



Appendix 1

**West Dunbartonshire Council Policy Statement LGPS 2019 (Version 2)
(Appendix to Corporate Services Committee Report, 21 August 2019)
Replaces previous version approved 13 May 2015**

Employer: West Dunbartonshire Council

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Date of policy statement: 21st August 2019

Date for review: This policy statement will be kept under review and will be revised as and when necessary to reflect changes in regulation or policy. Any changes to this policy will be communicated to the administering authority and scheme members in writing within one month of the change taking effect.

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**]

| Regulation | Discretion | Employer's policy on the exercise of this discretion |
|------------------------------------|--|---|
| R3(1)(b) | Decide which employees to nominate for membership (admission bodies) | Not applicable to WDC as a Scheduled Body. The Council has nominated West Dunbartonshire Leisure Trust and Strathleven Regeneration Company for admitted body membership of the LGPS (No change) |
| RSch 2, Part 2, para 12(c) | 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 | The Council will consider each case on an individual basis. (No Change) |
| R9(1) to R9(4) | Determine the rate of employee's contributions | The employee's rate of contributions will be determined in accordance with the relevant regulations (No change) |
| R9(10) | Determine intervals at which employees' contributions are to be made | The frequency of employee contributions will be determined by the relevant pay cycle (No change) |
| R16(2)(e)* & R16(4)(d)* | Whether, how much, and in what circumstances to contribute to a shared cost APC scheme | The Council will contribute 2/3rds of the cost to a SCAPC where election would not have been possible within the |

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| | | timescales, subject to individual circumstances (No change) |
| R16(16) | 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) | The Council will extend the deadline, on production of evidence of extenuating circumstances, for a further 30 days, subject to individual circumstances. (No change) |
| R17(1) & definition of SCAVC in RSch 1 | Whether, and in what circumstances to contribute to a shared cost AVC (SCAVC) scheme. | Scheme members have access to AVC arrangement on a member-only contribution basis or through the 'salary sacrifice' shared cost AVC provision. (NEW) |
| TP15(1)(b) & L65(8) & former L65(9)(b) | Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership (where AVC arrangement was entered into before 30/6/05) | The Council will not exercise this discretion and application must be made within timescales. (No change) |
| R19(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 | The Council will exercise this discretion and will not direct a total or partial refund. (No change) |
| R20(1)(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 (No change) |
| R21(5) | In determining Assumed Pensionable Pay, whether a lump sum payment made in the previous 12 months is a "regular lump sum" Note: see tip 11(iv) available from P10 of the LGPC's "Discretions Policies" document. | The Council will consider each case on its merits. (No change) |
| R29(5) | Payment of benefits on or after age 55 and before normal retirement age Note: see tip (v) available from P7 of the LGPC's "Discretions Policies" document. | The Council recognises the member's right to elect to receive payment of their pension. In this circumstance the council will not waive the actuarial reduction; will not apply the 85 year rule and consequently, the cost will |

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| | | be met by an actuarial reduction to the scheme member's benefits. (NEW) |
| R29(6)* & TP11(2) | Whether all or some benefits can be paid if an employee reduces their hours or grade prior to age 60 (flexible retirement) Note: see tip (iii) available from P5 of the LGPC's "Discretions Policies" document. | The Council will consider applications on an individual basis and may be granted where it can be demonstrated to be to the Council's advantage or in its operational interest and must be cost neutral. In considering requests for flexible retirement, the Council would apply the agreed guidance on Flexible Retirement. (No change) |
| R29(8)* and TPSch 2, para 2(1) | Whether to waive, in whole or in part, any actuarial reduction on benefits paid on flexible retirement. 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. | The council will not waive, in whole or in part, any reduction, which would normally be applied to benefits, and therefore any reduction will be met by the employee. (No change) |
| R29(8)* | 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) Note: any resultant strain costs due to the exercise of this discretion will be charged to the employer regardless of the employee's age. | The Council will not waive the actuarial reduction applied to benefits paid early under regulation R29(5) above. (No change) |
| TPSch 2, paras 1(2) and 2(1)* | 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). | The Council will not exercise the discretion to apply the 85 year rule on the basis of cost. (No change) |
| TP3(1), TPSch 2, para 2(1) * | 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) | The Council will not waive the actuarial reduction applied to benefits paid early under regulation TP3(1), TPSch 2, para 2(1) * (No change) |
| TP3(1), TPSch 2, para 2(1) and B30(5)* | 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 | The Council will not waive the actuarial reduction applied to benefits paid early under regulation TP3(1), TPSch 2, para 2(1) * |

