



## **AGENDA ITEM 6**

### **CENTRAL SCOTLAND VALUATION JOINT BOARD**

**Subject: LGPS EMPLOYER DISCRETIONS**  
**Meeting: CENTRAL SCOTLAND VALUATION JOINT BOARD**  
**Date: 1st FEBRUARY 2019**  
**Author: ASSESSOR AND TREASURER**

#### **1. INTRODUCTION**

- 1.1 The Board is required to prepare and publish a written statement indicating how it intends to exercise the discretionary powers that are contained in the Local Government Pension Scheme 2018 scheme rules.

#### **2. BACKGROUND**

- 2.1 The Board's current discretions policy was approved by the Board at its meeting of 19 June 2015. A new version of the Local Government Pension Scheme (LGPS) came into effect on 1 June 2018 in the form of the Local Government Pension Scheme (Scotland) Regulations 2018. The current policy requires to be updated to reflect the new regulations

#### **3. PROPOSED POLICY**

- 3.1 The proposed policy document has been formulated to replicate that of Falkirk Council who is the VJB's pension provider and this is consistent with previous practice.
- 3.2. The proposed policy is attached at Appendix 1. The policy document describes in the Compulsory section items about which the employer is required to have a policy. In the Non Compulsory section are listed those items where the Board is not required to have a policy but where for operational reasons it is appropriate to do so. For each regulation the scope of discretion is summarised, and the proposed discretion and authority for granting the discretion are set out.

- 3.3. In reviewing the Policy Board members may wish to note the following points of clarification:

**Rule of 85**

The Rule of 85 was abolished on 1st December 2006, although some scheme members contributing to the LGPS before that date may have some or all of their pension benefits protected under this rule. It is satisfied if the employee's age and scheme membership (in whole years) at the date you draw your benefits add up to 85 or more and is used, to determine the earliest point at which benefits could be taken voluntarily from the LGPS without suffering an early retirement reduction.

**Shared Cost Additional Pension Contribution**

Where an employee decides to pay Additional Pension Contributions (APCs) to buy an additional amount of pension the employer can choose to contribute towards the cost. This is known as a shared cost APC (SCAPC).

**Flexible Retirements**

Flexible retirement does not give the employer the right to specify a retirement age. It remains within the discretion of the employee to determine when they will retire irrespective of the agreement of flexible retirement.

- 3.4 The implementation of this policy would have a net nil financial cost although there would be financial considerations on a case by case basis should the Board wish to exercise any of the discretions detailed in the policy.

**4. RECOMMENDATION**

- 4.1 The Board is asked to approve the LGPS Employer Discretions Policy as drafted and to its publication.

Assessor  
1<sup>st</sup> February 2019

Treasurer  
1<sup>st</sup> February 2019

## **LOCAL GOVERNMENT PENSION SCHEME 2018**

### **SUMMARY OF EMPLOYER DISCRETIONS**

#### **COMPULSORY ITEMS:**

<b>Awarding Additional Pension : Regulation 30 LGPS (Scotland ) Regulations 2018</b>
<p><b>Summary of Discretion:</b> Consider whether at full cost to the employer, to grant extra annual pension of up to £5,000 (figure at 1 April 2015 plus annual inflation linking as specified in scheme rules) to an active scheme member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency.</p>
<p><b>Proposed Discretion:</b> Additional pension may be awarded up to a maximum of £5000 (figure at 1 April 2015 plus annual inflation linking as specified in scheme rules) to an active scheme member or within 6 months of leaving to a member whose employment was terminated on grounds of redundancy or business efficiency, however this limit must also include any additional pension contributions funded.</p> <p>The Assessor and Treasurer will consider all relevant factors and only where it can be demonstrated to be in the interests of the Board will additional annual pension be granted. Additional pension will not be granted if the scheme member has been granted Compensatory Added Years.</p>
<p><b>Previous Policy:</b> The proposed policy under the 2018 regulations is the same as the policy under regulation 30 of the 2014 regulations, although annual inflation linking for the maximum amount has now been included.</p>
<b>Funding of Additional Pension : Regulations 16(2e) 16(4d) LGPS (Scotland ) Regulations 2018</b>
<p><b>Summary of Discretion:</b> Consider whether, where an active scheme member wishes to purchase extra annual pension of up to £6,500 (figure at 1 April 2015 plus annual inflation linking as specified in scheme rules) by making Additional Pension Contributions (APCs), to voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC).</p>
<p><b>Proposed Discretion:</b> Where an active scheme member wishes to purchase extra annual pension of up to £6,500 (figure at 1 April 2015 plus annual inflation linking as specified in scheme rules) by making APCs, Central Scotland Valuation Joint Board will not contribute towards the cost of purchasing that extra pension via SCAPCs.</p>
<p><b>Previous Policy:</b> The proposed policy under the 2018 regulations is the same as the policy under regulations 16(2e) and 16(4d) of the 2014 regulations, although annual inflation linking for the maximum amount has now been included.</p>

**Flexible Retirement :  
Regulation 29(7) LGPS (Scotland ) Regulations 2018**

**Summary of Discretion:**

Consider whether to permit flexible retirement for staff aged 55 or over who, with the agreement of the employer, reduce their working hours or grade.

