



# Model Employer's Policy Statement LGPS 2015

**Employer:** CultureNL Ltd

**Lead officer (for any questions):** Frazer Simpson, HR Manager

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**Date for review:** 1 May 2021

We are aware of our obligations under:

- regulation 58 of SSI 2014 No.164, the LGPS (Scotland) Regulations 2014
- paragraph 2(2) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014
- regulation 61 of the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 (in respect of leavers between 1 April 2009 and 31 March 2015)
- regulation 105 of the Local Government Pension Scheme (Scotland) Regulations 1998 (in respect of leavers between 1 April 1998 and 31 March 2009)

In developing our policy statement, we are aware that the LGPC has produced a document called "Discretions Policies" that contains tips for employers, see:

<http://www.lgpsregs.org/index.php/scotland/admin-guides>

**Note:** \* in the following tables beside a regulation denotes the discretions where we are required to have a policy statement under the regulations

Table 1 details our discretions from 01 04 15 in relation to post 31 03 15 active members and post 31 03 15 leavers.

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 under the Local Government Pension Scheme (Scotland) Regulations 1998 (as amended) in relation to pre 01 04 09 scheme leavers.

Table 4 details our discretions under the Local Government Pension Scheme (Scotland) Regulations 1987 (as amended) 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).

## TABLE 1

**The following table details our discretions from 01 04 15 in relation to post 31 03 15 active members and post 31 03 15 leavers, being discretions under:**

- 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**]

<b>Regulation</b>	<b>Discretion</b>	<b>Employer's policy on the exercise of this discretion</b>
<b>R3(1)(b)</b>	Decide which employees to nominate for membership (admission bodies)	CultureNL has admitted body status of the LGPS and employees of Culture NL Ltd may be nominated for membership
<b>RSch 2, Part 2, para 12(c)</b>	Whether, in respect of an admission body providing a service in respect of outsourced work, to set off against payments due to that body any sums due from that body to the Fund	CultureNL Ltd will consider any instance of this discretion on its merits and on a case by case basis.
<b>R9(1) to R9(4)</b>	Determine the rate of employee's contributions	The employee's rate of contributions will be determined in accordance with these regulations
<b>R9(10)</b>	Determine intervals at which employees' contributions are to be made	The frequency of employee contributions will be determined by the relevant pay cycle.
<b>R16(2)(e)* &amp; R16(4)(d)*</b>	Whether, how much, and in what circumstances to contribute to a shared cost APC scheme	Culture NL Ltd has elected not to set up a shared cost APC scheme. Employees already have access to an AVC arrangement which accepts member only contributions.
<b>R16(16)</b>	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 because of illness or injury, child-related leave or reserve force service leave)	Not applicable – member only contribution scheme
<b>R17(1) &amp; definition of SCAVC in RSch 1</b>	Whether, and in what circumstances to contribute to a shared cost AVC scheme.	Culture NL Ltd has elected not to set up a shared cost AVC scheme. Employees already have access to an AVC arrangement which accepts member-only contributions.
<b>TP15(1)(b) &amp; L65(8) &amp; former L65(9)(b)</b>	Allow late application to convert scheme AVCs into membership credit i.e allow application more that 30 days after cessation	Culture NL Ltd will not exercise this discretion

