

FALKIRK COUNCIL

**Subject: LOCAL GOVERNMENT PENSION SCHEME -
ADMINISTERING AUTHORITY DISCRETIONS
Meeting: PENSIONS COMMITTEE
Date: 6 JUNE 2013
Author: CHIEF FINANCE OFFICER**

1. INTRODUCTION

- 1.1 This report deals with certain discretionary powers which fall to be exercised by administering authorities such as Falkirk Council.
- 1.2 The discretions under consideration are as follows:
- Abatement of pension on re-employment
 - Re-instatement of spouse's pension
 - Payment of child's pension after break in full time education
 - Payment of child's pension to a disabled child
 - Treatment of pension overpayments on death
- 1.3 The report seeks consent to make changes to a number of policies and delegations so that, operationally, there is a better use of Pensions Section resources, and greater clarity and speed surrounding the decision making process.

2. ABATEMENT OF PENSION ON RE-EMPLOYMENT

- 2.1 Regulation 64 of the Local Government Pension Scheme (Scotland) Administration Regulations 2008 provides that *"Each administering authority must formulate and keep under review its policy concerning abatement (that is, the extent, if any, to which the amount of retirement pension payable to a member from any pension fund maintained by it under the Scheme should be reduced (or whether it should be extinguished) where the member has entered a new employment with a Scheme employer..."*
- 2.2 In formulating its policy concerning abatement, an administering authority must have regard to
- the level of potential financial gain at which it wishes abatement to apply
 - the administrative costs which are likely to be incurred as a result of abatement
 - the extent to which a policy not to apply abatement could lead to a serious loss of confidence in the public service

- 2.3 The Fund's abatement policy, set in 1998, is that a member's retirement pension must be reduced or suspended if the pension, when added to the new employment rate of pay, exceeds the retirement rate of pay. In short, the policy is to ensure that the pensioner is not better off after retirement than they were before retirement. The Fund's policy actually mirrors the legislative position prior to 1998 when the abatement of pension on re-employment was mandatory rather than discretionary.
- 2.4 During the period since 1998, a number of Scottish Funds have relaxed their abatement arrangements in recognition of the operational benefits of being able to call upon experienced former employees without there being an adverse pension impact. Some authorities have even gone so far as to abolish their abatement rules completely, although this seems at odds with the requirement for Fund policies to be sensitive to public perception.
- 2.5 The variation to the policy being sought by this report is to request that retired individuals may be re-employed by another Scheme Employer for up to 6 months before the abatement rules would be applied. This would have the following benefits:
- Easier for employers to employ experienced personnel when there is a short term demand
 - Abatement still applies after 6 months so public sensitivity still recognised
 - Avoids the Pensions Section spending a disproportionate amount of time making minor adjustments to pension payments as the bulk of cases involve re-employment for less than 6 months
 - Reduces the risk of pensioners failing to inform the Pension Section of their re-employment and thereby falling into an overpaid pension situation
 - Additional pension paid out as a result of policy change likely to be between £10,000 - £15,000 based on around 20 re-employment situations per annum (Total Pension Payments 2012/13 amounted to around £40m.)
- 2.6 A revised draft Statement of Policy relating to the abatement of retirement pensions in new employment is attached at Appendix 1 to the report.

3. RE-STATEMENT OF SPOUSE'S PENSION

- 3.1 Where an individual is in receipt of a Local Government Pension Scheme spouse's pension and subsequently remarries (or cohabits), the spouse's pension continues in payment. However, this has not always been the case and there are instances, under former scheme rules, where a spouse's pension has been terminated due to the spouse re-marrying or cohabiting. This will have happened where the scheme member - in respect of whom the spouse's pension has been payable - retired before 1st April, 1998.
- 3.2 Where the re-marriage or cohabitation has ended, a spouse may apply to the Fund to have the original spouse's pension re-instated. Such cases are very infrequent (less than one per year) and would normally be decided by taking all relevant factors into account, including the domestic and financial circumstances of the spouse.