**Proposed Discretion:**

The Assessor and Treasurer will consider all relevant factors including costs and changes to the employee's contract of employment, and only where it can be demonstrated to be in the best interests of Central Scotland Valuation Joint Board will benefits be released.

Any flexible retirement request will only be approved where there is no financial benefit to the employee from their continued employment with Central Scotland Valuation Joint Board in the new role/hours. Any application to reduce hours must be reasonable and not merely a token or cosmetic reduction to allow scheme benefits to be activated.

Where a flexible retirement request has been approved, the employee will be required to take all accrued benefits in relation to that employment. This does not apply to benefits for second/additional posts.

**Previous Policy:**

The proposed policy under the 2018 regulations is the same as the policy under regulation 29(6) of the 2014 regulations.

**Waiving of Actuarial Reduction :  
Regulation 29(9) LGPS (Scotland ) Regulations 2018**

**Summary of Discretion:**

Members after age 55 and before Normal Pension Age (including those released on flexible retirement grounds) can choose to access their benefits but may incur an early payment penalty (actuarial reduction). Consideration has to be given to the circumstances in which the early payment penalty would be waived and the costs borne by the employer.

**Proposed Discretion:**

Central Scotland Valuation Joint Board will not, as a matter of course, waive in whole or in part any reduction that would be applied under Regulations 29(6) or 29(7). The Assessor and Treasurer will consider all relevant factors and only where it can be demonstrated to be in the interests of Central Scotland Valuation Joint Board will a variation be made to the general policy.

**Previous Discretion:**

The proposed policy replaces the policy under regulation 29(8) of the 2014 regulations:

The Assessor and Treasurer will consider all relevant factors and only where it can be demonstrated to be in the interests of the Board or where exceptional compassionate circumstances exist will any early payment penalty be waived.

**Rule of 85 Protection:**

**Para 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014**

**Summary of Discretion:**

The above Regulation makes provision for scheme members **who joined LGPS (Scotland) before 1/12/2006** and **who retire before Normal Retirement Age** to be protected against the early payment penalties that would otherwise apply in such cases. This is commonly referred to as “Rule of 85” protection.

The protections already in place **for members who retire on or after age 60** are as follows:

- i) For members born before 1/4/1960 who have **met** the Rule of 85<sup>(2)</sup> at their date of leaving, no actuarial penalty is applied to benefits arising from membership up to 1/4/2020. Benefits accrued from 1/4/2020 will attract a penalty reduction based on the period of time from the member’s date of leaving until their Normal Pension Age <sup>(1)</sup>.
- ii) For members born before 1/4/1960 who have **not met** the Rule of 85<sup>(2)</sup> at their date of leaving, then benefits arising from membership up to 1/4/2020 will only attract a penalty based on the period from date of leaving to the date on which the Rule of 85 (or age 65 at the latest) is met. Benefits accrued from 1/4/2020 will attract a penalty reduction based on the period of time from the member’s date of leaving until their Normal Pension Age<sup>(1)</sup>.
- iii) For members born on or after 1/4/1960 who have **met** the Rule of 85<sup>(2)</sup> at their date of leaving, no actuarial penalty is applied to benefits arising from membership up to 1/4/2008. Benefits accrued from 1/4/2008 will attract a penalty reduction based on the period of time from the member’s date of leaving until their Normal Pension Age <sup>(1)</sup>.
- iv) For members born on or after 1/4/1960 who have **not met** the Rule of 85<sup>(2)</sup> at their date of leaving, benefits arising from membership up to 1/4/2008 will only attract a penalty reduction based on the period of time from the member’s date of leaving to the date on which the Rule of 85 (or age 65 at the latest) is met. Benefits accrued from 1/4/2008 will attract a penalty reduction based on the period of time from the member’s date of leaving until their Normal Pension Age<sup>(1)</sup>.

Under the 2018 Regulations, scheme members can retire voluntarily once they attain age 55. This requires a consideration as to how the Rule of 85 protections should be updated for persons retiring between ages 55 and 60.

(1) Normal Pension Age is different depending on the period of membership it relates to.

(2) For the Rule of 85 to be satisfied, a person’s age and calendar length of scheme membership with both elements calculated in complete years must add up to at least 85.

