



EMPLOYEE RETIREMENT FRAMEWORK

Title	Employee Retirement Framework
Who should use this	All Staff
Author	SAC/Adapted by Head of Valuation Services & Assistant ERO
Approved by Management Team	15 th March 2016
Approved by Joint Board	n/a
Reviewer	PA & Office Manager
Review Date	2019

Review History

REVIEW NO.	DETAILS	RELEASE DATE
1	MINOR AMENDMENTS	SEPTEMBER 2015
2	<p>Re-introduction of flexible retirement. However, any requests must meet the following criteria: be cost neutral to the Board; business critical reasons for the Board to retain the employee; reduction in contract must be by at least 20%. Requests would be approved by the Assessor.</p> <p>Switching on/off the Rule of 85. The regulations now allow employers to decide whether to switch on/off the Rule of 85. This means that employees aged 55 to 59 and who meet the rule of 85 can now retire with their employers consent. However, if the employer switches off the Rule of 85 then there is no cost to the employer and the employee takes reduced retirement benefits</p>	MARCH 2016
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1. Introduction

- 1.1 There are a range of circumstances in which an employee can retire from service with Ayrshire Valuation Joint Board. This framework brings together the various retirement options and sets out the Board's position on each of these. It also outlines the discretionary powers available to the Board and how the Board will exercise these discretions in line with the [Local Government Pension Scheme](#) (Appendix A).
- 1.2 All applications for discretions to be applied will be considered on merit taking into account the needs of service delivery and at the same time demonstrating Best Value. The Board will always seek to ensure consistent and equitable application of its discretionary powers.
- 1.3 Operational procedures are in place to support all elements of this framework. Further detailed information can be obtained from the Board's Personnel Representatives.

2. Retirement

- 2.1 Ayrshire Valuation Joint Board does not operate a set retirement age. Accordingly, employees who wish to retire are required to give a minimum period of contractual notice as detailed in their contract. If they are a member of the Local Government Pension Scheme (LGPS) they are required to give a minimum of 3 months' notice to ensure that retirement arrangements are in place at their date of retirement.
- 2.2 With effect from 1 April 2015, the normal retirement age for pension purposes is linked to the state pension age. If an employee chooses to access their retirement benefits on or after their 60th birthday and before their normal retirement age their benefits may be subject to an actuarial reduction for early payment. Members can find out their state pension age by accessing the UK [Government's State Pension Age Calculator](#).
- 2.3 Members who choose to access their benefits after their normal retirement age will have their benefits paid at an increased rate.
- 2.4 Scheme membership for all employees will cease at age 75.

LGPS

- 2.5 Members must meet the 2 years vesting period criteria to qualify for retirement benefits under LGPS (see section 6 below)
- 2.6 Members will not be able to access their retirement benefits prior to age 60 without employer consent.
- 2.7 If a member's salary is reduced beyond their control during the last 10 years prior to retirement and a Certificate of Protection (COP) is issued by the Board, the COP is applied when calculating the retirement benefits due.

3. Flexible Retirement

LGPS

- 3.1 The Local Government Pension Scheme includes the facility (discretionary on the part of the Board) to allow employees to access pension benefits while remaining in their post but in a reduced capacity; this is known as Flexible Retirement.

- 3.2 The Board does not operate a general Flexible Retirement policy for members of the Local Government Pension Scheme. However, in exceptional circumstances where:
- a) There is no cost to the Board; **and**
 - b) Where there are business critical reasons that require the retention of an employee who could otherwise retire; **and**
 - c) There is a reduction in the employees working hours of at least 20%.

The Assessor & ERO may authorise Flexible Retirement if it is in the best interests of the Board to do so.

4. Early Retirement

- 4.1 There are a number of circumstances in which an employee is entitled to early access to pension benefits. These circumstances are:

(1) Ill Health

LGPS

- If, on the basis of the medical assessment determines that there is no reasonable prospect of the employee obtaining gainful employment before normal retirement age, and the employee has a minimum of 2 years LGPS membership, the employee's benefits are increased as if the date on which the member left local government employment was the member's normal retirement age; by adding to the member's total membership at that date the whole of the period between that date and the member's actual normal retirement age. All associated costs are met by Strathclyde Pension Fund.
- If, on the basis of the medical assessment that there is a reasonable prospect of the employee obtaining gainful employment before normal retirement age, and the employee has a minimum of 2 years LGPS membership, the employee's benefits are increased as if the date on which the member left local government employment was the member's normal retirement age; by adding to the member's total membership at that date 25% of the period between that date and the member's actual normal retirement age. All associated costs are met by Strathclyde Pension Fund.

