 years ending on 31 March. Where a member dies before making an election, the Fund will automatically apply the final pay period which provides the most advantageous benefits.</p>
34	<p>2014 (Transitional Provisions) Regulations 3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b)</p>	<p>Whether to make an election on behalf of a deceased member who had a certificate of protection of pension benefits so their benefits may be calculated using the best pay figure.</p>	<p>Where a member dies before making an election, the Fund will automatically apply the final pay period which provides the most advantageous benefits.</p>

35	1997 Regulation 22(7)	Whether to select an alternative final pay period for deceased non-councillor member (applies to leavers between 31 March 1998 and 1 April 2008).	Where a member died before making an election, the Fund will automatically apply the final pay period which provides the most advantageous benefits.
36	2013 Schedule 1 "Eligible Child" 2014 (Transitional Provisions) Reg 17(9)(a)	Whether to treat a child as being in continuous education or training, despite a break (including a child of a councillor member) so that the child's pension resumes after the break.	For the purposes of eligibility, the Fund will normally disregard breaks of 12 months or less including gap years, as being interruptions in full time education or training and will restart a suspended child's pension at the end of such a break or gap, providing evidence is received that education/training has resumed. During breaks in education, no children's pensions will be due.
37	1997 Regulation 47(1)	How to apportion children's pension amongst eligible children (children of councillor members and children of leavers between 31 March 1998 and 1 April 2008).	Where there is more than one eligible child, the Fund will normally divide a children's pension equally between the eligible children.
38	2007 (Benefits) Regulation 27(5) 1997 Regulation 47(2) 1995 Regulation G11(2)	Whether to pay the whole or part of a child's pension to another person for the benefit of the child (includes children of councillor members). This applies to pre-1 April 2014 leavers only.	Where a child is under 17, the Fund will normally pay his/her pension to the person who has the care of the child, to be applied for the benefit of that child.
39	1995 Regulation F7	Whether or not to suspend of spouses' pensions during remarriage or cohabitation.	The Fund will not suspend spouses' pensions due to remarriage or cohabitation and, therefore, they will be paid for life.

8. Transferring or Linking of Pension Benefits

Administering authority discretions relating to transfers and aggregation of scheme members' pension benefits

Reference	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
40	2013 Regulation 98(1)(b)	Whether to agree to the payment of a bulk transfer.	Bulk transfer terms will be negotiated and agreed on a case-by-case basis in consultation with the Fund Actuary and the Scheme employer.
41	2013 Regulation 100(6)	The Administering Authority (with the agreement of the employer) may extend the 12-month time limit for a scheme member to elect to transfer in benefits from a non-LGPS or personal pension plan.	The Fund will usually only allow transfers from Public Sector Transfer Club Schemes, provided that the application is made within 12 months of joining the Scheme. The Public Sector Transfer Club is a network of public sector pension schemes generally providing membership credits of equivalent lengths when a member transfers between them. The 12-month time limit may be extended by agreement with the Director of Finance and ICT and the employer.
42	2013 Regulation 100(7)	Whether to allow transfers of pension rights into the Fund.	
43	2014 (Transitional Provisions) Regulation 15(1)(d) 2008 (Admin) Regulation 28(2)	Whether to charge a scheme member for the provision of an estimate of the additional pension that would be provided in the Fund in return for a transfer in of in house AVC/SCAVC funds (only applies where the arrangement was entered into before 1 April 2014).	Scheme members may request one estimate in any 12-month period that is provided free of charge. In the exceptional case that a further quote is requested by the same member in the same 12-month period, the Fund reserves the right to impose an administration charge on the scheme member.
44	2014 (Transitional Provisions) Regulation 10(9)	Decide, in the absence of an election from the member within 12 months of ceasing a concurrent employment, which ongoing employment benefits from the concurrent employment which has ceased should be aggregated (where there is more than one ongoing employment).	Where a member does not make a definite election within 12 months, or a longer period as agreed, the Fund will determine which ongoing record the concurrent membership should be aggregated with.
45	1997 Regulation 118	Whether the Fund will retain the Contributions Equivalent Premium (CEP) where a scheme member transfers out to a Contracted-in pension scheme (for councillor members and pre-1 April 2008 leavers).	The CEP amount will be retained by the Fund and used towards providing the balance of benefits due to the scheme member.

