



*Dunbartonshire and Argyll & Bute
Valuation Joint Board*

**POLICY ON DISCRETIONS
FOR EARLY RETIREMENT AND REDUNDANCY PROVISIONS
LOCAL GOVERNMENT EMPLOYEES**

**This document is available in large print, on tape, disc and by E-mail.
Please contact Assessor & ERO on 0141 562 1260**

Policy update:	For approval by Valuation Joint Board (June 2011)
Key Driver for Change/Policy Development	The Local Government Pension Scheme (Administration (Scotland) Regulations 2008 (effective from 1 April 2009 and 1 April 2010). The Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2008 (effective from 1 April 2009)

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APPLICATION OF REGULATORY PENSIONS DISCRETIONS POLICY

1. Introduction

- 1.1 Regulation 61 (2) of the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 requires scheme employers to formulate their policies within 3 months of pension changes.
- 1.2 This Policy details the range of discretions available to the Board and the discretions which Dunbartonshire and Argyll & Bute Valuation Joint Board will adopt in relation to the Local Government Pension Regulations. Namely: The Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008; The Local Government Pension Scheme Amendment the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 and the Local Government (Discretionary Payments and Injury Benefits) (Scotland) and any subsequent amendments to these regulations. The Policy also covers other situations where the Board may wish to exercise its discretion with regard to early leavers.

2. Scope

- 2.1 This Policy applies to early leavers (redundancy/voluntary severance/early retirement); staff requesting flexible retirement; staff in situations where augmentation of benefit would apply; and transfer of previous pension benefits. This Policy applies to employees who are members of the Local Government Pension Scheme.

3. Key Principles

- 3.1 The Policy describes the range of discretions available to the Board under the local government pension scheme regulations. All decisions in relation to the use of these discretions will always take account of the short and long term financial implications to the Board.
- 3.2 In applying all decisions relating to the exercising of discretions available, the Board will always seek to ensure consistent and equitable application.
- 3.3 The Board will ensure the Policy is reviewed and updated to comply with the statutory redundancy provisions and any further amended Pension Regulations.
- 3.4 The Policy sets out the extent of the discretions open to the Board. The Board will develop schemes (e.g. redundancy/Severance/ Voluntary Early Retirement) which will set out how the policy will be applied in any particular circumstance. The actual discretion exercisable by the Board in a particular case will be in accordance with the terms of any such scheme.

4. Discretions

Discretions Under the “Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations”

4.1 Benefits Regulation 12 - Augmentation of Benefits

4.1.1 The Board may use its discretion to augment the membership of an active member at any time, by up to 6 years 243 days or to the members 65th birthday, if shorter. The discretion would only be exercised in exceptional circumstances where it was deemed to be of specific and particular benefit to the Board.

4.1.2 In such circumstances the Board would meet the full cost of the additional membership by payment of a lump sum into the pension fund, payable within one month of a resolution being passed to award augmentation.

4.2 Benefits Regulation 13 - Award of Additional Pension

4.2.1 The Board may exercise discretion to award an additional amount of pension to a member of the Scheme up to a figure of £5,000 in multiples of £250. The Board will not exercise this discretion.

4.3 Benefits Regulation 18(1)(b) and 18(2) - Flexible Retirement

4.3.1 The Board may exercise its discretion to allow an employee to take payment of their pension and lump sum and continue working as long as, with Board consent, the employee reduces either the hours or the grade of the post. This discretion will only be exercised in instances where there would be positive benefits to the Board in terms of efficiency savings and/or skills retention, and in such circumstances hours of work would require to be reduced by at least 20%.

4.3.2 In instances of flexible retirement, the Board may exercise its discretion to waive, in whole or in part, and dependent on financial constraints, any reduction in the employee's benefits. In such cases the Board meets the cost of additional pension fund “strain costs” which would be calculated by the fund's actuary. The cost of the actuarial calculation would also be recharged to the employer.

4.3.3 Flexible retirement with employers consent will be permitted from age 55 with members being able to draw all or part of their benefits.

4.3.4 Where an employee has opted out of the LGPS, they are only entitled to payment of benefits without reduction from their Normal Retirement Date where the employer so consents. In such instances, and dependent on financial constraints, the Service may exercise its discretion to consent to benefits without reduction.

4.4 Early Leavers under age 55 (under age 50 for employees who were members of the scheme on 5 April 2006) on the grounds of redundancy

- 4.4.1 In accordance with the LGPS Regulations early leavers under age 55 (unless protected age 50 member) cannot access their pensionable benefits, and where the employee leaves early the pension is deferred until normal retirement age.
- 4.4.2 In cases of early release through redundancy the employee will receive statutory redundancy pay in line with their statutory rights to redundancy entitlement under the Employment Rights Act 1996 i.e.;

Statutory Redundancy Entitlement:

- Up to age 21 - half a week's pay for each completed year of continuous service*
- 22-40 years of age – one week's pay for each completed year of service (up to a maximum of 20 years)*
- 41+ years of age -1½ weeks pay for each completed year of service (up to a maximum of 20 years)*

* It should be noted that there is a statutory maximum weekly pay for statutory redundancy calculations.

