



Application of Regulatory Pensions Discretions Local Government Pension Scheme Policy


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1 October 2010

Human Resources Employment Policies



HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT

Quick Reference - Associated Documents

<i>HR SERVICES</i>		
<i>Quick Reference Associated Documents</i>		
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Key Driver for Change/Policy Development: The Local Government Pension Scheme (Administration (Scotland) Regulations 2008 (effective from 1 April 2009 and 1 April 2010). The Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2008 (effective from 1 April 2009)



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APPLICATION OF REGULATORY PENSIONS DISCRETIONS POLICY

1. Introduction

1.1 Regulation 61 (2) of the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 requires scheme employers to formulate and keep under review their Policy concerning the exercise of their discretions.

1.2 The discretions available to Scheme employers are contained within the:

- Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008- (*Benefit Regs*)
- Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 - (*Admin Regs*)
- Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 2009 - (*Regs*)
- and any subsequent amendments to these regulations.

1.3 This Policy details the range of discretions available to the Council and the discretions which the Council will adopt in relation to the Local Government Pension Regulations (LGPS). The Policy also covers other situations where the Council may wish to exercise its discretion with regard to early leavers.

2. Scope

2.1 This Policy applies to early leavers (redundancy/voluntary severance/early retirement); flexible retirement requests; staff in situations where augmentation of benefit would apply; and transfer of previous pension benefits.

2.2 This Policy applies to employees who are members of the LGPS and excludes teachers who are covered by the Scottish Public Pensions Agency (Teachers Superannuation Scheme).

3. Key Principles

3.1 The Policy describes the range of discretions available to the Council under the local government pension scheme regulations. All decisions in relation to the use of these discretions will always take account of the short and long term financial implications to the Council.

- 3.2 In applying all decisions relating to the exercising of discretions available, the Council will always seek to ensure consistent and equitable application.
- 3.3 The Policy sets out the extent of the discretions open to the Council. The Council will develop schemes (e.g. Redundancy/Severance/Voluntary Early Retirement) which will set out how the policy will be applied in any particular circumstance. The actual discretion exercisable by the Council in a particular case will be in accordance with the terms of any such scheme. The Scheme of Voluntary Early Retirement and Voluntary Severance approved in October 2008 are unchanged by this policy and continues in effect until changed by any subsequent scheme.
- 3.4 The Council will ensure the Policy is reviewed and updated to comply with the statutory redundancy provisions and any further amended Pension Regulations.

4. Discretions

4.1 Augmentation of Benefits - (Benefit Reg.12)

4.1.1 The Council may use its discretion to augment the membership of an active member at any time, by up to 6 years 243 days or to the members 65th birthday, if shorter. The discretion would only be exercised in exceptional circumstances where it was deemed to be of specific and particular benefit to the Council.

4.1.2 In such circumstances the Council would meet the full cost of the additional membership by payment of a lump sum into the pension fund. This is payable within one month of a resolution being passed to award augmentation.

4.2 Award of Additional Pension - (Benefit Reg.13)

4.2.1 The Council may exercise discretion to award an additional amount of pension to a member of the Scheme up to a figure of £5,000 in multiples of £250. The Council will not exercise this discretion at the present time. This discretion will be kept under review.

4.3 Flexible Retirement - (Benefit Regs 18(1)(b) and 18(2))

4.3.1 The Council may exercise its discretion to consent to allow an employee aged 55 or over, to take payment of their pension and lump sum and continue working as long as the employee reduces either the hours worked or the grade of the post. This discretion will only be exercised in instances where there would be positive benefits to the Council in terms of

efficiency savings, succession planning and/or knowledge/skills retention. In such circumstances hours of work would require to be reduced by at least 20%.

- 4.3.2 In instances of flexible retirement, the Council may exercise its discretion to waive, in whole or in part, and dependent on financial constraints, any reduction in the employee's benefits. In such cases the Council meets the cost of additional pension fund "strain costs" which would be calculated by the fund's actuary. The cost of the actuarial calculation would also be recharged to the employer.
- 4.3.3 Flexible retirement with employers consent will be permitted from age 55 with members being able to draw all or part of their benefits.
- 4.3.4 Where an employee has opted out of the LGPS, they are only entitled to payment of benefits without reduction from their Normal Retirement Date where the employer so consents. In such instances, and dependent on financial constraints, the Council may exercise its discretion to consent to benefits without reduction, where there are positive benefits.