(2) 'Rule of 85'

LGPS

Pension Fund members, aged 50-59 years, can apply to the Board for early retirement and immediate payment of pension benefits. Although this discretion was removed with effect from 1 December 2006 transitional protection is provided:

- Members who joined the scheme before 1 December 2006 and who will be 60 years of age or over by 31 March 2020 are protected under rule of 85 and can receive unreduced benefits at 60.
- Members who joined the scheme before 1 December 2006 and who will not be 60 by 31 March 2020 are protected under rule of 85 in respect of any benefits they have accrued up to 31 March 2008.

(3) Efficiency of the service

LGPS

Where the Board terminates the employment of an employee in the interests of the efficiency of the service, the employee, if he or she meets the 2 years' vesting period* (see section 6 below), and satisfies the necessary age criteria, is entitled to the early release of pension benefits on the following basis:

Employees aged 50 or over (with continuous employment start date on or before 5 April 2006) or age 55 (if service commenced on or after 6 April 2006):

- will be entitled to immediate access to an annual pension and lump sum payment with no reduction. Note: Additional Pension paid for by Additional Pension Contributions or by Shared Cost Additional Pension contributions would be paid at the reduced rate; and
- the Board has discretion to enhance pension benefits by awarding added years.

(4) Redundancy

LPGS

Where the Board terminates the employment of an employee on the grounds of redundancy (whether voluntary or compulsory) the employee (if he or she meets the 2 years' vesting period* (see section 6 below), and satisfies the necessary age criteria)) is entitled to the early release of pension benefits on the following basis:

Employees aged 50 or over (with continuous employment start date on or before 5 April 2006) or age 55 (if service commenced on or after 6 April 2006):

- will be entitled to immediate access to an annual pension and lump sum payment with no reduction. Note: Additional Pension paid for by Additional Pension Contributions or by Shared Cost Additional Pension contributions would be paid at the reduced rate; and
- the Board has discretion to enhance pension benefits by awarding added years. It should be noted that added years will not be awarded in situations where the employee receives a statutory redundancy payment.

Employees who do not qualify for pension benefits (i.e. under age 55 or under age 50 if a member of the pension scheme with continuous employment start date on or before 5 April 2006):

- will be entitled to a statutory redundancy payment; or
- the Board has discretion to award a one-off enhanced redundancy payment in line with the LGPS Regulations where this can be justified in terms of best value and efficiency to the Board.

5 Discretions

Appendix A outlines the discretion that will be applied, where necessary subject to approval through the scheme of delegation.

6 Glossary

6.1 *The 2 years vesting period is met if:

- the employee has at least 2 years' membership of the LGPS in Scotland; or
- a transfer of pension rights has been brought in to the LGPS in Scotland from a different occupational pension scheme or from a European pensions institution and the length of service in that scheme or institution has been 2 years or more, or when added to the period of membership of the LGPS is, in aggregate, 2 or more years; or
- a transfer of pension rights has been brought into the LGPS in Scotland from a pension scheme or arrangement where a refund of contributions is not allowed; or
- pension rights have been previously transferred out of the LGPS in Scotland to a pension scheme abroad (ie qualifying recognised overseas pension scheme); or
- a deferred benefit is already held or pension is being paid from the LGPS in Scotland (other than a survivor's pension or pension credit member's pension); or
- National Insurance contributions have been paid whilst a member of the LGPS and contributions to the LGPS cease in the tax year of attainment of pension age; or
- contributions to the LGPS cease at age 75; or
- there is a death in service.

Policy Statement LGPS 2015

The discretions are in relation to the following regulations:

- Regulation 58 of SSI 2014 No.164, the LGPS (Scotland) Regulations 2014;
- Paragraph 2(2) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014;
- Regulation 61 of the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 (in respect of leavers between 1 April 2009 and 31 March 2015); and
- Regulation 105 of the Local Government Pension Scheme (Scotland) Regulations 1998 (in respect of leavers between 1 April 1998 and 31 March 2009).

In developing our policy statement, we are aware that the Local Government Pension Committee has produced a document called 'Discretions Policies' that contains tips for employers, see: <http://www.lgpsregs.org/index.php/scotland/admin-guides>

Note: * in the following tables beside a regulation denotes the discretions where we are required to have a policy statement under the regulations:

- **Table 1** details our discretions from 01 04 15 in relation to post 31 03 15 active members and post 31 03 15 leavers.
- **Table 2** details our discretions in relation to scheme members who ceased active membership on or after 01 04 09 and before 01 04 15.
- **Table 3** details our discretions under the Local Government Pension Scheme (Scotland) Regulations 1998 (as amended) in relation to pre 01 04 09 scheme leavers.
- **Table 4** details our discretions under the Local Government Pension Scheme (Scotland) Regulations 1987 (as amended) in relation to pre 01 04 98 scheme leavers.
- **Table 5** details our discretions under the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 (as amended).

