

## LPF Policy Statement

- **The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Scotland) 2008**
- **The Local Government Pension Scheme (Scotland) Regulations 2014**

<b>Owned and maintained by:</b>	Human Resources
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Under Regulation 58 of the Local Government Pension Scheme (Scotland) Regulations 2014, 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 9(4) of the LGPS (Scotland) Regulations 2014: Member Contributions**

Audit Scotland allocates member's contribution bandings each financial year. To ensure that a consistent approach is taken, member contribution bandings are calculated based on actual pensionable salary (including pensionable allowances) as at 1 April each year as part of the annual review. This is irrespective of any changes in pay during the financial year which may result in a different salary banding.

### **2. Regulation 16(2)(e) and 16(4)(d) of the LGPS (Scotland) Regulations 2014: Additional Pension Contributions**

Audit Scotland will not have a general policy of entering into additional pension contributions (APC) contract with a scheme member, 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.

### **3. Regulation 16(16) of the LGPS (Scotland) Regulations 2014: Additional Pension Contributions**

A member returning from an approved period of unpaid absence, is permitted to pay the contributions that would have been payable if they had not been absent. To enter into an additional pension contract (Shared Cost Additional Pension Contract), applications must be made within 30 days of physically returning to work. Exceptionally, where an employee provides evidence of extenuating circumstances, the time-limit will be discretionary extended by Audit Scotland for a further 30 days.

#### **4. Regulation 17(1) of the LGPS (Scotland) Regulations 2014: Shared Cost AVC's**

This regulation allows Audit Scotland to set up additional voluntary contributions (AVC) scheme requiring a contribution from Audit Scotland. Scheme members already have access to AVC arrangements which accept member-only contributions. The policy of Audit Scotland is not to establish a shared cost AVC scheme.

#### **5. Regulation 29(5) of the LGPS (Scotland) Regulations 2014: Early payment of benefits on or after age 55 and before age 60**

##### Active Members

Audit Scotland will not have a general policy of granting early payment of benefits on or after age 55 and before age 60 but will consider requests on a case by case basis. We may exercise this discretion where a sound business case can be made for doing so or where other exceptional circumstances arise that make payment of those benefits justifiable.

##### Deferred Members

A former scheme member aged 55 or over, providing they are not in Local Government Employment, can ask for the early payment of their deferred pension benefits. Where the member is under age 60, it is at the employer's discretion to agree to early payment.

Audit Scotland will not have a general policy of allowing early payment of benefits for former employees, but will consider applications on their merits. Audit Scotland may consent to voluntary early release where it can be demonstrated as being in the organisation's financial or operational interests. Where early payment is permitted, Audit Scotland will not have a general policy of applying the Rule of 85, nor will they waive any reduction which would normally be applied to the benefits.

#### **6. Regulation 29(6) of the LGPS (Scotland) Regulations 2014: Flexible Retirement**

Audit Scotland will not have a general policy of agreeing to requests for early payment of retirement benefits. However, where we consider it can be demonstrated as being to Audit Scotland's advantage or in its operational interests, it will consider such requests subject to the following conditions:

- The member must apply for early payment in writing and be at least age 55
- The member, with Audit Scotland's consent, reduces working hours or grade, and

- The employer agrees to the early payment of his benefits

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

#### **7. Regulation 29(8) of the LGPS (Scotland) Regulations 2014: Waiving Actuarial Reduction on Early retirement between 55 and 60.**

Any scheme member aged 55 or over, providing they have left employment, can ask for the early payment of pension benefits, but these benefits may be reduced for early payment.

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 or over and is under age 60. However, where we consider it can be demonstrated as being to their advantage or in their operational interests, it will consider such requests.

Should Audit Scotland agree to the early payment of benefits under this regulation in any case, they will not have a general policy of waiving any reduction which would normally be applied to the member's benefits.

#### **8. Regulation 30 of the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations 2008: Voluntary Early Retirement between the ages of 50 and 60**

Any scheme member aged 55<sup>1</sup> or over, providing they have left their employment, can ask for the early payment of pension benefits. Where the member is under age 60, it is at Audit Scotland's discretion to agree to early payment. This discretion may also apply to former members with deferred pension rights when they attain age 55<sup>1</sup>.

Audit Scotland will not have a general early release policy, but will consider applications on their merits. We may consent to voluntary early release under regulation 30 of the Benefits Regulations where it can be demonstrated as being in the organisation's financial or operational interests.

In the event that Audit Scotland does consent to a scheme members early release it may further determine on compassionate grounds under regulation 30(5) that a scheme member's benefits should not be reduced. We will only exercise this further discretion in exceptional cases of hardship.

#### **9. Schedule 2 – paragraphs 2 & 3 of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014**

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 is under age 60. However, where we consider it can be demonstrated as being to our advantage or in their operational interests, we will consider such requests.

Should Audit Scotland agree to the early payment of benefits under this regulation in any case, we will not have a general policy of applying the Rule of 85, nor will we waive any reduction which would normally be applied to the benefits.

**10. Regulation 30 of the LGPS (Scotland) Regulations 2014: Award of Additional Pension**

Audit Scotland will not have a general policy of awarding additional pension, 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.

**11. Regulation 89 of the LGPS (Scotland) Regulations 2014: 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.

**12. Regulation 90 of the LGPS (Scotland) Regulations 2014: Recovery or retention where former member has misconduct obligation**

Under this regulation, Audit Scotland may recover from pension benefits any loss arising from a criminal, negligent or fraudulent act by a current or former employee (for example the theft of a substantial sum of money). Providing that all other efforts to recover monetary obligations have been exhausted, in the interest of maintaining confidence in the public service, we reserve the right to exercise this discretion should the need arise.

**13. Regulation 98 of the LGPS (Scotland) Regulations 2014: Inward Transfer of Pension Rights**

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 organisation and Lothian Pension Fund.

**14. 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.

#### 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 his/her 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.

### **15. Voluntary Scheme Pays Facility (HMRC Annual Allowance Tax Charge).**

There is now 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 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 Lothian Pension Fund as 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.