4.4 Early Leavers under age 55 (under age 50 for employees who were members of the 1998 scheme on 5 April 2006) on the grounds of redundancy

- 4.4.1 In accordance with the LGPS Regulations early leavers under age 55 (unless protected age 50 member) cannot access their pensionable benefits, and where the employee leaves early the pension is deferred until normal retirement age.
- 4.4.2 In cases of early release through redundancy the employee will receive statutory redundancy pay in line with their statutory rights to redundancy entitlement under the Employment Rights Act 1996 i.e.;

Statutory Redundancy Entitlement:

Age	Week	Maximum
Up to age 21	0.5 week's pay for each completed year of service*	
22-40 years of age	1 week's pay for each completed year of service*	Up to a maximum of 20 years
41+ years of age	1.5 week's pay for each completed year of service*	Up to a maximum of 20 years
It should be noted that there is a statutory maximum weekly pay for statutory redundancy calculations		

- 4.4.2 *Continuous service for the purpose of calculating redundancy payments is any continued service with local authorities and other specified bodies as defined in the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999 (as amended and referred to as the "Modification Order").
- 4.4.3 The Council may exercise its discretion to multiply the statutory redundancy amount by a specific multiplier as long as this is applied consistently to all employees within a particular scheme and at a particular time.
- 4.4.4 Where employment is terminated early, and dependent on financial circumstances, the Council may exercise its discretion to enhance statutory redundancy up to a maximum of 66 weeks pay. Where employment is terminated early for a group of employees, the number of weeks pay must be identical for each employee.
- 4.5 Early Leavers Aged 55 or over - (Benefit Regs 30(2) and 30(5))**
- 4.5.1 Where an employee requests early payment of pension benefits between the ages of 55-60 in accordance with scheme provisions, the Council may give consent to this request based on costs and exigencies of the service. Each case will be considered on its own merits, based on cost and exigencies of the service.
- 4.5.2 In exceptional circumstances e.g. compassionate grounds, the Council may decide that the pension and lump sum should be paid without being actuarially reduced for early payment.
- 4.6 Early Leavers Aged 55 or over (age 50 protected members) on the grounds of Redundancy or Efficiency Grounds - (Benefit Reg 19 (and Reg 8)**
- 4.6.1 Where a member is dismissed by reason of redundancy or efficiency and has reached aged 55 (*50 for "*protected members*") the member is entitled to Immediate payment of pension benefits without reduction). (*"*protected member*" is an employee who was a member of the 1998 Scheme on 5 April 2006).
- 4.6.2 In instances of redundancy (2 years continuous service as defined under the "Modification Order"), and where the employee has 5+ years pensionable service, the Council will exercise its discretion to award added years up to a maximum of 6 years 243 days. In such cases the Council meets the cost of added years both in terms of ongoing pension, one-off lump sum payment and strain on the fund costs.

- 4.6.3 In instances of the 'efficient exercise of the employers function' an employee will receive pension benefits based on actual membership of the pension scheme if they have 2 years or more but less than 5 years pensionable service. In cases where an employee has 5+ years pensionable service the Council may exercise its discretion to enhance service by up to 10 added years, dependent on the exigencies of the service and available years up to age 65. The Council will meet the cost of added years in efficiency situations both in terms of ongoing pension, one-off lump sum payment and strain on the fund costs.
- 4.6.4 Where appropriate, the Council may offer employees a one-off lump sum of up to 66 weeks' pay where employment is terminated early on grounds of redundancy. Where employment is terminated early for a group of employees, the number of weeks pay will be identical for each employee.
- 4.6.5 Any employee in receipt of the added years discretion will not be entitled to any enhanced redundancy payment and any redundancy will be calculated on the basis of the statutory redundancy provisions.
- 4.6.6 In cases of redundancy or efficiency grounds the earliest age benefits are paid is age 55 for new members joining after 1 April 2009. (Individuals who joined the scheme on 5 April 2006 retain eligibility to have redundancy/efficiency retirement benefits paid from age 50).

4.7 Late Applications to Pay Optional Contributions - (Admin Reg 19)

- 4.7.1 An employee returning from an approved period of absence (i.e. maternity/adoption/paternity leave), is permitted to pay the contribution that would have been payable if they had not been absent. The Council will not generally agree to extend the time limit of 30 days under regulations 15(5) within which an election to pay the contributions is made. Exceptionally, where an employee provides evidence of extenuating circumstances, the time limit will be extended by a further 30 days.
- 4.7.2 An employee returning from a period of unpaid absence (strike days) is permitted to pay the contribution that would have been payable if they had not been absent. Election to pay the contribution must be made within 30 days.

4.8 Shared Cost AVC's - (Admin Reg 22(3))

- 4.8.1 The Council has discretion to establish a shared cost AVC arrangement of active members. The Council will not exercise this discretion, however this will be kept under review.

4.9 Transfer of Previous Pension Benefits - (Admin Reg 78)

4.9.1 Employees have 12 months from their date of joining the LGPS to apply to transfer any previous pension benefits from Club Schemes (e.g. Civil Service, Teachers Pension Scheme, NHS and other public sector bodies) into the LGPS. The Council will exercise its discretion to extend the 12 month time limit for accepting transfer previous pension benefits, and therefore the employee must apply within 24 months from joining the LGPS to transfer previous pension benefits into the Scheme.

4.10 Ill-health Gratuity - (amendment to Reg 35)

4.10.1 The Council can exercise discretion to make a one-off ill-health gratuity payment to an employee whose employment is terminated on the grounds of ill-health but where the Council does not consider that the employee is rendered permanently incapable of discharging the duties of their current employment under the regulations.

4.10.2 The Council will not exercise this discretion, at this time. This will be kept under review.

5. Review

5.1 This Policy will be reviewed in line with any changes to the statutory redundancy provision and Pension Scheme Regulations.