

PERTH AND KINROSS COUNCIL**Strategic Policy and Resources Committee****23 September 2015****The Local Government Pension Scheme – Employing Authority Discretions****Corporate Human Resources Manager****PURPOSE OF REPORT**

The Local Government Pension Scheme (LGPS) moved from a final salary scheme to a Career Average Revalued Earning (CARE) scheme on 1 April 2015.

By virtue of the Regulations of the Local Government Pension Scheme 2015, employers are required to prepare and publish a statement of policy in relation to five specific discretions.

1. BACKGROUND / MAIN ISSUES

- 1.1 The new Local Government Pension Scheme (Scotland) 2015 came into effect on 1 April 2015. Employers are required to formulate, publish and keep under review statements of policy in relation to the exercise of a number of discretions under the new LGPS Regulations.
- 1.2 This report pulls together the Council's written statement of policy on the exercise of pension discretions following consideration of the new discretions available under the Local Government Pension Scheme (Scotland) 2015.

2. PENSION DISCRETIONS REQUIRING A WRITTEN POLICY STATEMENT

- 2.1 The Local Government Pension Scheme (Scotland) 2015 is a statutory pension scheme; however, the regulatory framework is not rigid. The new 2015 scheme rules offer additional pension flexibility to both employers and employees while continuing to provide secure, statutory-based pensions for all scheme members and pensioners. Increased flexibility requires increased effort for the Council as employer and Dundee City Council in its role as administering authority and both are required to formulate policy statements on how they will exercise the discretions available to them.
- 2.2 In formulating and reviewing its policy, the Council is required by the Regulations to have regard to the extent to which the exercise of their discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service; and be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs. These have been the guiding principles in developing the proposals in this report.

- 2.3 Appendix 1 sets out the recommended approach to be taken on the five discretions as required by the 2015 Regulations. The pension discretions approved by the Strategic Policy & Resources Committee in September 2009, which are unaffected by the 2015 Regulations, will continue to apply.
- 2.4 The Council is not required to have written policies on all discretions. This is due to these other discretions mainly dealing with rare or infrequent events and it should not be assumed that these involve minimal or no cost. It is recommended that the existing discretions and any new discretions be delegated to the Depute Chief Executive – Corporate & Community Development Services (Chief Operating Officer) as from 1 October 2015. The Council has previously given delegated authority to a Chief Officer to determine the Council's position on such discretions.

3. CONCLUSION AND RECOMMENDATIONS

- 3.1 The introduction of the revised Local Government Pension Scheme (Scotland) 2015 on 1 April 2015 has prompted a review of existing pension discretions and formulation of policy in relation to new discretions. This report sets out a number of proposals to ensure clarity and consistency as well as fairness and transparency for decision-making in relation to the pension scheme. These policy decisions will be kept under review to ensure they are appropriate and continue to meet the needs of the Council.
- 3.2 It is recommended that the Strategic Policy & resources Committee agrees:
- The discretions set out in Appendix 1.
 - To recommend that the Scheme of Administration is amended to give the Depute Chief Executive – Corporate & Community Development Services (Chief Operating Officer) delegated authority to determine other pension discretions not specifically addressed within this report as from 1 October 2015.

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Approved

Name	Designation	Date
Bernadette Malone	Chief Executive	16 September 2015

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan / Single Outcome Agreement	Yes
Corporate Plan	Yes
Resource Implications	
Financial	Yes
Workforce	None
Asset Management (land, property, IST)	None
Assessments	
Equality Impact Assessment	Yes
Strategic Environmental Assessment	None
Sustainability (community, economic, environmental)	None
Legal and Governance	None
Risk	None
Consultation	
Internal	Yes
External	Yes
Communication	
Communications Plan	None

1. Strategic Implications

Community Plan/Single Outcome Agreement

- 1.1 This report supports the priorities detailed in the Community Plan/Single Outcome Agreement.

Corporate Plan

- 1.2 This report supports the priorities detailed in the Council's Corporate Plan Priorities.