	of active membership (where AVC arrangement was entered into before 30/6/05)	
<b>R19(2)</b>	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	Culture NL Ltd may not direct a return of contributions in the advent of an offence of a fraudulent character or grave misconduct. Each case will be considered on a case by case basis.
<b>R20(1)(b)</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 precluded will only be pensionable if specified as such in the member's contract of employment
<b>R21(5)</b>	In determining Assumed Pensionable Pay, whether a lump sum payment made in the previous 12 months is a "regular lump sum"	Culture NL Ltd will consider each individual case on its own merits, taking into consideration whether there is a reasonable expectation that such a payment would have been made on a regular basis, had absence or some other exceptional circumstances, not occurred.
<b>R29(5) &amp; (13)</b>	Whether to grant application for early payment of benefits on or after age 55 and before age 60	Culture NL Ltd will not have a general policy of granting early payment of benefits on or after age 55 and before age 60 but will consider requests on a case by case basis. Culture NL Ltd 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.
<b>R29(6)* &amp; TP11(2)</b>	Whether all or some benefits can be paid if an employee reduces their hours or grade prior to age 60 (flexible retirement)	Consideration will be given to any requests from employees aged at least 55 for flexible retirement, subject to cost, business needs etc. There must be a reduction in hours or grade that the employee undertakes, that achieves a saving equivalent to at least 40% of basic annual salary.
<b>R29(8)* and TPSch 2, para 2(1)</b>	Whether to waive, in whole or in part, any actuarial reduction on benefits paid on flexible retirement. <b>Note: any resultant strain cost from the exercise of this discretion will be charged</b>	Culture NL Ltd will not waive, in whole or in part, the actuarial reduction on the benefits paid on flexible retirement.

	<b>to the employer regardless of the member's age at date of retirement.</b>	
<b>R29(8)*</b>	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) <b>Note: any resultant strain costs due to the exercise of this discretion will be charged to the employer regardless of the employee's age.</b>	Culture NL Ltd will not waive, in whole or part, the actuarial reduction applied to benefits paid early under regulation R29(5) & (13) above.
<b>TPSch 2, paras 1(2) and 2(1)*</b>	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).	Culture NL Ltd may chose to exercise this discretion, subject to costs being affordable and subject to Chief Executive approval, on a case by case basis.
<b>TP3(1), TPSch 2, para 2(1) *</b>	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)	Culture NL Ltd will not waive, in whole or part, the actuarial reduction applied to benefits paid early.
<b>TP3(1), TPSch 2, para 2(1) and B30(5)*</b>	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 <b>not</b> subject to the 85 year rule)	Culture NL Ltd will not waive, in whole or part, the actuarial reduction applied to benefits paid early.
<b>R30*</b>	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.)	CultureNL has taken a view that there is an option to retain the discretion to award addition pension service of up to 6 2/3 ("added years"), so long as the overall cost of a redundancy / business efficiency with added years is subject to a cost/ savings test, and can demonstrate good use of public money.
<b>TP12(4)</b>	Whether to use a certificate produced by an IRMP under the 2009 Scheme for the purposes of making an ill health determination under the 2015 Scheme.	CultureNL Ltd will use a certificate produced by its IRMP under the 2009 Scheme for the purposes of making an ill health determination under the 2015 Scheme .
<b>R89(1) &amp; (8)</b>	Whether to apply to Scottish Ministers for a	Culture NL Ltd will apply for a

<b>R89(4)</b>	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 GMP – but see <b>R92</b> below)	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.
<b>R90(2)</b>	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 which the person has left the employment.	Culture NL Ltd will recover from Strathclyde Pension Fund the amount of loss in cases of criminal, negligence or fraudulent acts by a member.
<b>R92</b>	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 <b>R89</b> or recovery of a monetary obligation under <b>R90</b> should deprive the member or the member's surviving spouse or civil partner of any GMP entitlement	Culture NL Ltd 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.
<b>R96(1)(b)</b>	Agree to bulk transfer payment	Culture NL Ltd will consult with SPFO and the fund actuaries in this regard.
<b>R98(6)</b>	Extend normal time limit for acceptance of a transfer value beyond the 12 month time limit from joining the LGPS	Culture NL Ltd 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 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
<b>TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) &amp; B11(2)</b>	Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending in the 10 years prior to leaving and ending on the anniversary of the date of leaving	Culture NL Ltd will allow a member to select final pay for fees to be any three consecutive years ending 31 <sup>st</sup> March in the 10 years prior to leaving. Culture NL Ltd agree that this will automatically be done by SPFO.
<b>TP3(1)(a), A43(5)</b>	Issue a certificate of protection of pension benefits where eligible non-councillor member fails to apply for one (pay cuts / restrictions occurring pre 01 04 15)	Culture NL Ltd 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.
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**TABLE 2**