9. Miscellaneous Provisions

Administering authority discretions relating to miscellaneous matters

Reference	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
46	1997 Regulation 106A(5)	The date to which benefits shown on members' Annual Benefit Statements are calculated.	Annual benefit statements for active members will be calculated as at the 31 March preceding their distribution.
47	2014 (Transitional Provisions) Regulation 3(13) 2008 (Admin) Regulation 70(1), 71(4)(c) 2008 (Transitional Provisions) Regulation 12 1997 Regulation 109, 110(4)(b)	Abatement of pensions on re-employment (applies to pre-1 April 2014 retirees only, including councillor members).	From 1 April 2014 Derbyshire Pension Fund has not abated pensions in payment based on earnings, following re-employment. Cases subject to abatement at that time are considered on a case-by-case basis.
48	2013 Regulation 22(3)(c)	The members pension account may be kept in such form as is considered appropriate.	Pension accounts are maintained on the Administering Authority's pension administration system. Appropriate measures are in place to ensure the administration system meets the requirements of the regulations.
49	2013 Regulation 83 2008 (Admin) Regulation 52A	An Administering Authority may determine how and to whom benefits may be paid if the recipient (other than an eligible child) is incapable of managing their affairs by reason of mental disorder or otherwise.	The Fund will pay benefits to the person having care of the pensioner, or such other person as they may determine where the pensioner is incapable of managing his or her affairs and where the Fund is satisfied that this would be in the best interests of the beneficiary as agreed by the Director of Finance and ICT.

50	2013 Regulation 16(1)	Whether to turn down a request to pay an APC / SCAPC by regular contributions over a period of time where it would be impractical to allow such a request, for example, due to the pension being bought resulting in very small payments	To be determined by the Fund on a case-by-case basis.
51	2013 Regulation 16(10)	Whether to require a satisfactory medical before agreeing to an application to pay an APC or SCAPC	<p>A satisfactory medical report by an Independent Registered Medical Practitioner (IRMP) is required where a member applies to purchase extra pension via an Additional Pension Contributions (APC) or Shared Cost Additional Pension Contribution (SCAPC) by instalments.</p> <p>The report should detail whether in their opinion the member is in reasonably good health to undertake APC / SCAPC's. If the IRMP determines that the member does not satisfy the requirement of being in reasonably good health, the application to pay an APC / SCAPC will be turned down.</p> <p>All costs incurred to establish that a member is in reasonably good health to undertake APC / SCAPCs are at the member's expense.</p> <p>Applications for extra pension and lost pension where payment is to be made by a single lump sum do not require a satisfactory medical report.</p>
52	2013 Regulation 32(7)	A scheme member wishing to receive benefits other than at normal pension age, or on flexible retirement, must elect to do so within certain time limits. The Administering Authority may extend these time limits.	To be determined by the Fund on a case-by-case basis.
53	2014 (Transitional Provisions) Regulation 15(1)(c)	Whether to extend the time period for a scheme member electing to capitalise remaining contributions to an added years contract in cases of redundancy.	A member may make an election to make a lump sum payment, if they stop paying added years contributions before their Normal Retirement Date on leaving their employment by reason of redundancy, at least 12 months after electing to pay them.

	2008 (Transitional Provisions) Schedule 1 1997 Regulation 83(5)		An election must be made within 3 months of the date of redundancy and may only be extended in exceptional circumstances by agreement of the Fund.
54	2013 Regulation 34(1)(a) Regulation 34(1)(c) 2007 (Benefits) Regulation 39 2008 (Transitional Provisions) Regulation 14(3) 1997 Regulations 49, 156	The Administering Authority may commute small pensions into a lump sum, where they are below limits set by HMRC.	The Fund will pay a lump sum in lieu of a pension which is below limits set by HMRC unless the member elects to continue to receive the pension as an ongoing payment under Section 166 of the Finance Act 2004, or under the regulations 6 (payment after relevant accretion), 11 (de minimis rule for pension schemes) or 12 (payments by larger pension schemes) Registered Pension Schemes (Authorised Payments) Regulations 2009.
55	2013 Regulation 49(1)(c) 2007 (Benefits) Regulation 42(1)(c)	Decide, in the absence of an election from the scheme member, which benefit is to be paid where the member would be entitled to a benefit under two or more regulations in respect of the same period of Scheme membership.	The Fund will normally use its discretion to decide on a case-by-case basis which benefit should be applied.
56	1997 Regulation 147	Whether to permit a Pension Credit to remain in the Fund or require a transfer out.	To be considered on a case-by-case basis.
57	1997 Regulations 50 and 157	Whether to commute benefits due to exceptional ill-health (applies to councillor members and pre-1 April 2008 leavers only).	The Fund will provide a member with the option to commute to a lump sum payment in lieu of a pension where the member has a serious life limiting condition.
58	2008 (Admin) Regulation 45(3) 1997	Outstanding employee contributions can be recovered as a simple debt or by deduction from benefits	Where outstanding employee contributions are not able to be collected by the employer, the Fund will consider the most appropriate method of recovery.