Table 1

The following table details our discretions from 01 04 15 in relation to post 31 03 15 active members and post 31 03 15 leavers, being discretions under:

- the Local Government Pension Scheme (Scotland) Regulations 2014 [prefix **R**];
- the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 [prefix **TP**];
- the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 [prefix **A**];
- the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (as amended) [prefix **B**];
- the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008 [prefix **T**]; and

- the Local Government Pension Scheme (Scotland) Regulations 1998 (as amended) [prefix L].

Regulation	Discretion	Employer's Policy on the Exercise of this Discretion
R3(1)(b)	Decide which employees to nominate for membership (admission bodies)	The Board has been nominated South Ayrshire Council.
RSch 2, Part 2, para 12(c)	Whether, in respect of an admission body providing a service in respect of outsourced work, to set off against payments due to that body any sums due from that body to the Fund	The Board will exercise this discretion and consider on a case by case basis
R9(1) to R9(4)	Determine the rate of employee's contributions	The Board will exercise this discretion. The employee's rate of contributions will be determined in accordance with these regulations
R9(10)	Determine intervals at which employees' contributions are to be made	In line with pay frequencies for relevant employee groups
R16(2)(e)* and R16(4)(d)*	Whether, how much, and in what circumstances to contribute to a shared cost APC scheme	The Board will not exercise this discretion
R16(16)	Whether to extend 30 day deadline for member to elect for a shared cost APC upon return from a period of absence from work with permission with no pensionable pay (otherwise than because of illness or injury, child-related leave or reserve force service leave)	The Board will exercise this discretion and may extend the time limit in exceptional circumstances such as the member not being informed of the right to repay contributions but each case will be decided on its individual basis
R17(1) and definition of SCAVC in RSch 1	Whether, and in what circumstances to contribute to a shared cost AVC scheme	The Board will not exercise this discretion
TP15(1)(b) and L65(8) and former L65(9)(b)	Allow late application to convert scheme AVCs into membership credit - ie allow application more than 30 days after cessation of active membership (where AVC arrangement was entered into before 30/6/05)	The Board will not exercise this discretion
R19(2)	No right to a return of contributions due to an offence of a fraudulent character or grave misconduct unless the employer directs a total or partial refund is to be made	The Board will not direct a return of contributions in the event of an offence of a fraudulent character or grave misconduct
R20(1)(b)	Specify in an employee's contract what other payments or benefits, other than those specified in R20(1)(a) and not otherwise	The Board will exercise this discretion in relation to elements of pay contained within the regulations and in an

Regulation	Discretion	Employer's Policy on the Exercise of this Discretion
	precluded by R20(2), are to be pensionable	employee's contract of employment
R21(5)	In determining Assumed Pensionable Pay, whether a lump sum payment made in the previous 12 months is a 'regular lump sum'	The Board will exercise this discretion
R29(5) and (13)	Whether to grant application for early payment of benefits on or after age 55 and before age 60	The Board 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. The Board 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
R29(6)* and TP11(2)	Whether all or some benefits can be paid if an employee reduces their hours or grade prior to age 60 (flexible retirement)	The Board will exercise this discretion on a case by case basis, subject to the agreement of the Assessor & ERO, where there is no cost to the Board and where there are business critical reasons that require the retention of an employee who could otherwise retire
R29(8)* and TPSch 2, para 2(1)	Whether to waive, in whole or in part, any actuarial reduction on benefits paid on flexible retirement - Note: any resultant strain cost from the exercise of this discretion will be charged to the employer regardless of the member's age at date of retirement	The Board will not exercise this discretion
R29(8)*	Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age, other than on the grounds of flexible retirement (where the member only has post 31/3/15 membership) - Note: any resultant strain costs due to the exercise of this discretion will be charged to the employer regardless of the employee's age	The Board may consider waiving the actuarial reduction where exercising that discretion can be justified in terms of the sound business case made for initially paying those benefits or where other exceptional circumstances arise that make payment of those benefits justifiable. Each case will be considered on its individual merits and will be subject to Best Value
TPSch 2, paras 1(2) and 2(1)*	Whether to apply the 85 year rule for a member voluntarily drawing benefits, with employer consent, on or after age 55 and before age 60 (other than on the grounds of flexible retirement)	The Board may consider waiving the actuarial reduction where exercising that discretion can be justified in terms of the sound business case made for initially paying those benefits or where other exceptional circumstances arise that make payment of those benefits justifiable. Each case will be considered on its individual merits and will be subject to Best Value
TP3(1),	Whether to waive, in whole or in part, any	The Board may consider waiving the