2. Resource Implications

Financial

- 2.1 There are no financial implications arising directly from this report. The Head of Finance will be consulted on the financial implications of any retirement involving cost for the Council.

3. Assessments

Equality Impact Assessment

- 3.1 The proposals contained within this report have been considered under the Corporate Equalities Impact Assessment process (EqIA). As the Local

Government Pension Scheme (Scotland) 2015 has been passed by Government, we are obliged to adhere to the conditions in their Scheme.

- 3.2 Discretions will be applied objectively and consistently so there is no bias on the grounds of gender or age.

4. Consultation

Internal

- 4.1 The Head of Finance has been consulted In preparation of this report .

External

- 4.2 The Pension Team at Dundee City Council has been consulted in preparation of this report.

5. Appendices

Appendix 1 – Discretions to be considered by employers.

**LOCAL GOVERNMENT PENSION SCHEME (SCOTLAND) 2015
DISCRETIONS TO BE CONSIDERED BY EMPLOYERS**

	Discretion	Comments	Relation to Existing Discretions
1	<p><u>TO GRANT EXTRA ANNUAL PENSION OF UP TO £5000</u></p> <ul style="list-style-type: none"> Whether to grant, at full cost to the employer, extra annual pension of up to £5,000*: to an active scheme member, or; within 6 months of their leaving date, to a scheme member whose employment was terminated on the grounds of redundancy or business-efficiency. <p>[Regulation 30 of the LGPS (Scotland) Regulations 2014 refers]</p> <p>*value as at 1 April 2015</p>	<p>The facility for employers to grant extra 'augmented' membership of the LGPS ceases after 31 March 2015. Perth & Kinross Council previously decided not to make use of this facility.</p> <p>To replace the extra 'augmentation' option, the employer could grant the member additional pension actuarially - equivalent to the value of any lump sum termination payment (in excess of the redundancy payment) the employer would otherwise have awarded under the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 i.e. 'additional pension by conversion'.</p> <p>There are no immediate causes for concern that would indicate this option is a necessary recruitment or retention tool at this time.</p> <p>This policy decision can be kept under review and changes considered as our workforce intelligence and workforce planning develops.</p> <p>Consistent with previous practice in this area - the Council will not exercise this discretion.</p>	Existing

2	<p><u>TO VOLUNTARILY CONTRIBUTE TO A SHARED COST ADDITIONAL PENSION CONTRIBUTION</u></p>		
A	<p>‘EXTRA’ PENSION</p> <p>Where a scheme member wishes to purchase ‘extra’ annual pension of up to £6,500* by making Additional Pension Contributions, to voluntarily contribute towards the cost of purchasing that ‘extra’ pension via a Shared Cost Additional Pension Contribution (SCAPC).</p> <p>[Regulations 16(2)(e) and 16(4)(d) of the LGPS (Scotland) Regulations 2014 refer]</p> <p>*value as at 1 April 2015</p>	<p>‘EXTRA’ PENSION</p> <p>No business pressures have been identified to justify the Council contributing to a Shared Cost Additional Pension Contribution (SCAPC). This can be kept under review.</p> <p>Previously, this discretion did not require a specific policy decision – this has now changed and we are required to include this in our statement of policy.</p> <p>The Council will not exercise this discretion.</p>	Existing
B	<p>‘LOST’ PENSION</p> <p>Whether to extend the 30-day deadline for a scheme member to elect for an SCAPC upon returning from a period of absence from work.</p>	<p>‘LOST’ PENSION</p> <p>Perth & Kinross Council contributes 2/3rds of the cost to an SCAPC when an employee makes an election within 30 days of returning to work. [Regulation 15(5) of the LGPS (Scotland) Regulations 2014 refers]. All staff are advised of the 30-day limit, and policies have been updated on eric.</p> <p>There is discretion on whether we wish to extend the 30-day limit – the Council will not exercise this discretion.</p>	New