- 4.4.2 Continuous service for the purpose of calculating redundancy payments is any continued service with local authorities and other specified bodies as defined in the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999 (as amended and referred to as the "Modification Order").
- 4.4.3 The Board may exercise its discretion to multiply the statutory redundancy amount by a specific multiplier as long as this is applied consistently to all employees within a particular scheme and at a particular time.
- 4.4.4 Where employment is terminated early, and dependent on financial circumstances, the Board may exercise its discretion to enhance statutory redundancy up to a maximum of 66 weeks pay. Where employment is terminated early for a group of employees, the number of weeks pay must be identical for each employee.

4.5 Benefits Regulation 30(2) and 30(5) - Early Leavers Aged 55 or over

- 4.5.1 Where an employee requests early payment of pension benefits between the ages of 55-60 in accordance with scheme provisions, the Board may give consent to this request based on costs and exigencies of the service. Each case will be considered on its own merits.
- 4.5.2 In exceptional circumstances e.g. compassionate grounds, the Board may decide that the pension and lump sum should be paid without being actuarially reduced for early payment.

4.6 Benefits Regulation 19 (and Regulation 8 of the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998) - Early Leavers Aged 55 or over (age 50 protected members) on the grounds of Redundancy or Efficiency Grounds

4.6.1 Where a member is dismissed by reason of redundancy or efficiency and has reached aged 55 (*50 for “protected members”) the member is entitled to immediate payment of pension benefits without reduction).

* “protected member” is an employee who was a member of the 1998 Scheme on 5 April 2006.

4.6.2 In instances of redundancy (2 years continuous service as defined under the “Modification Order”), and where the employee has 5+ years pensionable service, the Board will exercise its discretion to award added years up to a maximum of 6 years 243 days. In such cases the Board meets the cost of added years both in terms of ongoing pension and one-off lump sum payment.

4.6.3 In instances of the ‘efficient exercise of the employers function’ an employee will receive pension benefits based on actual membership of the pension scheme if they have 2 years or more but less than 5 years pensionable service. In cases where an employee has 5+ years pensionable service the Board may exercise its discretion to enhance service by up to 10 added years, dependent on the exigencies of the service and available years up to age 65. The Board will meet the cost of added years in efficiency situations both in terms of ongoing pension and one-off lump sum payment

4.6.4 Where appropriate, the Board may offer employees a one-off lump sum of up to 66 weeks’ pay where employment is terminated early. Where employment is terminated early for a group of employees, the number of weeks pay will be identical for each employee.

4.6.5 Any employee in receipt of the added years discretion will not be entitled to any enhanced redundancy payment and any redundancy will be calculated on the basis of the statutory redundancy provisions.

4.6.6 In cases of redundancy or efficiency grounds the earliest age benefits are paid is age 55 for new members joining after 1 April 2009. (Individuals who joined the scheme on 5 April 2006 retain eligibility to have redundancy/efficiency retirement benefits paid from age 50).

Discretions under the “Local Government Pension Scheme (Administration) (Scotland) Regulations”:

4.7 Admin Regulation 19 - Late Applications to Pay Optional Contributions

4.7.1 An employee returning from an approved period of absence (i.e. maternity/adoption/paternity leave), is permitted to pay the contribution that would have been payable if they had not been absent. The Board will not generally agree to extend the time limit of 30 days under

regulations 15(5) within which an election to pay the contributions is made. Exceptionally, where an employee provides evidence of extenuating circumstances, the time limit will be extended by a further 30 days.

4.7.2 An employee returning from a period of unpaid absence (strike days) is permitted to pay the contribution that would have been payable if they had not been absent. Election to pay the contribution must be made within 30 days.

4.8 Admin Regulation 22(3) - Shared Cost AVC's

4.8.1 The Board has discretion to establish a shared cost AVC arrangement of active members. The Board will not exercise this discretion, however this will be kept under review.

4.9 Admin Regulation 78 -Transfer of Previous Pension Benefits

4.9.1 Employees have 12 months from their date of joining the LGPS to apply to transfer any previous pension benefits from Club Schemes (e.g. Civil Service, Teachers Pension Scheme, NHS and other public sector bodies) into the LGPS. The Board will exercise its discretion to extend the 12 month time limit for accepting transfer previous pension benefits, and therefore the employee must apply within 24 months from joining the LGPS to transfer previous pension benefits into the Scheme.

Discretions under the “Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations”:

4.10 Regulation 35 of the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2008

4.10.1 The Board can exercise discretion to make a one-off ill-health gratuity payment to an employee whose employment is terminated on the grounds of ill-health but where the Board does not consider that the employee is rendered permanently incapable of discharging the duties of their current employment under the regulations.

4.10.2 The Board will only exercise this discretion in exceptional circumstances. This will be kept under review.

5. Review

5.1 This Policy will be reviewed in line with any changes to the statutory redundancy provision and Pension Scheme Regulations.