- 3.3 In view of the infrequency of such applications and in the interests of equality between generations of spouses, it is considered that applications for re-instatement of the spouse's pension should be granted unless the Chief Finance Officer considers that there are circumstances that would make such re-instatement unreasonable.

4. PAYMENT OF CHILD'S PENSION AFTER BREAK IN FULL TIME EDUCATION

- 4.1 Regulations 26 and 27 of the Local Government Pension Scheme (Benefits, Membership and Contributions)(Scotland) Regulations 2008 provide that the surviving child of a scheme member is entitled to a (child's) pension if the child is a) under the age of 17 or b) between age 17 and 23 having been in continuous full time education from before age 17.
- 4.2 Regulations 26(4) and (5) provide that where a child re-commences full time education after age 17 (i.e. after a break in education), the administering authority can, at its discretion, authorise the payment of a child's pension and also authorise the payment of a child's pension during the period of any break.
- 4.3 In view of the infrequency of such cases and in the interests of contributing to the support of a child undertaking further education, it is considered that on re-commencement of full-time education, the pension should be paid unless the Chief Finance Officer considers that there are circumstances that would make such payment unreasonable, and that the Chief Finance Officer may authorise payment of the child's pension during the period of any break.

5. PAYMENT OF CHILD'S PENSION TO DISABLED CHILD

- 5.1 Regulation 26(6) of the Local Government Pension Scheme (Benefits, Membership and Contributions)(Scotland) Regulations 2008 now provides that an administering authority may pay a child's pension to a surviving child who is disabled within the meaning of the Disability Discrimination Act 1995.
- 5.2 Previous versions of the scheme rules have made it mandatory to pay a child's pension to a physically or mentally handicapped child of a deceased scheme member.
- 5.3 In the interests of maintaining continuity of approach to such cases, it is suggested that the administering authority adopts a policy whereby it *will* pay a child's pension where the child is deemed disabled within the meaning of the Disability Discrimination Act 1995.

6. PENSION OVERPAYMENTS ON DEATH

- 6.1 Whenever a pensioner dies, there is a possibility that their pension may have been overpaid. This usually occurs if there is a delay in the next of kin notifying the Pensions Section of the death or if the death occurs close to the payment date.
- 6.2 The majority of pension overpayments are recovered by writing to the next of kin or to the Estate. Some overpayments are however of such a small amount, that to pursue payment appears insensitive and mean spirited on the part of the Fund.

- 6.3 Under the Council's Financial Regulations and subject to a formal assessment being made as to the likelihood of a particular debt being recovered, the Chief Finance Officer may write off irrecoverable sums up to the value of £5,000.
- 6.4 Notwithstanding the limits set by the Financial Regulations, permission is sought to treat pension overpayments on death as follows:
- Overpayments will always be recovered if a Spouse/Child's pension is payable following the death of a pensioner member.
 - There will be no recovery of any overpayment relating to the period covered by the final pension payment.
 - Notwithstanding the recovery arrangements outlined in the 2 preceding bullets, all other overpayments will be recovered unless the cost of recovery outweighs the outstanding debt.

7. RECOMMENDATIONS

- 7.1 The Committee is asked to approve the following proposed changes to scheme discretions and delegated powers:
- (i) To amend the abatement policy so that any reduction or suspension of pension only occurs after the pensioner member has been in re-employment for 6 months;
 - (ii) To agree to re-instate a spouse's pension unless the Chief Finance Officer considers it would be unreasonable to re-instate the pension;
 - (iii) To agree to pay a child's pension on re-commencement of full-time education unless the Chief Finance Officer considers it would be unreasonable to pay the pension and to delegate to the Chief Finance Officer, the decision on whether or not a child's pension should be paid during the period of any break in full-time education;
 - (iv) To pay a child's pension in circumstances where the child is deemed disabled within the meaning of the Disability Discrimination Act 1995; and
 - (v) To authorise the treatment of pension overpayments on death on the basis set out in Paragraph 6.4

Chief Finance Officer

Date: 24 May 2013

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LIST OF BACKGROUND PAPERS

NIL