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| | 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 not subject to the 85 year rule) | (No change) |
| R30* | 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.) | The Council will not exercise this discretion. (No change) |
| TP12(4) | 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. | The Council will exercise this discretion. (No change) |
| R89(1) & (8) R89(4) | Whether to apply to Scottish Ministers for a 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 R92 below) *guaranteed minimum pension | The Council 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. (No change) |
| R90(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. | The Council will recover from Strathclyde Pension Fund the amount of loss in cases of criminal, negligence or fraudulent acts by a member, provided that other means of recovery have been exhausted. (No change) |
| R92 | 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 R89 or recovery of a monetary obligation under R90 should deprive the member or the member's surviving spouse or civil partner of any GMP (guaranteed minimum pension) entitlement | The Council 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. (No change) |
| R96(1)(b) | Agree to bulk transfer payment | The Council will consult with SPFO and the fund actuaries in this regard. (No change) |
| R98(6) | Extend normal time limit for acceptance of a transfer value beyond the 12 month time limit from joining the LGPS | The Council will not extend the normal time limit for acceptance of a transfer value beyond 12 months from joining the scheme. (No change) |

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| TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) & B11(2) | 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 | The Council will allow a member to select final pay for fees to be any three consecutive years ending 31 st March in the 10 years prior to leaving. The Council agree that this will be done automatically by SPFO. (No change) |
| TP3(1)(a), A43(5) | 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) | The Council will issue a certificate of protection of pension benefits where the member fails to apply for one. (No change) |

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**]

| Regulation | Discretion | Employer's Policy on the exercise of this discretion |
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| B12* | Whether, for a member leaving on the grounds of redundancy or business efficiency on or before 31 st 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 th September 2015 | The Council will not exercise this discretion. (No change) |
| 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 | The Council will not direct a return of contributions in the event of an offence of a fraudulent character or grave misconduct. (No change) |
| A43(5) | Employer may issue a certificate of protection where an employee fails to apply for one. | The Council will issue a certificate of protection of pension benefits where the member fails to apply for |

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| | | one. (No change) |
| 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 Fund. | The Council will consider each case on its individual merits. (No change) |
| 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. | The Council 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. (No change) |
| 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. | The Council will recover from Strathclyde Pension Fund the amount of loss in cases of criminal, negligence or fraudulent acts by a member, provided that other means of recovery have been exhausted. (No change) |
| 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 | The Council 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. (No change) |
| B11(2) | Whether to allow a member to select a final pay period for fees to be any three consecutive years ending with 31 st March in the 10 years prior to leaving. | The Council will allow a member to select final pay for fees to be any three consecutive years ending 31 st March in the 10 years prior to leaving. The Council agree that this will be done automatically by SPFO. (No change) |
| B30(2)* | Whether to grant application for early payment of benefits on or after age 50/55 and before normal retirement age. | The Council will consider applications on a case by case basis subject to cost benefit analysis. (No change) |

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 for early payment of benefits on or after age 50 and before age 60. | The Council will not exercise this discretion. (No change) |
| 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. | The Council will not exercise this discretion. (No change) |
| 30 (7A)* | Pre 01 04 09 optants out only to get benefits paid from NRD if employer agrees. | The Council will not exercise this discretion. (No change) |
| 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. | The Council will consider each case on its merits. (No change) |
| 70(7)(a) | Consent to a member's former employer assigning to the new employer rights under any SCAVC life assurance policy. | The Council will not exercise this discretion. (No change) |
| 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). | The Council will not direct a return of contributions in the event of an offence of a fraudulent character or grave misconduct. (No change) |
| 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). | The Council will consider each case on its merits. (No change) |
| 111(2) &(5) 112(1) | Forfeiture of pension rights on issue of Secretary of State's certificate (pre 01 04 09 leavers). | The Council will apply for a forfeiture certificate where a member is convicted of a |