**Proposed Discretion:**

**For members who retire between age 55 and 60**

The protections described in paragraphs i) to iv) above will apply with the modification that the actuarial penalty based on the period of time from date of leaving until age 60 will not be waived. The Assessor and Treasurer will consider all relevant factors and only where it can be demonstrated to be in the interests of the Council will a variation be made to the general policy.

This is on the basis that voluntary retirement between 55 and 60 is a new provision from 2018 not envisaged when the original protections were introduced in 2008.

**Previous Discretion:**

The Assessor and Treasurer will consider all relevant factors and only where it can be demonstrated to be in the interests of Central Scotland Valuation Joint Board will rule of 85 protection be set aside either in full or in part.

**NON-COMPULSORY ITEMS:**

**Early Payment of Pension:  
Regulation 29(5) & 29(13) LGPS (Scotland ) Regulations 2014**

**Summary of Discretion:**

This applies to those who left the scheme before 1<sup>st</sup> June 2018 and have deferred rights under former regulations (i.e. not 2018). If the option to access benefits from age 55 becomes an automatic right for former members then this discretion will cease to apply.

Consider whether to agree to a request for early voluntary payment of benefits on or after age 55 and before age 60.

**Proposed Discretion:**

The Assessor and Treasurer, will consider all relevant factors and only where it can be demonstrated that compassionate grounds and exceptional circumstances exist will benefits be authorised for release on or after age 55 and before age 60.

In determining compassionate grounds, financial reasons alone will not be considered sufficient to justify the release of benefits.

**Previous Discretion:**

This policy is unchanged.

**Members' Contribution Rates :  
Regulation 9(4) LGPS (Scotland ) Regulations 2018**

**Summary of Discretion:**

Consider whether member's contribution rates will be reassessed where there is a permanent material change to a member's employment.

**Proposed Discretion:**

Contribution rates will be reassessed where there is a permanent material change to a member's employment e.g. on promotion, demotion, re-grading or a part-time member's contractual hours change. The new rate will be communicated to the individual along

with the date from which it is to be applied at the year end and they will be informed of the right of appeal under the Internal Dispute Resolution Procedure.

**Previous Discretion:**

The proposed policy under the 2018 regulations is the same as the policy under regulation 9(3) of the 2014 regulations.

**Internal Disputes Resolution Procedure :  
Regulation 68(5)(c) LGPS (Scotland ) Regulations 2018**

**Summary of Discretion:**

The Local Government Pension Scheme contains its own disputes resolution procedure. This involves appeals being heard by the Principal Pensions Officer of Strathclyde Pension Fund with whom the Falkirk Council Pension Fund has a reciprocal arrangement. Some appeals require to be considered by the employer in question (e.g. a dispute over the member's rate of pension contribution or the failure of the employer to grant ill health retirement). Consequently, consideration should be given as to who should be responsible for adjudicating on such "employer related" disagreements.

**Proposed Discretion:**

Where the appeal concerns "employer related disagreements" the specified person to hear an appeal is the Assessor or alternatively the Assistant Assessor or Treasurer.

**Previous Discretion:**

The proposed policy under the 2018 regulations is the same as the policy under Regulation 71(5c) of the 2014 regulations.

**Acceptance of Late Transfer Payments :  
Regulation 95(6) LGPS (Scotland ) Regulations 2018**

**Summary of Discretion:**

Consider whether to extend the normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS.

**Proposed Discretion:**

Unless there have been administrative delays or omissions as determined by the Treasurer/Pensions Manager, transfer payments will only be accepted where the request to transfer has been made within 12 months of participating in the Falkirk Council Pension Fund.

**Previous Discretion:**

The proposed policy under the new scheme is the same as the policy under Regulation 98(6) of the 2014 regulations.

**Extension of 30 Day Deadline for Shared Cost APCs:  
Regulation 16(16) LGPS (Scotland ) Regulations 2018**

**Summary of Discretion:**

Consider whether to extend the 30 day deadline for a 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, relevant child-related leave or reserve force service leave).

**Proposed Discretion:**

In the event of authorised leave of absence, the scheme member will be allowed to elect to buy-back the amount of "lost" pension within three months of the individual returning from that leave of absence, provided they have requested and received details of the cost of the buy-back from Payroll. The employee should allow up to one month for Payroll to administer the calculation within the 3 month period.

**Previous Discretion:**

In the event of unpaid authorised leave of absence as described above, the scheme member will be allowed to elect to buy-back the amount of "lost" pension within three months of returning from that leave of absence or within one month of them having received details of the costs of the buy-back from the employer, whichever is the later.

Any other discretions arising under the regulations of the LGPS 2018 regulations will be considered and determined by the Assessor and Treasurer on a case by case basis.