

**REPORT TO: POLICY COMMITTEE ON 30 APRIL 2008**

**SUBJECT: DISCRETIONARY FUNCTIONS  
LOCAL GOVERNMENT PENSION SCHEME**

**BY: HEAD OF PERSONNEL SERVICES**

**1. REASON FOR REPORT**

- 1.1 To advise the Committee of amendments to the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 (hereafter referred to as the Discretionary Payments Regulations). The purpose of this report is to review the Council's current policy decisions in respect of these Regulations and to ask the Committee to consider and approve the amendments required to these policy decisions.
- 1.2 In terms of regulation 105 of the above regulations each administering authority and scheme employer must formulate and keep under review their policy concerning the exercise of their fundtions.
- 1.3 The Discretionary Policies was last reviewed in 2004 and at that time it was decided that the policies would again be reviewed in 2007.
- 1.4 This report is submitted to Committee in terms of Section A(15) of the Council's Administrative Scheme relating to Superannuation and Pensions.

**2. RECOMMENDATIONS**

- 2.1 That the Committee approves an amendment to the Policy Statement as outlined in the report.**
- 2.2 That the Committee approves Appendix 1 as attached, as the current Moray Council Policy Statement and that the Policy be reviewed in August 2010.**

**3. PROPOSALS**

- 3.1 Aberdeen City Council, as a scheme employer have revised their statement to take account of amendments and the Pensions Manager has suggested the Moray Council should also review the exercise of discretions. Each of the policy decisions are outlined below along with recommendations.

### 3.2 **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.

It is recommended that the Council resolve 'not to exercise it's discretion' to allow an employee to opt out and rejoin the scheme on more than one occasion.

### 3.3 **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.

It is recommended that the Council resolve 'not to exercise it's discretion' to allow early payment of pension benefits prior to age 60.

### 3.4 **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.

It is recommended that 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.

### 3.5 **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.

It is recommended that 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 Council. The pension benefits will become payable when the employee ceases employment or at age 75, if earlier.

### **3.6 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.

It is recommended that the Council 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 Council and the service.

### **3.7 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 Council has the discretion to waive this reduction, at a cost to themselves.

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

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

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

It is recommended that the Council 'do not exercise it's discretion' by awarding augmented membership.

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

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

It is recommended that the Council, 'do not exercise it's discretion' to introduce a shared cost AVC shceme.

### **3.10 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 allows.

It is recommended that 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.

#### **4. ADDITIONAL DISCRETIONS - 'AVAILABLE ONLY' to ABERDEEN CITY COUNCIL AS THE ADMINISTERING AUTHORITY.**

4.1 For information purposes only, the following discretions are available for decision 'solely' by the Aberdeen City Council as the administering authority.

##### **4.2 Regulation 48 (1) Commutation of trivial pensions**

Where the capital value of a member's benefits are less than 1% of the Lifetime Allowance; (the limits are currently 1% of £1.6 million = £16,000), the administering authority may commute the value of the trivial pension by payment of a lump sum.

##### **4.3 Regulation 110 (4)(b) Reduction of pension on re-employment**

At present if a former scheme member is re-employed by a Scheme employer, their pension benefits may be subject to suspension or reduction, during any period of re-employment, if their new pay plus their pension was more than their rate of pay at retirement. The new regulation on flexible retirement (Regulation 34), does not take into account earnings in respect of their new employment, therefore no reduction applies in these cases.

#### **5. SUMMARY OF IMPLICATIONS**

(a) **Corporate Development Plan/Community Plan/Service Improvement Plan:** None

(b) **Policy and Legal:** None

(c) **Resources (Financial, Risks, Staffing and Property):** None

(d) **Consultations:** This report has been prepared using detailed guidance provided by the Pensions Section, Aberdeen City Council. Margaret Wilson, Head of Financial Services has been consulted and concurs with the contents of this report.

#### **6. CONCLUSION**

6.1 **It is recommended that the Council approve an amendment to the Policy Statement as outlined above.**

6.2 **It is also recommended that the Council approves (APPENDIX 1) as the current Moray Council Policy Statement and that the policy be reviewed in August 2010.**

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