

**REPORT TO: PENSION SUB-COMMITTEE OF THE POLICY & RESOURCES COMMITTEE & PENSION BOARD – 8 MARCH 2021**

**REPORT ON: TAYSIDE PENSION FUND – SCHEME DISCRETION POLICIES**

**REPORT BY: EXECUTIVE DIRECTOR OF CORPORATE SERVICES**

**REPORT NO: 78-2020**

**1 PURPOSE OF REPORT**

This Policy details the range of discretions available to Dundee City Council as the administering authority of Tayside Pension Fund, and the current policies in place in relation to these.

**2 RECOMMENDATIONS**

The Sub-Committee is asked to note the contents of the report.

**3 FINANCIAL IMPLICATIONS**

There are no financial implications.

**4 BACKGROUND**

The Local Government Pension Scheme (LGPS) in Scotland was amended from 1 April 2015 so that benefits accruing for service after 31 March 2015 accrue on a Career Average Revalued Earnings (CARE) basis, rather than on a final salary basis.

As a result of these changes, all LGPS schemes in Scotland were required to formulate, publish and keep under review a Statement of Policy on certain discretions which they have the power to exercise in relation to members of the CARE Scheme.

To provide full clarity of scheme discretions available across all relevant pension regulations, a Discretions Policy (Appendix A) has been developed. This policy will be reviewed following regulatory or policy changes approved.

**5 POLICY IMPLICATIONS**

This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

There are no major issues, other than Risk Management itself, which is addressed through the register.

**6 CONSULTATIONS**

The Chief Executive and Head of Democratic and Legal Services have been consulted in the preparation of this report.

**7 BACKGROUND PAPERS**

None

**ROBERT EMMOTT  
EXECUTIVE DIRECTOR OF CORPORATE SERVICES**

**12 MARCH 2021**



## **SCHEME DISCRETIONS POLICY**

**2021-22**

The discretions noted below are referenced to the section of the specific regulations via the prefix noted below along with the section number.

<b>Regulation Prefix</b>	<b>Full title of regulation</b>
R	The Local Government Pension Scheme (Scotland) Regulations 2018
R2	The Local Government Pension Scheme (Scotland) Regulations 2014
TP	The Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014
A	The Local Government Pension Scheme (Administration) (Scotland) Regulations 2008
B	The Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (as amended)
T	The Local Government Pension Scheme (transitional Provisions) (Scotland) Regulations 2008
L	The Local Government Pension Scheme (Scotland) regulations 1998 (as amended)

<b>Discretion</b>	<b>Regulation</b>	<b>Fund Policy</b>
Whether to refuse a request to pay an Additional Pension Contribution (APC) / Shared Cost Additional Pension Contribution (SCAPC) over a period of time where it would be impractical to allow such a request (e.g. where the sum being paid is very small and could be paid as a single payment)	R – 16 (1)	Applications where the sum due to be paid will be assessed on a case by case basis.
Whether to require a satisfactory medical before agreeing to an application to pay an APC/SCAPC	R -16 (10)	For applications, other than via the lump sum method, the Fund will require a satisfactory medical report as to the member's reasonably good health prior to allowing the contact to commence. The cost of providing this medical report is at the member's expense.
Whether to turn down an application to pay an APC/SCAPC if not satisfied that the member is in reasonably good health.	R -16 (10)	The Fund will turn down an application where the medical report the Medical Practitioner has not confirmed that the member is in reasonably good health.
Decide to whom any Additional Voluntary Contribution (AVC) / Shared Cost Additional Voluntary Contribution (SCAVC) monies (including life assurance monies) are to be paid on death of the member	R – 17 (12)	Absolute discretion is delegated to the Executive Director of Corporate Services, the Head of Democratic & Legal Services and Pension Scheme Manager.
Decide whether to commute a small pension	R – 33 (1)	The Fund will commute in accordance with the relevant sections of the Finance Act 2004
Approve Independent Medical Registered Medical Practitioners	R – 35 (3)	The Fund will approve IRMP's (having sight of the required documentation).