	Regulation 89(3)		
59	2011 Registered Pension Schemes Regulation 2	<p>To decide whether it is legally able to offer voluntary scheme pays and, if so, to decide the circumstances (if any) upon which it would do so</p> <p><i>For clarification on legality see paragraph 223 onwards of the now withdrawn LGPC Annual Allowance guide and LGPC Bulletin 154 (February 2017)</i></p>	<p>Legal advice sought by the Local Government Pensions Committee confirmed that administering authorities that are local authorities have a general power of competence under the Localism Act 2011 and have the vires to agree to a Voluntary Scheme Pays request.</p> <p>The Pensions and Investments Committee decided at its meeting on 14 June 2017 that the Fund will accept Voluntary Scheme Pays elections from members where:</p> <ul style="list-style-type: none"> • a member's pension savings within the Derbyshire Pension Fund are subject to the tapered annual allowance, and • that the member's total tax charge exceeds £2,000, and • the tapered breach stems only from the member's Derbyshire Pension Fund LGPS benefits rather than via growth in multiple pension schemes, and • the application is received in writing by Derbyshire Pension Fund by 30 November in the tax year following the year to which the tax charge relates.

10. Discretions relating to employers which no longer participate in the Fund

Administering authority discretions relating to employer decisions in respect of former employees of employers who have ceased participation in the Fund.

Reference	LGPS Regulation	Discretion	Derbyshire Pension Fund Policy
60	2013 Regulation 30(8)	Decide whether to waive, in whole or in part, the actuarial reduction on pension benefits paid on flexible retirement.	The Fund, acting as employer, will not normally waive the actuarial reduction in respect of applications for flexible retirement.
61	2013 Regulations 30(8) and 31(5) 2014 (Transitional Provisions) Reg 3(1), Schedule 2 Para 2(1) 2007 (Benefits) Regulations 30(5) and 30A(5) 1997 Regulation 31(5)	Decide whether to waive, in whole or in part, the actuarial reduction on benefits which a member voluntarily draws before normal pension age, including on compassionate grounds.	The Fund, acting as Employer, will not normally exercise this discretion but may consider it under exceptional circumstances on a case-by-case basis, taking into account the individual or business case and foreseeable costs to the Fund.
62	2013 Regulation 60 2014 (Transitional Provisions) Schedule 2 Paragraphs 1(2), 1(1)(c) and 1(1)(f)	Decide whether, to “switch on” the 85-year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of Flexible Retirement).	The Fund, acting as Employer, will not normally exercise this discretion but may consider it under exceptional circumstances on a case-by-case basis, taking into account the individual or business case and foreseeable costs to the Fund.
63	2014 (Transitional Provisions) Reg 12(6)	Whether to use a certificate produced by an Independent Registered Medical Practitioner (IRMP) under the 2008 scheme for the purposes of making an ill health determination under the 2014 scheme.	The Fund, acting as employer, will ask the IRMP to complete the correct medical certificate.

64	2013 Regulation 38(3)	Decide whether a deferred beneficiary meets the criteria of being permanently incapable of their former job because of ill health and is unlikely to be capable of undertaking gainful employment before normal pension age or for at least three years, whichever is the sooner.	The Fund, acting as employer, will make a determination taking into account the IRMP's recommendation and any further relevant information.
65	2013 Regulation 38(6)	Decide whether a suspended ill health tier 3 member is unlikely to be capable of undertaking gainful employment before normal pension age because of ill health.	The Fund, acting as employer, will make a determination taking into account the IRMP's recommendation and any further relevant information.
66	2007 (Benefits) Regulation 31(4)	Decide whether a deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria.	The Fund, acting as employer, will make a determination taking into account the IRMP's recommendation and any further relevant information.
67	2007 (Benefits) Regulation 31(7)	Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment.	The Fund, acting as employer, will make a determination taking into account the IRMP's recommendation and any further relevant information.
68	2014 (Transitional Provisions) Regulation 3(5A)(vi) 1997 (Transitional Provisions) Regulation 4 1997 Regulation 106(1) 1995 Regulation D11(2)(c)	Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds. Although the common provisions of the 1997 Transitional Provisions regulations do not specify regulation D11(2)(c) from the 1995 regulations, their intention was that it should apply to this regulation. Note – D11(2)(c) from the LGPS 1995 regulations enables an employing authority to award early payment of deferred benefits on	The Fund, acting as employer, will consider each case on a case-by-case basis.

		compassionate grounds to a member aged 50+	
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