

---

COMMITTEE	Finance, Policy and Resources
DATE	9 June 2015
INTERIM DIRECTOR	Angela Scott
TITLE OF REPORT	Employer Discretions – New Local Government Pension Scheme
REPORT NUMBER	CG/15/72
CHECKLIST COMPLETED	Yes

---

### 1. PURPOSE OF REPORT

This report is concerned with employer discretions in respect of the new Local Government Pension Scheme Regulations. The Regulations require the employer to determine before 1 July 2015 the discretions it chooses to exercise. The requirement is to have a published policy position on a number of discretions. This report makes recommendations to Committee regarding these discretions (see Appendix A) and seeks to delegate authority to the Chief Executive or nominated deputy (except where otherwise stated) on decisions in respect of the specified discretions and also in relation to the application of other non-specified discretions (those the Council does not have a written policy on).

### 2. RECOMMENDATION(S)

The Committee is requested to:

- a) Approve the employer's policy statement shown at Appendix 'A' which details the Council's declared policy on the specified discretions.
- b) Approve the delegation of decisions in respect of the specified discretions and also in relation to the application of other non-specified discretions to the Chief Executive or nominated deputy (except where otherwise stated) on a case by case basis.

### 3. FINANCIAL IMPLICATIONS

With regard to the financial implications in the case of certain discretions in Appendix A, the policy position recommended is that they may be applied in exceptional circumstances on a case by case basis,

with either financial, operational or compassionate issues being considered before a decision was made. The expectation is that they would rarely be applied. Where a discretion was applied, there would likely be a cost, with the decision on application being taken by the Chief Executive or nominated deputy (except where otherwise stated). It is not possible to quantify any potential future costs of application. Where, in the exceptional cases, a discretion is applied then the associated costs will require to be met from the Service budget in which the employee is employed at the time of the decision.

In respect of certain other discretions in Appendix A the policy position recommended is that the Council will not agree to apply the particular provision. In these cases no costs will be incurred.

#### 4. OTHER IMPLICATIONS

Having details on all relevant employer discretions contained in one document should assist in ensuring that the Council is open and transparent in relation to its policy position on each, with the policy to be placed on the Zone.

#### 5. BACKGROUND/MAIN ISSUES

Following the report to Committee of 18 February 2015 on the new pension schemes, it was indicated that there would be a requirement to compile a policy on discretions in relation to the Local Government Pension Scheme (LGPS) and to provide a further report to Committee to seek approval for its implementation.

As is the case with the existing scheme, each employer is required to compile, publish and keep under review a policy statement in relation to the application of various discretions and send this to the LGPS pension fund administering authority. The LGPS regulations state this requirement in six areas in relation to the new scheme, as follows:

- Award of additional pension (whole cost by one off lump sum).
- Voluntary funding additional pension (shared cost additional pension contributions either by regular on-going contribution or one-off lump sum).
- Flexible Retirement.
- Waiving all or part of any actuarial reduction.
- Agreeing to the early payment of benefits for members seeking to voluntarily draw them on or after age 55 and before age 60 (other than flexible retirement).

- Switching on the Rule of 85 for members who, with the employer's consent, voluntarily draw benefits on or after age 55 and before age 60.

In addition to the above, it is also necessary to compile a new list of discretions for post-31 March 2009 / pre-1 April 2015 scheme leavers and to maintain a list of discretions in respect of the 1998 Scheme in relation to pre-1 April 2009 scheme leavers, as the employer will still have to publish a policy in respect of its discretions for each of these.

It is also necessary to publish a policy on certain discretions in accordance with the regulations relating to the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998.

Also included are certain other discretions that employers are not compelled to have a policy position on but it is advisable for employers to have written down. It should be noted that one of the discretions on the list, namely that concerned with reassessing a member's contribution rate where there has been a permanent and material change in an employee's contract comprising an increase or decrease in pensionable pay of over £4000 per annum (pro rata for part-time) Appendix A, Table A, number 11, was in fact agreed at the Committee of 18 February 2015, as it had been necessary to obtain a decision on this particular discretion so that it could be applied immediately the new scheme began on 1 April 2015.

The recommended policy position on each discretion is shown in Appendix A for consideration and approval. Where a decision is required in respect of a specified discretion, it is recommended in this report that authority is given to the Chief Executive or nominated deputy (except where otherwise stated) to decide this.

