

## HUMAN RESOURCES

### LOCAL GOVERNMENT PENSION SCHEME (LGPS) / FIREFIGHTERS' PENSIONS SCHEMES (FPS) DISCRETIONARY POLICY

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Date of Risk Assessment (if applicable)	N/A
Date of Equality Impact Assessment	8 August 2015
Date of Impact Assessment (commenced)	N/A
Date of Impact Assessment (concluded)	N/A
Quality Control (name and date)	Gillian Clark, HR Manager – July 2020
Authorised (name and date)	Fiona Munro, Head of HROD – July 2020
Date for Next Review	April 2027

## VERSION HISTORY

<b>Version</b>	<b>Change</b>	<b>Who</b>	<b>When</b>
1.0	First version issued	Iain Shaw / Linda MacKenzie	26/10/2015
2.0	Reviewed and updated	John Singleton, HR Adviser	03/08/2020
3.0	Inclusion of FPS information in relation to discretion around abatement of pension	Ramona Coxall, POD Manager	27/10/2022



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# PEOPLE AND ORGANISATIONAL DEVELOPMENT

## HUMAN RESOURCES

### LGPS / FPS DISCRETIONARY POLICY

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## **1. INTRODUCTION**

### **1.1 Local Government Scheme**

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, Scheme employers participating in the LGPS 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.

Further, under Regulation 58 of the Local Government Pension Scheme (Scotland) Regulations 2018, each employer participating in the Scheme is required to formulate a policy concerning the exercise of certain discretions contained within these regulations.

### **1.2 Firefighters' Pension Schemes**

The Firefighter Pension Schemes set out a number of discretions within their provisions which can be exercised by the employer. These are detailed within the following scheme provisions:

- Firefighter Pension Scheme (1992);
- New Firefighter Pension Scheme (2006);
- Firefighter Compensation Scheme (2006);
- Firefighter Pension Scheme (2015);
- Retained Firefighters' Modified Scheme (2006).

The Service is required to provide a statement outlining how the discretions under the Firefighters Pension Scheme(s) will be exercised.

The discretions in respect of both LGPS and FPS have been endorsed by all pension funds relevant to the Scottish Fire and Rescue Service (SFRS).

This Policy details the range of discretions available to the Board of SFRS and the discretions that the Board will adopt in relation to the Pension Schemes and in respect of other situations where the Board may wish to exercise its discretion with regard to early leavers.

## **2. SCOPE**

This Policy applies to all SFRS employees who are members of the Local Government Pension Scheme and the Firefighters Pension Scheme(s).

## **3. KEY PRINCIPLES**

### **Local Government Pension Scheme**

The Board does not have a general early retirement / release policy but will consider applications on their merits and in relation to the efficient operation of the Service.

The Policy describes the range of discretions available to the Board under the auspices of the Local Government Pension Scheme in relation to:

- Granting extra pension to Scheme members;
- Contributing to the cost of purchasing a Shared Cost Additional Pension Contribution (SCAPC);
- Permitting Flexible Retirement;
- Waiving Actuarial Reduction on Early retirement;
- Early payment of Pension (Rule of 85);
- Awarding Compensatory Added Years;
- Applying Time Limits on transfers in (Admin Regulation 78);
- Material change of circumstances;
- Ill Health Retirement.

All decisions in relation to the use of these discretions will always take account of the short and long term financial implications to SFRS.

In applying its discretions, the Board will always seek to ensure consistent and equitable application.

### **3.4 LOCAL GOVERNMENT PENSION SCHEME DISCRETIONS**

#### **3.4.1 Power of Employing Authority to grant extra annual pension to active members**

The Board **will not** exercise its discretion to grant extra annual pension of up to £5000 (as at 1 April 2015) to an active scheme member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency [Regulation 30 of the LGPS (Scotland) Regulations 2014].

#### **3.4.2 Power of Employing Authority to contribute to the cost of purchasing a Shared Cost Additional Pension Contribution (SCAPC)**

Where an active scheme member wishes to purchase extra annual pension by making Additional Pension Contributions (APCs), the Board **will not** exercise its discretion to voluntarily contribute towards the cost of purchasing that extra pension via a Shared Cost Additional Pension Contribution (SCAPC) [Regulations 16(2)(e) and 16(4)(d) of the LGPS (Scotland) Regulations 2014].

#### **3.4.3 Flexible Retirement [Regulation 29(7) of the LGPS (Scotland) Regulations 2018]**

The Board may exercise its discretion on whether to permit flexible retirement for employees age 55 or over whom, with the employer's agreement, wish to reduce their working hours or grade. This discretion will only be exercised in instances where there would be positive benefits to the Service in terms of efficiency savings

and/or skills retention, and in such circumstances hours of work would require to be reduced by at least 25%.

In cases of flexible retirement, the Board may exercise its discretion in permitting the member to choose to draw, in addition to benefits accrued prior to 1 April 2009, either:

- All, part or none of the pension benefits they accrued after 31 March 2009 and before 1 April 2015; and/or
- All, part or none of the pension benefits they accrued after 31 March 2015;
- Any additional benefits such as added years contracts, additional pension contracts (APCs), additional voluntary contributions (AVCs) or additional pension or membership awarded by SFRS.

Should SFRS agree to the early payment of benefits under this regulation in any case, it **will not** have a general policy of waiving any reduction which would normally be applied to the benefits.