(IRMP) used by employers to certify eligibility for ill health benefits.		
Determine whether a deferred member meets the criteria of being permanently incapable of former job because of ill health and is unlikely to be capable of undertaking gainful employment before normal pension age.	R – 36 (3)	Decision will be made by the Fund in conjunction with the opinion of the Fund approved IRMP.
Decide to whom a death grant is paid	R – 38 (2) R – 41 (2) R – 44 (2) TP – 17 (5) to (8)	Absolute discretion is delegated to the Executive Director of Corporate Services, the Head of Democratic & Legal Services and Pension Scheme Manager.
Decide in the absence of an election from the member which benefit is to be paid where the member would be entitled to a benefit under 2 or more regulations in respect of the same period of scheme membership	R – 47 (1)(c)	The Fund will decide and notify the member of the provision under which the benefit is to be paid.
Whether to have a written pension administration strategy and, if so, the matter it should include.	R – 57 (1) & (2)	Strategy formulated and published.
Whether to require any strain on Fund costs to be paid in full by employing authority following payment of benefits under: R – 29 (6) early retirement before NPA R – 29 (7) – flexible retirement R – 29 (8) redundancy/business efficiency	R – 64 (1)	The Fund requires payment for strain on fund costs to be made at retirement, however payments via instalments may be agreed by application to the Fund by the employer.
Decide frequency of payments to be made over to Fund by employers	R – (64) (1)	Monthly payment and breakdown must be received no later than the 19 <sup>th</sup> of the month following deduction.
Decide form and frequency of information to accompany payments to the Fund.	R – (64) (4)	Monthly payment and accompanying breakdown details proforma to be issued by the employer, including where applicable, added years/ARC/APC/50:50 contributions details.
Whether to issue employer with notice to recover additional costs incurred as a result of the employer's level of performance	R – (65) & TP– 22 (2)	The Fund may decide to issue an employer with notice to recover costs depending on the circumstances of the individual case.
Whether to charge interest on late payments made by the employer	R – 66 (1)	The Fund will charge interest in line with the shown regulation.
Whether to extend the six period to lodge a stage one Internal Dispute Resolution Procedure (IDRP) appeal	R – 69 (7)	The appointed person may extend the time limit for such applications depending on the merits of the individual appeal.
Whether the administering authority should appeal against employer decision (or lack thereof).	R – 74 (2)	The Fund will appeal to the Scottish Ministers where an employer fails to reach a decision.
Specify the information to be supplied by employers to enable the administering authority to discharge its functions.	R – 75 (1)(b) & TP + 22 (1)	As specified in the Pensions Administration Strategy.

Whether to pay death grant due to personal representatives or anyone appearing to be beneficially entitled to the estate without need for the production of confirmation of estate, where the amount payable does not exceed the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) Act 1965.	R – 77 (2)	Absolute discretion is delegated to the Executive Director of Corporate Services, the Head of Democratic & Legal Services and Pension Scheme Manager.
Whether, where a person is incapable of managing their affairs, to pay the whole or part of that person's pension benefits to another person for their benefit.	<b>R – (78)</b>	Delegated to the Pension Scheme Manager.
Agree to bulk transfer payment.	R – 93 (1)(b)	Agreement will be given on the basis of advice from the Fund Actuary.
Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the scheme.	R – 95 (6)	The Fund will agree to extend the normal limit in cases where the employer has given their consent.
Allow transfer of pension rights into the Fund	R – 95 (7)	Transfer of pension rights into the Fund will only be in respect of Club scheme, unless as a result of a TUPE transfer.
Decide to treat a child as being in continuous full-time education or vocational training despite a break.	R – Sch 1 & TP – 17 (9)(a)	Delegated to Pension Scheme Manger on a case by case basis.
Decide evidence required to determine financial dependence or interdependence of cohabiting partner of scheme member.	R – Sch 1 & TP – 17 (9)(b)	Evidence to determine financial dependence or interdependence will be agreed and assessed on a case by case basis and will include, but not be restricted to, such items as evidence of a joint bank account, shared utility bills, joint credit arrangements, joint mortgage etc.
Make election on behalf of a deceased member with a certificate of protection of pension benefits i.e. to determine the best pay figure to use in the benefit calculations (for membership up to and including 31 <sup>st</sup> March 2015).	TP – 3 (6) TP – 4 (6) (c) TP – 8 (4) TP – 10 (2)(a) TP – 17 (2)(b) & A - 43(10)	The Fund will make an election on behalf of a deceased member with a certificate of protection of pension rights to determine the best years pay for use in the calculation of benefits for beneficiaries and dependents.
Decide policy on abatement of pre-1 April 2015 element of pension in payment following re-employment	TP – 3 (11) A – 64 (1) A – 65 (4)(c)	The Fund has determined that it will no longer abate the pensions of pensioner status members on re-employment. However, benefits resulting from the award of Compensatory Added Years to a member under the Local Government (Discretionary Payments and Injury Benefits) (Scotland) regulations where the member has been retired on redundancy/business efficiency grounds remain subject to abatement on re-employment as abatement under these regulations is not discretionary.
Decide, in the absence of an election from the member within 12 months of ceasing a concurrent employment, which ongoing employment should benefit from	TP – 10 (9)	The Fund will, in the absence of an election from the member within 12 months of ceasing a concurrent employment aggregate such concurrent employment

the concurrent employment which has ceased should be aggregated with (where there is more than one ongoing employment)		
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**Discretions under the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 (as amended)**

Intervals at which instalments of annual compensation are payable	29 (1)	Paid at intervals equivalent to those at which the pension is payable (monthly).
Agree to pay annual compensation on behalf of employer and recharge payments to employer	31 (2)	The Fund will pay pension benefits on Compensatory Added Years awarded by a relevant employer. The Fund will calculate and notify the employer of the lump sum element to paid at retirement.

**Discretions under the Teacher (Compensation for Premature Retirement and Redundancy) (Scotland) Regulations 1996**

Agree to pay annual compensation on behalf of employer and recharge payments to the employer.	19 (1)	The Fund will agree to pay pension benefits to Teachers compensation payments on behalf of scheme employers but not on any lump sum element.
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