As well as all the above there are a number of employer discretions that do not require a written policy but are listed nonetheless in the scheme Regulations. What is recommended in respect of these non-specified discretions is that the policy position is decided on a case by case basis by the Chief Executive or nominated deputy (except where otherwise stated).

## 6. IMPACT

An Equality and Human Rights Impact Assessment has been undertaken in respect of this proposal with no adverse equality impacts identified.

## 7. MANAGEMENT OF RISK

The determination of certain of the discretions is a legal requirement and as such failure to determine the discretions would mean that the Council would not be complying with its statutory obligations as an employer.

8. BACKGROUND PAPERS

Local Government Pension Scheme 2014 Regulations and Transitional Regulations.

HR Guide to the 2015 Local Government Pension Scheme

PENtag Pensions Training & Guidance – LGPS 2015 for employers seminar notes

9. REPORT AUTHOR DETAILS

David Cheyne, Payroll Manager  
E-mail [dcheyne@aberdeencity.gov.uk](mailto:dcheyne@aberdeencity.gov.uk)  
Tel: (01224) 523500

Keith Tennant, Team Leader, Policy and Performance  
E-mail [ktennant@aberdeencity.gov.uk](mailto:ktennant@aberdeencity.gov.uk)  
Tel: (01224) 523094

## Appendix A

<b>Table A: Discretions to be exercised on and after 1 April 2015 under the LGPS (Scotland) Regulations 2014 in relation to active scheme members and members who cease active membership after 31 March 2015.</b>	<b>Aberdeen City Council policy</b>
<p>1. Whether, at full cost to the Council, to grant extra annual pension of up to £5,000 (figure at 1 April 2015) to an active scheme member (other than a local authority Councillor member) or within 6 months of leaving to a member who is dismissed by reason of redundancy or business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency.</p>	<p>The Council will not make use of the discretion to grant extra annual pension of up to £5,000 (figure at 1 April 2015) to an active scheme member or within 6 months of leaving to a member who is dismissed by reason of redundancy or business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency except in exceptional circumstances where the Council considers it is in its financial or operational interests to do so. Each case will be considered on the merits of the financial and / or operational business case put forward. This discretion cannot be applied in the case of a local authority Councillor member.</p>
<p>2. Whether, where an active scheme member wishes to purchase extra annual pension of up to £6,500 (figure at 1 April 2015) by making Additional Pension Contributions (APCs), The Council will (other than in the case of a local authority Councillor member) voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC).</p>	<p>The Council will not make use of the discretion to voluntarily contribute towards the cost of purchasing extra pension via a Shared Cost Additional Pension Contribution (SCAPC).</p>
<p>3. Whether (other than in the case of a local authority Councillor member) to permit flexible retirement for staff aged 55 or over who, with the</p>	<p>The Council will agree to flexible retirement unless the Council considers it is not in its financial or operational</p>

<p>agreement of the Council, reduce their working hours or grade and, if so, as part of the agreement:</p> <ul style="list-style-type: none"> <li>- whether, in addition to the benefits the member has accrued prior to 1 April 2009 (which the member must draw if flexible retirement is agreed), to permit the member to choose to draw <ul style="list-style-type: none"> <li>• all, part or none of the pension benefits they accrued after 31 March 2009 and before 1 April 2015, and / or</li> <li>• all, part or none of the pension benefits they accrued after 31 March 2015, and</li> </ul> </li>   <li>- whether to waive, in whole or in part , any actuarial reduction which would otherwise be applied to the benefits taken on flexible retirement before Normal Pension Age (NPA).</li> </ul>	<p>interests to do so. Each case</p> <ul style="list-style-type: none"> <li>- will be considered on the merits of the financial and / or operational business case put forward,</li> <li>- will set out whether, in addition to any pre 1 April 2009 benefits, the member will be permitted, as part of the flexible retirement agreement, to take <ul style="list-style-type: none"> <li>a) all, some or none of their 1 April 2009 to 31 March 2015 benefits, and /or</li> <li>b) all, some or none of their post 31 March 2015 benefits, and</li> </ul> </li> <li>- will require the approval of the Service Manager.</li> </ul> <p>This discretion cannot be applied in the case of a local authority Councillor member.</p> <p>Where flexible retirement is agreed, the benefits payable will be subject to any actuarial reduction applicable under the Local Government Pension Scheme (Scotland) Regulations and the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014The Council will not waive any such reduction, in whole or in part.</p>
<p>4. Whether to agree to an active member's request for early voluntarily retirement on or after age 55 and before age 60.</p>	<p>The Council will not normally agree to an active member's request for early voluntarily retirement on or after age 55 and before age 60 except in circumstances where the Council considers it is in its financial or operational interests to do so or there are compelling compassionate reasons for doing so.</p> <p>Each case</p>

