

LPF Policy Statement

The Local Government Pension Scheme (Scotland) Regulations 2018

Owned and maintained by:	Human Resources
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Under Regulation 58 of the Local Government Pension Scheme (Scotland) Regulations 2018, Audit Scotland is required to formulate a policy concerning the exercise of certain discretions contained within the regulations.

After careful consideration and having regard to the extent to which the exercise of the functions could lead to a serious loss of confidence in the public service, Audit Scotland has decided to exercise its discretions in the following way.

The statement is applicable to all employees of Audit Scotland who are eligible to be members of the Local Government Pension Scheme (LGPS).

1. Regulation 16(2)(e) & 16(4)(d) of the Local Government Pension Scheme (Scotland) Regulations 2018: Additional Pension Contributions ("APC")

Audit Scotland will not have a general policy of entering into an APC contract with a scheme member but will consider individual cases on their merits, where operational or financial advantages can be demonstrated.

2. Regulation 29(7) of the Local Government Pension Scheme (Scotland) Regulations 2018: Flexible Retirement

Audit Scotland will not have a general policy of agreeing to requests for early payment of retirement benefits from a member who has attained age 55 and who with their employer's consent, has also reduced their hours and/or grade. However, where we consider it can be demonstrated as being to Audit Scotland's advantage or in its operational interests, we will consider such requests.

Should Audit Scotland 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.

3. Regulation 29(9) of the Local Government Pension Scheme (Scotland) Regulations 2018: Waiving Actuarial Reduction on Early retirement between 55 and 60.

Any active scheme member who has not attained Normal Pension Age (NPA) but has reached the age 55 and over, may elect to receive immediate payment of their benefits, providing they have left employment, but these benefits are likely to be subject to an actuarial reduction for early payment.

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

4. Schedule 2 – paragraphs 2 & 3 of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

Audit Scotland will not have a general policy of agreeing to requests to apply the rule of 85 from a member who has attained age 55 and has elected for early payment. That is, where a member's age in whole years, together with the member's total membership in whole years is 85 years or more. However, where Audit Scotland considers it can be demonstrated as being to Audit Scotland's advantage or in their operational interests to apply the rule of 85, it will consider such requests.

5. Regulation 30 of the Local Government Pension Scheme (Scotland) Regulations 2018: Award of Additional Pension

Audit Scotland will not have a general policy of awarding additional pension in this way but will consider individual cases on their merits. We may exercise this discretion in an individual case by written resolution where financial or operational advantages can be demonstrated.

6. Regulation 30 of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008: (Voluntary Early Retirement between the ages of 55 and 60)

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.

Audit Scotland will only exercise its discretion to waive the actuarial reduction in exceptional cases of hardship.

7. Regulation 17(1) of the Local Government Pension Scheme (Scotland) Regulations 2018: Shared Cost AVC's

This regulation allows Audit Scotland to set up an additional voluntary contributions (AVC) scheme requiring a contribution from Audit Scotland. Scheme members already have access to AVC arrangements which accept member-only contributions.

Audit Scotland will pay shared cost AVCs where an employee has elected to pay AVCs by salary sacrifice. The amount of these employer Shared Cost AVCs will not exceed the amount of salary sacrificed by the employee. This discretion is subject to the employee meeting the conditions for acceptance into the salary sacrifice Shared Cost AVC scheme and may be withdrawn or changed at any time.

8. Regulation 86 of the Local Government Pension Scheme (Scotland) Regulations 2018: Forfeiture of pension rights after conviction for employment-related offences

Under this regulation, Audit Scotland may apply to the Scottish Ministers to forfeit all or part of a scheme member's pension benefits. This would apply in a case of conviction for a serious offence which were either 'gravely injurious to the State or 'liable to lead to a serious loss of confidence in the public service'. In the interests of maintaining confidence in the public service, Audit Scotland reserves the right to exercise this discretion should the need arise.

9. Regulation 87 of the Local Government Pension Scheme ((Scotland) Regulations 2018: Recovery or retention where former member has misconduct obligation

Under this regulation, Audit Scotland may recover from the member's pension benefits any loss arising from a criminal, negligent or fraudulent act by a former employee. Providing that all other efforts to recover monetary obligations have been exhausted, in the interest of maintaining confidence in the public service, Audit Scotland reserves the right to exercise this discretion should the need arise.