Regulation	Discretion	Employer's Policy on the Exercise of this Discretion
TPSch 2, para 2(1) *	actuarial reduction on pre and post April 2015 benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1/4/15 and post 31/3/15 membership and is subject to the 85 year rule)	actuarial reduction where exercising that discretion can be justified in terms of the sound business case made for initially paying those benefits or where other exceptional circumstances arise that make payment of those benefits justifiable. Each case will be considered on its individual merits and will be subject to Best Value
TP3(1), TPSch 2, para 2(1) and B30(5)*	Whether to waive on compassionate grounds any actuarial reduction on pre April 2015 benefits and to waive, in whole or in part, any actuarial reduction on post April 2015 benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1/4/15 and post 31/3/15 membership and is not subject to the 85 year rule)	The Board may consider waiving the actuarial reduction where exercising that discretion can be justified in terms of the sound business case made for initially paying those benefits or where other exceptional circumstances arise that make payment of those benefits justifiable. Each case will be considered on its individual merits and will be subject to Best Value
R30*	Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £5,000 per annum)	The Board will not exercise this discretion
R89(1) and (8) R89(4)	Whether to apply to Scottish Ministers for a forfeiture certificate (where a member is convicted of a relevant offence) and subsequently whether to direct that benefits are to be forfeited (other than rights to GMP – but see R92 below)	The Board will apply for a forfeiture certificate where a member is convicted of a relevant offence and, following the issue of the certificate, direct that benefits are to be forfeited
R90(2)	Whether to recover from the fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights or AVCs/ SCAVCs) where the obligation was as a result of a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left the employment	The Board will recover from Strathclyde Pension Fund the amount of loss in cases of criminal, negligence or fraudulent acts by a member
R96(1)(b)	Agree to bulk transfer payment	The Board will exercise this discretion in consultation with SPFO and the fund actuaries in this regard
R98(6)	Extend normal time limit for acceptance of a transfer value beyond the 12 month time limit from joining the LGPS	The Board will not exercise this discretion
TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b)	Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending in the 10 years prior to leaving and ending on the anniversary of the date of leaving	The Board will allow a member to select final pay for fees to be any three consecutive years ending 31 March in the 10 years prior to leaving. The Board agree that this will automatically be done

Regulation	Discretion	Employer's Policy on the Exercise of this Discretion
and B11(2)		by SPF
TP3(1)(a), A43(5)	Issue a certificate of protection of pension benefits where eligible non-councillor member fails to apply for one (pay cuts / restrictions occurring pre 01 04 15)	The Board will issue a certificate of protection of pension benefits if requested by the employee within twelve months of the date of reduction. A certificate may be issued on application from the member outwith the 12 month period specified in the regulations if exceptional circumstances can be proved such as the employee being unaware of this facility

Table 2

The following table details our discretions in relation to scheme members who ceased active membership on or after 01 04 09 and before 01 04 15, being discretions under:

- the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 [prefix **A**];
- the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (as amended) [prefix **B**];
- the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008 [prefix **T**];
- the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 [prefix **TP**];
- the Local Government Pension Scheme (Scotland) Regulations 2014 [prefix **R**]; and
- the Local Government Pension Scheme (Scotland) Regulations 1998 (as amended) [prefix **L**].