	<ul style="list-style-type: none"> <li>- will be considered on the merits of the financial and / or operational business case put forward, or</li> <li>- will be considered on the merits of the compassionate case put forward, and</li> <li>- will require the approval of the Chief Executive or nominated deputy.</li> </ul>
<p>5. Whether to agree to a deferred member’s request for early payment of their deferred benefits (other than on ill health grounds) on or after age 55 and before age 60.</p>	<p>The Council will not agree to a deferred member’s request for early payment of their deferred benefits (other than on ill health grounds) on or after age 55 and before age 60 except in circumstances where the Council considers there are compelling compassionate reasons for doing so.</p> <p>Each case</p> <ul style="list-style-type: none"> <li>- will be considered on the merits of the compassionate case put forward, and</li> <li>- will require the approval of the Chief Executive or nominated deputy.</li> </ul>
<p>6. Whether, as the 85 year rule does not (other than on flexible retirement – see 3 above) automatically apply to members who would otherwise be subject to it and who choose to voluntarily draw their benefits on or after age 55 and before age 60, to apply the 85 year rule to such voluntary retirements.</p>	<p>The Council will not agree to apply the 85 year rule where members choose to voluntarily draw their benefits on or after age 55 and before age 60 except in circumstances where the Council considers it is in its financial or operational interests to do so. Each case -</p> <ul style="list-style-type: none"> <li>- will be considered on the merits of the financial and / or operational business case put forward, and</li> <li>- will require the approval of the Chief Executive or nominated deputy.</li> </ul>

<p>7. For:</p> <ul style="list-style-type: none"> <li>i) active members voluntarily retiring on or after age 55 and before Normal Pension Age who elect under regulation 29(5) of the LGPS (Scotland) Regulations 2014 (with their employer's consent if under age 60 – see entry 4 above) to immediately draw benefits, and</li> <li>ii) deferred members who elect under regulation 29(5) of the LGPS (Scotland) Regulations 2014 to draw benefits (other than on ill health grounds) on or after age 55 and before Normal Pension Age (with their employer's consent if under age 60 – see entry 5 above)</li> </ul> <p>whether to waive, in whole or in part, any actuarial reduction that would otherwise be applied to the member's benefits (accrued both prior to 1 April 2015 and after 31 March 2015)</p>	<p>Where members choose, with the Council's consent if under age 60, to voluntarily draw their benefits on or after age 55 and before Normal Pension Age the Council will not agree to waive in whole or in part (on any grounds, including compassionate grounds) any actuarial reduction that would otherwise be applied to their benefits.</p>
<p>8. Whether (other than in the case of a local authority Councillor member), how much, and in what circumstances to contribute to a shared-cost Additional Voluntary Contribution (SCAVC) arrangement entered into on or after 1 April 2015 and whether, how much, and in what circumstances to continue to contribute to any shared cost Additional Voluntary Contribution (SCAVC) arrangement entered into before 1 April 2015.</p>	<p>The Council has resolved not to use its discretion to introduce a shared cost additional voluntary contribution scheme.</p>
<p>9. Whether to extend the 12 month time limit within which a scheme member who has a deferred LGPS benefit in Scotland following the cessation of employment (or cessation of a concurrent employment) may elect not to have the deferred benefits aggregated with their new LGPS employment (or on-going concurrent LGPS employment) if the member has not made an election to retain separate benefits within 12</p>	<p>The Council will not extend the 12 month time limit within which a scheme member who has a deferred LGPS benefit in Scotland following the cessation of employment (or cessation of a concurrent employment) may elect not to have the deferred benefits aggregated with their new LGPS employment (or on-going</p>

