

Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009 and Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009.

Statement of Policy on Employer's Discretions

1. Introduction

- 1.1 Under the Local Government Pension Scheme Regulations (Northern Ireland) 2009, which came into operation on 1 April 2009, LMC is required to publish and keep under review a Statement of its Policy on certain discretions, which it can exercise under the Regulations.
- 1.2 In formulating this Policy Statement LMC has ensured that its discretionary powers:
 - have been exercised reasonably
 - will be used with regard to all relevant factors
 - will be duly recorded when used
- 1.3 The Policy Statement has been prepared following consideration of the views of:
 - the NILGOS Committee
 - the NIPSA Trade Union
- 1.4 In applying this Policy Statement LMC confirms that its discretions will be applied reasonably and will not be fettered and will only be used when absolutely necessary to assist in attracting and retaining staff and in paying staff to leave.
- 1.5 All decisions regarding the discretionary regulations will be made by the Commission taking into account the advice of the Chief Executive.

2. Regulation 30 – Choice of early payment of pension

2.1 Background

- 2.1.1 From age 50 (up to 31 March 2010; 55 thereafter) and less than 60, employees who are members of the Pension Scheme and former employees with deferred benefits for membership after 31 January 2003 have the right to apply to NILGOSC for early payment of their benefits subject to the consent of LMC.
- 2.1.2 If the employee's or former employee's age and membership (in whole years) is less than 85 reduced benefits are payable. This is known as the "85 Year Rule". The 85 Year Rule was abolished for new members from 1 October 2006, but there are some residual tapering protections for those members who would have met it up to 31 March 2020.
- 2.1.3 Employees or former employees who are aged 60 or over do not require LMC's consent to retire early but reduced benefits will be paid where the 85 year rule is not met.

2.1.4 LMC can on compassionate grounds waive the reduction in benefits where the 85 year rule is not satisfied.

2.2 Policy Discretion

2.2.1 LMC will consider applications made under this Regulation having regard to the particular circumstances surrounding each case. Decisions will be made on the merits of each case having particular regard to :

- *the operating requirements in LMC*
- *LMC's willingness and ability to meet the cost of granting such a request*
- *Whether any demonstrable cost saving in excess of potential savings available under any severance arrangements in place from time to time can be made*
- *The member's personal circumstances*

2.2.2 Applications for the payment of unreduced benefits on the grounds of compassion will be granted if:

- *In LMC's sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and*
- *LMC can meet the cost of granting such a request*

Before exercising this discretion LMC will require the following supporting evidence:

- *full details of the exceptional circumstances.*
- *details of all employments held since leaving LMC and details of pensions deferred or in payment and any other benefits or income payable.*
- *medical reports, if appropriate, to support a case of retirement to look after an elderly or infirm spouse, child, parent, sibling or other dependant.*
- *Confirmation in financial hardship cases that the hardship would not be better assisted by the Department for Social Development and the effect the payment of scheme benefits would have on the receipt of any state benefits the member is entitled to.*

3. Regulation 12 - To increase total membership of members and Regulation 13 To award additional pension

3.1 Background

3.1.1 LMC has power to increase Scheme membership for active members at any time. The additional period of membership awarded must not exceed 10 years. LMC also has the power to award a member an additional pension of not more than £5000 a year, payable from the same date as the Scheme pension is payable.

3.1.2 Additional membership cannot be awarded if the member has been paid compensation under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007 or is retiring on ill health grounds and has been awarded enhanced membership.

3.2 Policy Discretion

3.2.1 *These discretions will only be exercised in cases of retirement, on redundancy, in the interests of efficiency of the service, to retain the services of an employee or to recruit an employee . In reaching a decision the Commission will consider the following:*

- *the member's personal circumstances*
- *the interests of LMC*
- *the potential savings to be made by the exercise of this discretion*
- *the willingness and ability of LMC to meet the cost of granting such an award.*

3.2.2 *The application of these discretions in relation to retention or recruitment will only be exercised in rare and exceptional circumstances when it is deemed absolutely necessary as an inducement to attract or retain an employee who has specialist skills and experience required by LMC. Any exercise of these discretions will depend on LMC's ability to meet the cost involved.*

4. Regulation 21 (3) - Shared Cost AVC Arrangement

4.1 Background

4.1.1 LMC may establish and maintain a Shared Cost Additional Voluntary Contribution Scheme (SCAVC) to provide a top up pension or death in service cover for employees.

4.2 Policy

4.2.1 *LMC does not propose at this time to set up a SCAVC arrangement but will review the position in three years time.*

5. Regulation 9 - Re-entry to the Scheme for members who have opted out

5.1 Background

5.1.1 LMC has the discretion to allow a member who has opted-out of the Scheme more than once to re-join the Pension Scheme.

5.2 Policy

5.2.1 *LMC will allow employees who have opted out of the scheme more than once to rejoin provided the employee requesting to rejoin has satisfied LMC that he/she is in good health. This may require the employee to pass a medical to LMC's satisfaction.*

6. Regulation 18 – Requirements as to time of payment (Flexible Retirement)

6.1 Background

6.1.1 The regulations allow members, with their employers' consent, who are aged 50 or over (up to 31.3.2010; 55 thereafter) and who reduce their hours or grade in which they are employed, to elect in writing for the early payment of all or part of their benefits without retiring. This is known as "Flexible retirement".

6.1.2 If benefits are paid before the age of 65 the benefits are reduced in accordance with guidance issued by the Government Actuary. LMC may choose to waive, in whole or in part, the reductions to the benefits for the early payment.

6.2 ***Policy Discretion***

6.2.2 *LMC may allow early payment of all or part of their benefits to employees meeting the terms of its Flexible Retirement Policy i.e. who are aged 50 or over (up to 31.3.2010; 55 thereafter) and who reduce their hours or the grade in which they are employed.*

6.2.3 *Requests to waive the reduction in benefits will only be considered in exceptional circumstances in accordance with the criteria for compassionate grounds in paragraph 2.2.2 above. LMC reserves the right to consider commercial circumstances when these are appropriate.*

6.3 **The Terms of the Flexible retirement Policy are as follows:**

6.3.1 Requests from staff to be made in writing.

6.3.2 Management will consider the change in hours / post on its own merits taking into account the need to deliver services effectively and efficiently, the financial implications of granting the application and the circumstances of granting each application.

6.3.3 Requests, for a current or new post, must reflect either a minimum reduction of 1 day per week (pro-rata for part-time posts) or a minimum reduction of one full grade as appropriate.

6.3.4 Applicants must intend to remain in the new post for a minimum of 1 year.

6.3.5 Employees will only be allowed one flexible retirement but that one further request for flexible retirement will be considered on its own merits and based on the need to deliver services effectively and efficiently together with the financial implications of granting the application. A third request for flexible retirement will not be allowed.

7. **Implementation**

7.1 The Policy Statement has been revised following the amendments made by the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009 and Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 and was approved by the Commission in December 2009.

7.2 The Policy Statement will be subject to review, as necessary, but in any event in three years time.