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| | 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). | relevant offence and, following the issue of the certificate, direct that benefits are to be forfeited. (No change) |
| 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). | The Council will seek recovery from Strathclyde Pension Fund where other internal avenues have been exhausted. (No change) |
| 115(2) & (3) | Recovery from Fund of financial loss caused by employee, or amount of refund if less (pre 01 04 09 leavers). | The Council will seek recovery from Strathclyde Pension Fund where other internal avenues have been exhausted. (No change) |

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. | The Council will not exercise this discretion. (No change) |

TABLE 5

The following table details our discretions under the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 (as amended)

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| D 4 (1) | Power to increase statutory redundancy payments above statutory weekly pay limit. | Where redundancy is linked to the award of CAY (compensatory added years), payment will be subject to the statutory weekly limit. Dependent on individual and financial circumstances, the Council may increase the limit up to |
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| | | actual week pay subject to the relevant policy. (No change) |
| D 8(1) | Decision on whether to award compensatory added years to an individual on retirement on efficiency / redundancy grounds. | The Council may award up to 3 added years for retirement on redundancy grounds and up to 5 years for those on efficiency grounds. Any award will be subject to cost benefit analysis and the limits of affordability at the time of proposed release. (No change) |
| D 35 | Decision to award up to 104 weeks compensation instead of compensatory added years. | The Council will consider awarding compensation up to 60 weeks (using the statutory redundancy table with a multiplier of 2, known as the 'enhanced table'). Eligible employees will either be scheme members with at least 2 years continuous service and under 55 years (50 for protected members) or employees who are non-members of the scheme. Any award will be subject to cost benefit analysis and the limits of affordability at the time of proposed release. (No change) |

Commitments and Aims

Statement

The Council has a responsibility to exercise discretion in a fair, consistent, manner and act in the best interests of the organisation, the community and the pension fund. The following sections detail the council's commitments in particular circumstances.

Re-employment of individuals who have left the Council through early retirement/voluntary severance.

In line with the Accounts Commission report on "Managing Early Departures from the Scottish Public Sector", where an individual leaves the employment of the Council through early retirement/voluntary severance the individual will be unable to seek re-employment with the Council at a future date. Any re-employment of former employees would be in exceptional circumstances only and must have prior approval from the Strategic Lead of People and Technology.

Cost Benefit Analysis/Voluntary Early Retirement/Voluntary Severance.

To comply with best value principles, it is the aim and commitment of West Dunbartonshire Council to set a consistent maximum pay-back period of two years for voluntary early retirement or severance.

In line with current processes, all Cost Benefit Analysis (CBA) are considered and approved on their merits, with consideration of current financial position and previous approaches. Approval is thereafter required of the Strategic Leads - People and Technology and Resources, followed by the, Chief Executive. The Council reserves the right to vary this pay-back period in exceptional circumstances and on submission of a robust business justification.

The application of S20 Certificate of Protection

Regulation 22 of the Local Government Pension Scheme (Scotland) Regulations 1998 provides a degree of protection for members who suffer a reduction in their pensionable pay through circumstances outwith their control including the member's ill health. This provision is carried forward by regulation 43 of The Local Government Pension Scheme (Administration) (Scotland) Regulations 2008.

Circumstances outwith an employees control are defined as being:

- a. the employer compulsorily changed the employment resulting in a lower grade
- b. Job Evaluation exercise
- c. Equal pay correction
- d. Ill health
- e. Cessation of pensionable payments, compulsorily made

In the event that an employee suffers a reduction in their pensionable pay due to their own conduct (disciplinary sanctions) or circumstances in which their was other alternative options they will not be eligible or covered by this protection.

#####ENDS#####

