

## The LGPS (Benefit, Membership and Contributions) Regulations 2007 (as amended) Extract from the regulations (July 2013)

**(Please check that you are applying and agreeing to the current set of regulations in operation)**

'Final Pay' general terms are within regulations 8 and 9 – 'Pensionable pay' is regulation 4

### Regulation 10: Final Pay: Reductions

- (1) Subject to paragraph (2), where a member's pensionable pay in a continuous period of employment is reduced or restricted:
  - (a) because the member chooses to be employed by the same employer at a lower grade or with less responsibility
  - (b) for the purposes of achieving equal pay in relation to other employees of that employer
  - (c) as a result of a job evaluation exercise
  - (d) because of a change in the member's contract of employment resulting in the cessation or restriction of, or reduction in, payments or benefits specified in the member's contract of employment as being pensionable emoluments or
  - (e) because the rate at which the member's rate of pay may be increased is restricted in such a way that it is likely that the rate of the member's retirement pension will be adversely affected,the member may choose to have his or her final pay calculated in accordance with paragraph (4), by giving notice:
  - (i) in writing
  - (ii) to the appropriate administering authority and
  - (iii) no later than one month prior to the date on which the member ceases active membership.
- (2) Where notice under this regulation has not been given, and a member to whom it applies has died, the appropriate administering authority may give notice on the member's behalf (whether or not the period within which the member could have given notice has expired).
- (3) Paragraph (1) does not apply if the member's employment on reduced pensionable pay:
  - (a) commences before the beginning of the period of ten years ending with the member's last day as an active member
  - (b) immediately follows a period in which the member occupies a post on a temporary basis at a higher rate of pay or
  - (c) is because the member chooses to reduce his or her hours of work or to be employed at a lower grade, for the purposes of [regulation 18](#) (flexible retirement).
- (4) Subject to [regulations 8\(3\) and 8\(4\)](#), the calculation mentioned in paragraph (1) is made by dividing by three the member's total annual pensionable pay in any three consecutive years of the member's choice, ending with 31st March, within the period of thirteen years ending with the member's last day as an active member.
- (5) Paragraph (1)(a) applies to a member who is the subject of:

- (a) a transfer to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“the TUPE Regulations”) apply or
  - (b) a transfer which is treated as if it were a relevant transfer within the meaning of regulations 2(1) and 3 of the TUPE Regulations, notwithstanding regulation 3(5) of those Regulations,
- as if the transferor employer were the same employer as the transferee authority.