[Regulations 11(2) and 11(3) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014]

#### **3.4.4 Waiving Actuarial Reduction on Early retirement between 55 and 60 [Regulation 29(9) of the Local Government Pension Scheme (Scotland) Regulations 2018]**

Any active scheme member who has not attained Normal Pension Age (NPA) but has attained age 55 may elect to receive immediate payment of their benefits, providing they have left employment, but these benefits may be reduced for early payment.

SFRS **will not** have a general policy of agreeing to waive any reduction which would normally be applied to the member's benefits.

### **3.4.5 Early Payment of Pension [Paragraphs 2 and 3 of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014]**

Where an employee has met the 85 year rule and requests early payment of pension benefits without actuarial reduction, the SFRS Board **may** give consent to this request, either in full or in part, based on cost and the needs of the service. Each request will be considered on an individual basis.

The Service may decide, in exceptional circumstance e.g. compassionate grounds, that the pension and lump sum should be paid without being actuarially reduced for early payment.

Where an active member voluntarily retires on or after age 55 and before Normal Pension Age, or a deferred member makes a request to draw benefits on or after age 55 and before Normal Pension Age, the Board **may** use its discretion to waive all or part of any actuarial reduction that would otherwise be applied to their benefits, by 'switching on' Rule of 85 protection or by other means.

### **3.4.6 Voluntary Early Retirement between the ages of 55 and 60 [Regulation 30 of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008]**

Any former scheme member who left prior to 1 April 2015 and is aged 55 or over, providing they are no longer in local government employment, may request unreduced payment of their deferred benefits on compassionate grounds.

SFRS will only exercise their discretion to waive the actuarial reduction in exceptional cases of hardship.

### **3.4.7 Compensatory Added Years**

The SFRS Board **may** exercise its discretion to award additional compensatory added years for retiring on reasons of efficiency or redundancy.

The Board should consider the maximum number of years to be awarded in such circumstances.

#### **3.4.8 Time Limit on transfers in (Admin Regulation 78)**

The Board **will not** have a general policy of allowing a late election to transfer in any previous pensionable service to proceed. A late election is one that is more than 12 months from the date employment commences with SFRS. Instead, it will consider individual applications on their merits and may exercise discretion to allow a late transfer to proceed where there is no financial impact on the Board or the Pension Fund. However, such discretion can only be permitted if both the SFRS and the appropriate pension fund administering authority agree to proceed. In all cases, applications where the period exceeds 24 months from the member's date of entry to the scheme will not be accepted.

#### **3.4.9 Material Change of Circumstances**

The SFRS Board **will not** exercise its discretion that, on employee promotion, the appropriate contribution rate in line with the new post will apply from the first pay period following promotion.

#### **3.4.10 Ill Health Retirement**

In cases where an employee is eligible for Ill Health Retirement and has less than the required two years' pensionable membership to receive such an award, the Board **may** exercise its discretion to award a lump sum equal to 1 week's pay for every whole year employment with SFRS up to a maximum of 30 weeks' pay.

#### **3.4.11 Notice of Termination**

Notice of termination relating to early release of pension benefits will be subject to discussion with individual employees.

### **3.4.12 Administrative Arrangements**

Requests must be submitted to the relevant Head of Function (HoFs) / Head of Service Delivery for consideration in the first instance who will raise the matter for discussion with the Head of POD. There is no automatic right for employees to have an application supported and approved.

## **4. FIREFIGHTERS PENSION SCHEME(S) DISCRETIONS**

### **4.1 Abatement of Pension**

In relation to the Firefighters' Pension Schemes, Fire and Rescue Services (FRSs) are legally obliged to consider the application of abatement when it occurs in accordance with the regulations of the Schemes.

The ability to abate applies in the final salary Firefighters' Pension Schemes (FPS 1992, FPS 2006) where a member begins to draw their pension and remains employed or is re-employed either by a FRS or, in the case of inter-service abatement, by another public-sector body. Inter-service abatement applies when "retired public servants are re-employed to any employing public sector organisation without going through an open competition". At a minimum this would apply until the member reaches normal pension age for their scheme.

The overriding principle is that the new salary plus pension cannot exceed the salary the pension is based on (plus inflation). In this case, the pension would be reduced by the excess. Abatement provisions also exist in the Firefighters' Compensation Scheme (FCS). The pension would continue to be abated until the employment has ceased, or there was a change to the new salary which meant that the total (new salary plus pension) was no longer higher than the salary the pension is based on (plus inflation). The FRS also has a discretion not to apply abatement to a member. If this discretion is exercised, the FRS becomes liable to make a payment equal to the amount that could have been abated into the pension fund account. Abatement does not apply to pensions from the FPS 2015.

The Board **may** exercise its discretion to withdraw whole or part of a person's pension (other than a spouse's or civil partner's award under FPS) during any period of his/her re-employment with any FRS, in any role under Rule K4 of the Firemen's Pension Scheme (Amendment) (Scotland) Order 2018. Discretion will normally only be applied in exceptional circumstances.

#### **4.2 Other Discretions**

Other discretions will be considered as and when appropriate.

### **5. REVIEW**

This Policy will be reviewed in line with any changes to the Pension Scheme Regulations and any other relevant developments within SFRS.