<p>months of commencing membership of the LGPS in the new employment (or within 12 months of ceasing the concurrent membership).</p>	<p>concurrent LGPS employment).</p>
<p>10. Whether to permit a Scheme member to elect to transfer other pension rights into the LGPS if he / she has not made such an election within 12 months of joining the LGPS.</p>	<p>The Council will not extend the 12 month time limit within which a scheme member must make an election to transfer other pension rights into the LGPS after joining the LGPS.</p>
<p>11. Determine rate of employees contributions</p> <p>Reallocation of a member to a new contribution rate during a Scheme year (1 April to 31 March) following a permanent material change to the terms and conditions of a member's employment which affects the member's pensionable pay.</p>	<p>The Council will reassess a member's contribution rate and apply this for the remainder of the financial year, where a permanent and material change comprises an increase or decrease in a member's pensionable pay of over £4000 per annum (pro rata for part-time).</p>

<b>Table B: Discretions to be exercised on and after 1 April 2015 under the LGPS Regulations in relation to scheme members who ceased active membership between 1 April 2009 and 31 March 2015</b>	<b>Aberdeen City Council Policy</b>
<p>1. Whether to grant applications for the early payment of deferred pension benefits on or after age 55 and before age 60 (on grounds other than permanent ill health).</p>	<p>Where a former scheme member who left the scheme between 1 April 2009 and 31 March 2015 requests early release of deferred benefits on or after age 55 and before age 60 (on grounds other than permanent ill health), approval will not be given.</p>
<p>2. Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.</p>	<p>The Council will not waive, on compassionate grounds, any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.</p>

Table C: Discretions to be exercised on and after 1 April 2015 under the LGPS Regulations in relation to scheme members who ceased active membership between 1 April 1998 and 31 March 2009	Aberdeen City Council policy
<p>1. Whether to grant applications for the early payment of pension benefits on or after age 50 and before age 60 (on grounds other than permanent ill health).</p>	<p>Where a former scheme member who left the scheme between 1 April 1998 and 31 March 2009 requests early release of deferred benefits on or after age 50 and before age 60 (on grounds other than permanent ill health), approval will not be given.</p>
<p>2. Whether, on compassionate grounds to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.</p>	<p>The Council will not waive, on compassionate grounds, any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65.</p>
<p>3. Pre 01/04/09 those who opted out only get benefits paid from normal retirement date with the agreement of the employer. Under the Regulations, scheme members who have made an election to opt out of the pension scheme can access their pension benefits at normal retirement age whilst continuing to be employed by the scheme employer. This option is not available to a scheme member who continues to work beyond normal retirement age – their pension benefits are paid once the employee stops working for the scheme employer.</p>	<p>The Council has determined not to exercise its discretion to allow an employee who has opted out of the LGPS, to access their benefits at normal retirement age if they continue to be employed by the Council.</p>

<b>Table D: Discretions to be exercised on and after 1 April 2015 under the LGPS Regulations in relation to scheme members who ceased active membership before 1 April 1998</b>	<b>Aberdeen City Council policy</b>
1. Whether to grant applications for the early payment of deferred pension benefits on or after age 50 and before age 65 on compassionate grounds	Where a former scheme member who left the scheme before 1 April 1998 requests early release of deferred benefits on or after age 50 and before age 65 on compassionate grounds, approval will not be given.

Table E: Discretions to be exercised under the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998	Aberdeen City Council policy
<p>1. Whether to base a redundancy payment on an employee's actual weeks' pay where this exceeds the statutory week's pay limit. Of, currently, £475 per week (as at 6 April 2015).</p>	<p>The Council's policy in relation to those employees whose weekly basic pay exceeds the statutory maximum payment is to be paid the statutory maximum plus 33% of the difference between the statutory maximum payment and the employee's basic weekly pay.</p>
<p>2. Whether to make a termination payment (inclusive of any redundancy payment) of up to a maximum of 104 weeks' pay to employees whose employment is terminated on the grounds of redundancy or efficiency of the service.</p>	<p>The Council's policy is that a lump sum Voluntary Severance Payment can be made in appropriate cases under the Voluntary Severance/Early Retirement Scheme, based on age and completed years of service in accordance with a ready reckoner (in the Scheme) offering a payment of up to a maximum of 82.5 weeks' pay. This is regardless of whether the employee is a member of the Local Government Pension Scheme.</p>
<p>3. Whether to award a period of compensatory added years to an employee:</p> <ul style="list-style-type: none"> <li>i) who is, or is eligible to be, a member of the LGPS, and</li> <li>ii) who, when aged 55 or over (or, if the member was in the LGPS on 5 April 2006, aged 50 or over) and under age 65, has their employment terminated on the grounds of redundancy or in the interests of the efficient exercise of the employer's functions or, in the case of a joint appointment, because the other holder of the appointment has left it, and</li> <li>iii) whose membership in, including any period during which he/she was eligible to be in, the LGPS amounts to at least 5 years</li> </ul>	<p>The Council's policy is that it will not normally exercise its discretion to award added years to employees who are seeking early retirement. It is only in cases where there are exceptional circumstances determined by the Chief Executive in consultation with the Convenor of the Finance, Policy and Resources Committee on recommendation of the relevant Director, shall added years be considered and granted.</p>

