

4. There is, however, a provision in the Local Government Pension Scheme (Administration) Regulations 2008² which enables a pensionable employee to elect to pay pension contributions at the rate of 16% of pay in respect of a period of absence from duty because of a "trade dispute". It will be for employers to determine whether or not the absence of any particular employee falls within the definition of a trade dispute which is set out in Section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992.

Email info@lge.gov.uk

www.lge.gov.uk

Managing Director Jan Parkinson

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Registered office: Local Government Employers, 25, Old Bailey, London EC4A 3DF

5. If an employee wishes to make a payment so that the service counts for pension purposes, he/she must elect³ to do so within 30 days of the date he/she returns to work (or ceases employment without returning to work)⁴ following the end of the trade dispute⁵, although the Employing Authority may extend this time limit.
6. The payment to be made by the employee is the equivalent of 16% of the employee's 'lost pay' i.e. the difference between the pay the person actually receives (if any) and the pay he / she would have received but for the absence, disregarding any guarantee payments under Part III of the Employment Rights Act 1996. If the 16% payment is made by the employee, the period of absence will count as a period of membership in the LGPS. No employer contributions are due from the Employing Authority in respect of that period.
7. The regulations do not prescribe how the 16% payment is to be made and it is open to the Employing Authority to require payment in one sum or to accept payment by instalments. The payment will attract full tax relief in the same way as normal contributions (provided, if the employee leaves, the payment is not made after the date of leaving).

² See regulation 20 of the Local Government Pension Scheme (Administration) Regulations 2008



³ If a person dies before making an election within the relevant time limit, the person's personal representatives may make the election.

⁴ If a person's contract of employment is terminated because of a trade dispute and, not later than the day after the trade dispute ends, becomes re-employed by the same employer and rejoins the LGPS, he/ she can elect, within 30 days of returning to work following the strike period (or such longer period as the Employing Authority may allow) to pay the 16% strike contribution.

⁵ Note: where a person goes on strike, returns to work, and then has a further day / days on strike which form part of the same trade dispute, the 30 days commences when he / she returns to work (or ceases employment without returning to work) following the last day of strike in that trade dispute period.

8. It is important to note that employees who have a contract to pay additional contributions to uprate pre-1st April 1972 service for lump sum purposes, or who have a contract to buy "added years", or who have a contract to pay Additional Regular Contributions (ARCs) must pay the additional contributions due under the contract on the pay they would have received had they not been on strike regardless of whether or not they opt to pay the 16% strike contribution.⁶ Also, any Additional Voluntary Contributions (AVCs) or Shared-Cost AVCs that are being paid to provide additional life cover ought to continue in order to ensure that life cover does not lapse.

Actions to be taken by Employing Authorities

9. Employing Authorities should inform those members of the LGPS who are absent from duty due to strike action for one or more complete days of their right to pay 16% pension contributions in relation to the pay 'lost' during the strike period. The implications of not opting to pay the contributions should also be pointed out i.e. the service will not count for pension purposes. This means that, for example, each day a person is on strike will:
- extend by a day the date when a member attains 3 months membership, being the period of membership necessary to be entitled to a benefit under the Scheme
 - reduce the person's period of membership upon which benefits from the Scheme are calculated
 - in most cases, very marginally reduce or (in a few cases) marginally increase the final pay figure used in the calculation of benefits for a person who leaves within 12 months of the end of the strike period⁷, and

⁶ Similarly, the Employing Authority element of any old shared cost added years' contracts (if any still exist) would also have to be paid by the Employing Authority.

⁷ Regulation 9(4) of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 provides that where a member is only entitled to count part of the final year as a period of membership (e.g. because he / she has been on strike for two days and has not paid the contributions for those two days to count) the final pay to be used in the calculation of benefits is the pensionable pay during that part multiplied by 365 and divided by the number of days in that part. Thus, the final years pay of a person who goes on strike on 16 and 17 July 2008, who pays contributions for the strike days, and who leaves on 30 September 2008 would be the whole time equivalent pensionable pay in respect of the period 1 October 2007 to 30 September 2008 e.g.

1.10.07. – 31.3.08. : 6/12 x £20,000 =	£10,000
1.4.08. – 30.9.08. : 6/12 x £22,000 =	£11,000
Total	£21,000

necessary to be entitled to a benefit under the Scheme. This is, of course, of no relevance to you if you already have more membership than this

- in some cases, extend by one day the date when a member could retire before age 65 on an unreduced pension (i.e. add one day to the date on which a member's combined age and membership in the Scheme, both in whole years, add up to 85 (known as the "85 year rule")
- reduce the period of membership upon which your benefits from the Scheme are calculated, and
- very marginally reduce or (in a few exceptional cases) marginally increase the final pay figure used in the calculation of your benefits if you leave within 12 months of the end of the strike period. Whether the final pay figure is marginally reduced or marginally increased will depend on the date of leaving and the level of promotions or pay rises, etc that occur after the strike days.

I enclose an option form for your completion and return. If you wish to receive further information regarding the cost before making your decision please let me know.

Please note that, regardless of whether or not you decide to pay the 16% contribution to count the strike period as a period of membership in the pension scheme, any additional contributions you may be paying to purchased added years of membership, to uprate any pre 1 April 1972 membership to provide a greater lump sum on retirement, or to purchase extra additional pension by way of Additional Regular Contributions (ARCs), will continue to be collected from your pay.

If you are paying Additional Voluntary Contributions (AVCs) to provide additional life cover we have assumed that you would not wish the life cover to lapse and so will have been deducted these contributions from your pay.

Yours sincerely,

District Treasurer [or appropriate title]

Specimen Form

**LOCAL GOVERNMENT PENSION SCHEME
(ADMINISTRATION) REGULATIONS 2008**

ABSENCE DUE TO A TRADE DISPUTE - PAYMENT OF CONTRIBUTIONS

Please cross out the paragraph which does not apply.

Specimen Letter

**NOTIFICATION FROM AN EMPLOYER TO AN EMPLOYEE WHO HAS ELECTED
TO MAKE A PAYMENT IN RESPECT OF PERIOD OF ABSENCE DUE TO
A TRADE DISPUTE**

Dear

Local Government Pension Scheme (Administration) Regulations 2008

Thank you for completing the form opting to pay pension contributions for the period of your absence from duty due to a trade dispute. The amount payable by you is £ and this will be collected from your next instalment of salary / wages. The period will now count for pension purposes.

Yours sincerely,

District Treasurer [or appropriate title]

District Treasurer [or appropriate title]