10. Regulation 95 of the Local Government Pension Scheme (Scotland) Regulations 2018: Inward Transfer of Pension Rights

This covers cases where new employees to Audit Scotland want to transfer service accrued with other pension funds into the Lothian Pension Fund. Lothian Pension Fund does not, and will not, permit the inward transfer of pension rights from private sector pension scheme or personal pension arrangements.

Audit Scotland will not have a general policy of allowing a late transfer to proceed. Instead, it will consider individual applications on their merits and may, in agreement with Lothian Pension Fund exercise discretion to allow a late transfer to proceed where there is no financial impact on the [employing authority] and Lothian Pension Fund.

11. Regulation 9(4) of the Local Government Pension Scheme (Scotland) Regulations 2018: Member Contributions

Under this regulation, Audit Scotland may adjust a member's contribution rate should a change in pay move them into a different band during the financial year. Providing that a consistent approach is taken, in the interest of maintaining confidence in the public service, Audit Scotland reserves the right to exercise this discretion should the need arise.

12. Regulation 16(16) of the Local Government Pension Scheme (Scotland) Regulations 2018: Additional Pension Contributions

Under this regulation, where a member enters into an additional pension contract to which employer contributions may be made (Shared Cost Additional Pension Contract), an application to enter into the contract must be made within 30 days of returning to work. Audit Scotland will not generally agree to extend this time limit, but will do so exceptionally, where an employee provides evidence of extenuating circumstances.

13. The Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 and the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2008

These regulations give Audit Scotland the discretion to award prescribed maximum enhanced payments. For example, injury allowances, ill health awards, compensation for redundancy payments, compensatory added years and gratuities for non-pensionable service. Audit Scotland resolves to adopt the provisions of the Discretionary Regulations.

Ill health awards (Regulation 49B)

This refers to a one-off limited lump sum (1 week's pay for each year of employment up to a maximum 30 weeks' pay) to an employee in circumstances where the employment is terminated on grounds of ill health. This only applies where an employee has two years' membership and is not eligible to receive ill-health retirement benefits because they are not permanently incapable of discharging their duties. Audit Scotland will not have a general policy of providing this award, but will consider individual cases on their merits.

Compensatory added years (Regulation 8)

Audit Scotland will not have a general policy of awarding added years, but will consider individual cases on their merits. We may exercise this discretion in an individual case by written resolution where financial or operational advantages can be demonstrated. The maximum compensatory added years which can be awarded is subject to the lesser of the period to age 65, up to 40 years membership, total membership or 10 years. A further limit of total membership also applies (i.e. a member cannot be awarded a period greater than their total membership period).

Any lump sums and annual compensation arising from the award of compensatory added years is calculated at 3/80th and 1/80th (respectively) of the person's pay.

Redundancy payments (Regulation 4 & 35)

Redundancy payments will be increased above the statutory entitlement for eligible employees by using the current rate of pay rather than the statutory upper earnings limit. This amount will then be multiplied by a factor of 2.2. When the improvement is applied, the minimum payment available is 2 weeks' pay and the maximum is 66 weeks' pay. This payment includes the statutory redundancy payment. See Audit Scotland's Redundancy Policy for details.

14. Voluntary Scheme Pays Facility (HMRC Annual Allowance Tax Charge)

There is discretion for administering authorities to pay some or all of an annual allowance charge on a member's behalf in circumstances where their pension savings are in excess of the tapered annual allowance. This facility is known as "Voluntary Scheme Pays". Unlike Mandatory Scheme Pays, this new facility is available only at the discretion of employers.

Audit Scotland will not have a general policy of agreeing to requests for Voluntary Scheme Pays. However, where we consider it can be demonstrated as being in the operational interests of the organisation, we will consider such requests. Criteria might include consideration of whether the tax charge has been triggered even though the member has simply made the normal level of contributions to their pension portfolio (i.e. no additional or enhanced contributions have been made by the member, or by a change in the

employee's post leading to promotion, an increase in remuneration, back payment of salary arrears and/or the introduction of an acting-up allowance.

Policy Review

In making this policy, Audit Scotland has referred to the statutory provisions and to advice from the Lothian Pension Fund.

Under the regulations, City of Edinburgh Council is the Pension Scheme administering authority.

This policy statement will be kept under review and will be revised as and when necessary to reflect any changes in regulation or policy. Any changes to this policy will be advised to the administering authority and scheme members in writing within one month of the change taking effect.