Regulation	Discretion	Employer's Policy on the Exercise of this Discretion
B12*	Whether, for a member leaving on the grounds of redundancy or business efficiency on or before 31 March 2015, to augment membership (by up to 10 years). The resolution to do so would have to be made within 6 months of the date of leaving. Hence this discretion is spent entirely after 30 September 2015	This will not apply to the Board as the policy was not agreed prior to 30 September 2015
A42(2)	No right to a return of contributions due to an offence of a fraudulent character or grave misconduct unless the employer directs a total or partial refund is to be made	The Board will not direct a return of contributions in the event of an offence of a fraudulent character or grave misconduct
A43(5)	Employer may issue a certificate of protection where an employee fails to apply for one	The Board will issue a certificate of protection of pension benefits if requested by the employee within 12 months of the date of reduction. A certificate may be issued on application from the member outwith the 12 month period specified in the regulations if exceptional circumstances can be proved such as the employee being unaware of this facility
A66 (2) and (6); A67 (1) and (2)	Whether to apply for a forfeiture certificate (where a member is convicted of a relevant offence) and subsequently whether to direct that benefits are to be forfeited	The Board will apply for a forfeiture certificate where a member is convicted of a relevant offence and, following the issue of the certificate, direct that benefits are to be forfeited
A68(2)	Whether to recover from the fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights or AVCs / SCAVCs) where the obligation was as a result of a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left the employment	The Board will recover from Strathclyde Pension Fund the amount of loss in cases of criminal, negligence or fraudulent acts by a member
A70(2) and (3)	Whether to recover from the fund any financial loss caused by fraudulent offence or grave misconduct of an employee (who has left because of that) or amount of refund if less	The Board will recover from Strathclyde Pension Fund the amount of loss caused by fraudulent offence or grave misconduct of employee (who has left because of that), or the amount of refund if less
B30(2)*	Whether to grant application for early payment of benefits on or after age 50/55 and before age 60	The Board 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

Table 3

The following table details our discretions under the Local Government Pension Scheme (Scotland) Regulations 1998 (as amended) in relation to pre 01 04 09 scheme leavers:

Regulation	Discretion	Employer's Policy on the Exercise of this Discretion
30(2)*	Grant application from a post 31 03 98 / pre 01 04 09 leaver for early payment of benefits on or after age 50 and before age 60	The Board 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
30 (5)*	Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31 03 98 / pre 01 04 09 leaver Note: any resultant strain cost from the exercise of this discretion will be charged to the employer regardless of the member's age at date of retirement	The Board may consider waiving the actuarial reduction where exercising that discretion can be justified in terms of the sound business case made for initially paying those benefits or where other exceptional circumstances arise that make payment of those benefits justifiable. Each case will be considered on its own merits
30 (7A)*	Pre 01 04 09 optants out only to get benefits paid from NRD if employer agrees	The Board will exercise this discretion by considering requests on a case by case basis
70(7)(a)	Consent to a member's former employer assigning to the new employer rights under any SCAVC life assurance policy	The Board will not exercise this discretion
87 (2)	No right to return of contributions due to offence of a fraudulent character unless employer directs a total or partial refund is to be made (pre 01 04 09 leavers)	The Board will not direct a return of contributions in the event of an offence of a fraudulent character or grave misconduct
111(2) and (5) 112(1)	Forfeiture of pension rights on issue of Secretary of State's certificate (pre 01 04 09 leavers) Where forfeiture certificate is issued, direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits (pre 01 04 09 leavers)	The Board will apply for a forfeiture certificate where a member is convicted of a relevant offence and, following the issue of the certificate, direct that benefits are to be forfeited
113(2)	Recovery from Fund of monetary obligation owed by former employee or, if less, the value of the member's benefits (other than transferred in pension rights) (pre 01 04 09 leavers)	The Board will recover from Strathclyde Pension Fund the amount of loss in cases of criminal, negligence or fraudulent acts by a member
115(2) and (3)	Recovery from Fund of financial loss caused by employee, or amount of refund if	The Board will recover from Strathclyde Pension Fund the amount of loss in

Regulation	Discretion	Employer's Policy on the Exercise of this Discretion
	less (pre 01 04 09 leavers)	cases of criminal, negligence or fraudulent acts by a member

Table 4

The following table details our discretions under the Local Government Pension Scheme (Scotland) Regulations 1987 (as amended) in relation to pre 01 04 98 scheme leavers:

Regulation	Discretion	Employer's Policy on the Exercise of this Discretion
E2(6)(b)	Grant application from a pre 01 04 98 leaver for early payment of benefits on or after age 50 and before age 60	The Board will not have a general policy of granting early payment of benefits on or after age 50/55 and before age 60 but will consider requests on a case by case basis. The Board 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

Table 5

The following table details our discretions under the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 (as amended):

Regulation	Discretion	Employer's Policy on the Exercise of this Discretion
D 4 (1)	Power to increase statutory redundancy payments above statutory weekly pay limit	The Board will exercise this discretion
D 8(1)	Decision on whether to award compensatory added years to an individual on retirement on efficiency / redundancy Grounds	The Board will exercise this discretion on a case by case basis and subject to achievement of Best Value
D 35	Decision to award up to 104 weeks compensation instead of compensatory added years	The Board will exercise this discretion on a case by case basis and subject to achievement of Best Value