3	<p><u>TO PERMIT FLEXIBLE RETIREMENT TO SCHEME MEMBERS AGED 55 OR OVER WHO REDUCE THEIR WORKING HOURS OR PAY GRADE</u></p> <p>Whether to permit flexible retirement for a scheme member aged 55 or over who, with the agreement of the employer, reduces their working hours or pay grade. [Regulation 29(6) of the LGPS (Scotland) Regulations 2014 refers]</p> <p>If the employer agrees to permit flexible retirement, whether, in addition to the pension benefits that the scheme member has accrued prior to 1 April 2009 (which the scheme member must draw), to permit the scheme member to choose to draw:</p> <ul style="list-style-type: none"> • all, part or none of the pension benefits that they accrued after 31 March 2009 and before 1 April 2015, and/or; • all, part or none of the pension benefits that they accrued after 31 March 2015*, and; 	<p>We wish to carry forward our existing policy on flexible retirement under the 2009 Scheme [LGPS (Administration) (Scotland) Regulations 2008 refer], which was addressed in Report No 09/70 – Retirement Scheme.</p> <p>Employees must be a member of the Local Government Pension Scheme and be aged 55 years or over when the flexible retirement is due to start. They must also confirm in writing a leaving date which has to be within 3 years of the commencement of their flexible retirement.</p> <p>In normal circumstances, if flexible retirement is agreed for a member aged 55 or over (but under 60) who is subject to the ‘Rule of 85’ and who, at the date of their flexible retirement, has either met the ‘Rule of 85’ or would have met the rule before their 60th birthday, there would be a ‘Strain on Fund’ cost to be met and paid to the Pension Fund by the employer in respect of the pension benefits following their flexible retirement.</p> <p>Perth & Kinross Council wish to allow employees to draw:</p> <ul style="list-style-type: none"> • all of the pension benefits that they accrued after 31 March 2009 and before 1 April 2015, and; • all of the pension benefits that they accrued after 31 March 2015*. <p>In addition,</p> <ul style="list-style-type: none"> • the Executive Officer Team has been granted delegated authority to exercise discretion regarding the payment of a ‘Strain on Fund’ cost in exceptional compassionate grounds. 	Existing
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	<ul style="list-style-type: none"> whether to waive, in whole or in part, any actuarial reduction which would otherwise be applied to the pension benefits taken on flexible retirement before Normal Pension Age <p>* [Regulations 11(2) and 11(3) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 refer]</p>	<p>The Council will continue to exercise this discretion, taking into account the above statements.</p>	
4	<p><u>APPLYING THE 'RULE OF 85'</u></p> <p>Whether, as the 'Rule of 85' does not (other than on flexible retirement) apply automatically and, in full, to scheme members who would otherwise be subject to it and who (with their employer's consent) choose to voluntarily draw their pension benefits on or after their 55th birthday (and before age 60), to apply the 'Rule of 85' to such members [paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 refers].</p> <p>Where the employer does not do</p>	<p>The 'Rule of 85' no longer automatically applies, instead Perth & Kinross Council has discretion whether or not to apply the rule.</p> <p>Under the 2009 Scheme, if we had agreed to a member drawing their pension benefits on or after their 55th birthday (and before age 60) and the member had met the 'Rule of 85' (or would have met it before age 60), this would have resulted in a 'Strain on Fund' cost being charged to the Council.</p> <p>Under the 2015 Scheme, we can agree to a member drawing their pension benefits on or after their 55th birthday (and before age 60) and, even if the member had met the 'Rule of 85' (or would have met it before age 60), there would be no 'Strain on Fund' cost charged to us (unless we had agreed to apply the 'Rule of 85' to the case in question).</p> <p>This means that we may be prepared to consider granting more requests for the early payment of pension benefits on or after the member's 55th birthday (and before age 60) in the knowledge that, unless we also agree to apply the 'Rule of 85', there will be no 'Strain on Fund' cost to be met by the Council - the cost will be met by an actuarial reduction to the member's pension benefits.</p>	New