**The following table details our discretions in relation to scheme members who ceased active membership on or after 01 04 09 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**]
- the Local Government Pension Scheme (Scotland) Regulations 1998 (as amended) [prefix **L**]

<b>Regulation</b>	<b>Discretion</b>	<b>Employer's Policy on the exercise of this discretion</b>
B12*	Whether, for a member leaving on the grounds of redundancy or business efficiency on or before 31 <sup>st</sup> March 2015, to augment membership (by up to 10 years). The resolution to do so would have to be made within 6 months of the date of leaving. Hence this discretion is spent entirely after 30 <sup>th</sup> September 2015	Culture NL Ltd has chosen not to exercise 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	Culture NL Ltd 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.	Culture NL Ltd 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	CultureNL Ltd will consider any instance of this discretion on its merits and on a case by case basis.

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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.	Culture NL Ltd 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 which the person has left the employment.	Culture NL Ltd will recover from Strathclyde Pension Fund the amount of loss in cases of criminal, negligence or fraudulent acts by a member.
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	Culture NL Ltd will recover from Strathclyde Pension Fund 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 31 <sup>st</sup> March in the 10 years prior to leaving.	Culture NL Ltd will allow a member to select final pay for fees to be any three consecutive years ending 31 <sup>st</sup> March in the 10 years prior to leaving. Culture NL Ltd agree that this will automatically be done by SPFO.
B30(2)*	Whether to grant application for early payment of benefits on or after age 50/55 and before age 60	Culture NL Ltd will not have a general policy of granting early payment of benefits on or after age 50/55 and before age 60 but will consider requests on a case by case basis. CultureNL Ltd 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 09 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 09 leaver	CultureNL Ltd will not have a general policy of granting early

	for early payment of benefits on or after age 50 and before age 60	payment of benefits on or after age 50/55 and before age 60 but will consider requests on a case by case basis. CultureNL Ltd 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
30 (5)*	Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31 03 98 / pre 01 04 09 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	CultureNL Ltd will not waive, in whole or in part, the actuarial reduction on the benefits paid on flexible retirement.
30 (7A)*	Pre 01 04 09 optants out only to get benefits paid from NRD if employer agrees	CultureNL Ltd will consider any instance of this discretion on its merits and on a case by case basis.
33 (1)(b)	Decide, in the absence from a post 31 03 98 / pre 01 04 09 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	CultureNL Ltd may exercise this discretion in partnership with SPFO
70(7)(a)	Consent to a member's former employer assigning to the new employer rights under any SCAVC life assurance policy	CultureNL Ltd will consider any instance of this discretion on its 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 09 leavers)	CultureNL Ltd 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 09 leavers)	CultureNL Ltd will consider any instance of this discretion on its merits and on a case by case basis.
111(2) &(5) 112(1)	Forfeiture of pension rights on issue of Secretary of State's certificate (pre 01 04 09 leavers)  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)	CultureNL Ltd 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



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)	CultureNL Ltd will consider each instance covered by this discretion on its merits
115(2) & (3)	Recovery from Fund of financial loss caused by employee, or amount of refund if less (pre 01 04 09 leavers)	CultureNL Ltd will consider each instance covered by this discretion on its merits

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	CultureNL Ltd will not have a general policy of granting early payment of benefits on or after age 50/55 and before age 60 but will consider requests on a case by case basis. CultureNL Ltd 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	A week's redundancy pay will be calculated by reference to the employee's gross weekly contractual pay at the time of the calculation i.e. actual basic gross pay plus any contractual allowances at the time of the calculation.
D 8(1)	Decision on whether to award compensatory added years to an individual on retirement on efficiency / redundancy Grounds	CultureNL has taken a view that there is an option to retain the discretion to award addition pension service of up to 6 2/3 ("added years"), so long as the overall cost of a redundancy / business efficiency with added years is subject to a cost/

		savings test, and can demonstrate good use of public money.
D 35	Decision to award up to 104 weeks compensation instead of compensatory added years	Culture NL Ltd has chosen not to exercise this discretion.

#####ENDS#####