<p>but less than 40 years.</p>	
<p>4. Whether to make a lump sum payment to a member of the LGPS who has at least 2 years membership and whose employment is terminated on the grounds of ill health or infirmity of mind or body in circumstances where the member does not meet the criteria for an ill health pension under the LGPS.</p>	<p>The Council will make a lump sum payment to a member of the LGPS who has at least 2 years membership and whose employment is terminated on the grounds of capability due to ill health in circumstances where the member does not meet the criteria for an ill health pension under the LGPS. The payment will be an amount equal to one week's pay for every whole year of employment with the employer (subject to a maximum of 30 weeks' pay).</p>

Table F: Discretions to be exercised under the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998	Aberdeen City Council policy
<p>1. How any surviving spouse's or civil partner's annual compensatory added years pension is to be apportioned where the deceased person is survived by more than one spouse or civil partner.</p>	<p>The Council will apportion any surviving spouse's or civil partner's annual compensatory added years pension where the deceased person is survived by more than one spouse or civil partner in such proportions as, at its sole discretion, it sees fit (based on the merits of the individual cases).</p>
<p>2. Whether, if the spouse or civil partner of a person who ceased employment before 1 April 1988 remarries, enters into a civil partnership or cohabits after 1 April 1998, the normal annual compensation suspension rules will be disapplied i.e. the spouse's or civil partner's annual compensatory added years pension will continue to be paid.</p>	<p>If the spouse or civil partner of a person who ceased employment before 1 April 1998 remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal annual compensation suspension rules will <b>not</b> be disapplied i.e. the spouse's or civil partner's annual compensatory added years pension will cease to be payable.</p>
<p>3. Whether, where a spouse's or civil partner's annual compensatory added years pension is suspended as a result of remarriage, entering into a new civil partnership or cohabitation, the spouse's or civil partner's annual compensatory added years pension should be reinstated after the end of the period of remarriage, new civil partnership or cohabitation.</p>	<p>Where a spouse's or civil partner's annual compensatory added years pension is suspended as a result of remarriage, entering into a new civil partnership or cohabitation, the spouse's or civil partner's annual compensatory added years pension will <b>not</b> be reinstated after the end of the period of remarriage, new civil partnership or cohabitation.</p>
<p>4. Whether, where the spouse or civil partner of a person who ceased employment before 1 April 1998 with an award of compensatory added years remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partner's</p>	<p>If the spouse or civil partner of a person who ceased employment before 1 April 1998 with an award of compensatory added years remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partner's compensatory added years pension, the normal</p>

<p>compensatory added years pension, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or co-habitation lasts, should be disapplied i.e. whether the spouses' or civil partners' compensatory added years pension should continue to be paid to both of them.</p>	<p>rule requiring one of them to forego payment whilst the period of marriage, civil partnership or co-habitation lasts, will continue to be applied i.e. the spouses' or civil partners' compensatory added years pension will only be payable to one of them (being whichever one they choose).</p>
<p>5. How, if compensatory added years were awarded to an employee who was not in the LGPS (because the employee had not joined or had opted out of the LGPS) the employer will decide to whom any children's annual compensatory added years payments are to be paid and, in such a case, how the annual added years will be apportioned amongst the eligible children.</p>	<p>If compensatory added years were awarded to an employee who was not in the LGPS (because the employee had not joined or had opted out of the LGPS) the Council will decide to whom and in what proportions any children's annual compensatory added years payments are to be paid as the Council, at its sole discretion, sees fit (based on the merits of the individual cases).</p>