	<p>so, then:</p> <p>(a) if the scheme member has already met the 'Rule of 85', the scheme member's pension benefits are to be reduced in accordance with actuarial guidance issued by the Scottish Ministers, or;</p> <p>(b) if the member has not already met the 'Rule of 85', the scheme member's pension benefits are to be reduced in accordance with actuarial guidance issued by the Scottish Ministers, and;</p> <p>(c) the employer can exercise a discretion to waive the actuarial reduction (at full cost to the employer) – Discretion 5 below refers.</p>	<p>If we agree to apply the 'Rule of 85', we will have to meet any 'Strain on Fund' costs resulting from the payment of pension benefits before age 60 i.e. where the member has already met the 'Rule of 85', or would meet it before their 60th birthday [Paragraph 2(3) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 refers]</p> <p>Applying the 'Rule of 85' may be a mechanism that we would wish to consider to encourage members to retire early. For example, to help achieve a balanced age profile within the workforce or to avoid possible redundancies at a later point.</p> <p>Another option would be to switch off the 'Rule of 85' but to agree to waive some of the actuarial reduction that would otherwise be applied to the member's pension benefits.</p> <p>The cost of the member drawing their pension benefits early under this option would be met, in part, by the member (via an actuarial reduction to their benefits) and, in part, by the Council (via a 'Strain on Fund' cost).</p> <p>Requests for early retirement under the 'Rule of 85' will be considered on a case by case basis, therefore, when giving consent to a request for early retirement where the employee meets the 'Rule of 85', we do not necessarily need to pay the 'Strain on Fund' costs in full. Affordability would be an important factor in this decision-making process. Advice will be given by the Head of Finance and the Corporate Human Resources Manager, with the final decision being made by the Executive Officer Team.</p> <p>The Council wishes to exercise this discretion on a case by case basis.</p>	
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5	<p><u>TO PERMIT SCHEME MEMBERS AGED 55 OR OVER WHO VOLUNTARILY RETIRE TO DRAW THEIR PENSION BENEFITS IMMEDIATELY</u></p> <p>For active scheme members voluntarily retiring on or after their 55th birthday (and before Normal Pension Age) who make an election under Regulation 29(5) of the LGPS (Scotland) Regulations 2014 (with the employer's consent, if under age 60) to immediately draw their pension benefits, and;</p> <p>For deferred scheme members who make an election under Regulation 29(5) of the LGPS (Scotland) Regulations 2014 (with their former employer's consent, if under age 60) to immediately draw their pension benefits (other than on ill-health grounds) on or after age 55 and before Normal Pension Age, and:</p> <p>who <u>were not</u> members of the LGPS prior to 1 December 2006, whether to:</p>	<p>We wish to carry forward our existing policy, including the waiving of the actuarial reduction on compassionate grounds for voluntary retirement under the 2009 Scheme [LGPS (Administration) (Scotland) Regulations 2008 refer], which was addressed in Report No 09/70 – Retirement Scheme. The Executive Officer Team have been granted delegated authority to exercise discretion in exceptional compassionate grounds.</p> <p>Any early release of pension benefits, whether actuarially reduced benefits or not, will place a strain on the fund which, either immediately or ultimately, have to be met by the employer.</p> <p>Early release of pension benefits can be justified on a salary-saving basis for a current employee but this is not possible for an ex-employee.</p> <p>Early release of deferred benefits is therefore quite rare and often limited to grounds of compassion only.</p> <p>The Council will continue to exercise this discretion, taking into account the above statements.</p>	Existing
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	<p>(a) waive on compassionate grounds, any actuarial reduction that would otherwise be applied to the member's pension benefits, if any, that they had accrued before 1 April 2015, and/or;</p> <p>(b) to waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to the pension benefits that they had accrued after 31 March 2015.</p> <p>who were members of the LGPS prior to 1 December 2006, whether to:</p> <p>(a) waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to their pension benefits (accrued during the period pre and post 1 April 2015.</p>		
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