



## APPENDIX 1

### DISCRETIONS BY THE MORAY COUNCIL

The 1998 Pension Regulations made various changes to the former regulations. The regulations also allowed the exercising of discretions by Employing Authorities and the Administering Authority.

In terms of Regulation 105 of the Local Government Pension Scheme (Scotland) Regulations each administering authority and scheme employer must formulate and keep under review their policy concerning the exercise of their functions.

The regulations on which The Moray Council as an Employing Authority has discretions were resolved as follows:

#### **Regulation 6 (9)(a) – Opting Out**

A member who opts out of the pension scheme has one further option to rejoin the scheme. If that employee again opts out the regulations give the employer the discretion to allow the employee to rejoin the scheme after more than one election.

The Council resolve 'not to exercise it's discretion' to allow and employee to opt out and rejoin the scheme on more than one occasion.

#### **Regulation 30 (2) – Request for early payment of benefits**

A former employee may request early payment of his/her deferred benefits once he/she is aged 50 or more.

The Council resolve 'not to exercise it's discretion' to allow early payment of pension benefits prior to age 60.

**Regulation 30 (5) – Request for early payment of benefits on compassionate grounds**

Where payment of pension benefits on compassionate grounds is agreed by the employer, the benefits may be subject to reduction, depending upon the employee's age and period of scheme membership. This reduction may be waived by the employer at a cost to themselves.

The Council exercise their discretion to waive the reduction in respect of pension benefits paid on compassionate grounds.

Compassionate grounds is where a carer's allowance is being paid or in very exceptional cases will be considered by the Board under delegated powers.

**Regulation 30 (7A) – Scheme members who have opted out can only receive their pension benefits at normal retirement date, with their employer's consent.**

Where an employee has opted out of the pension scheme, but remained in employment, their pension benefits are payable at normal retirement, only with the consent of the employer.

The Council 'do not exercise their discretion' to allow an employee, who has opted out of the LGPS, to access their pension benefits at normal retirement age if they continue to be employed by the Board. The pension benefits will become payable when the employee ceases employment or at age 75, if earlier.

**Regulation 34 (1A) - Flexible Retirement**

An employee aged 50 or over may reduce their hours or step down to a lower graded post and draw their pension, subject to the employer's consent.

The Council will determine each case after consideration of it's merit, taking into account the operational requirements and delivery of services as well as any cost to the Board and the service.

**Regulation 34 (1C) – Flexible Retirement**

The pension benefits of an employee may be subject to reduction as they are drawing their pension benefits prior to normal retirement date. The Board has the discretion to waive this reduction, at a cost to themselves.

The Council 'do not exercise it's discretion' to waive any reduction in benefits for a member who is granted flexible retirement.

### **Regulation 51 (1) Augmentation**

An employer has discretion to award an augmented (additional) period of membership of an active member.

The Council 'do not exercise it's discretion' by awarding augmented membership.

### **Regulation 66 (1) Shared cost AVCs**

An employer has discretion to set up, in addition to the normal additional voluntary contribution (AVC) scheme.

The Council, 'do not exercise it's discretion' to introduce a shared cost AVC shceme.

### **Regulation 121 (8) Transfer of Pension Benefits**

An employee must make a request for previous pension benefits to be transferred within twelve months of the date they became an active member or such longer period as the employer ailows.

The Council 'do not exercise it's discretion' to allow a transfer request made more than twelve months after the date the employee became and active member.

The policy decisions on the above discretion's were agreed by The Moray Council in 1998, reviewed in 2001, reviewed in 2004 and reviewed in 2007. The next review will be August 2010.

**\*\*These discretions were introduced by The Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2000, which came into force on 7 April 2000.**