

Employer's Policy Statement LGPS 2015

Employer: South East of Scotland Transport Partnership

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Date of policy statement: 30 November 2017

Date for review: 30 November 2018

Notes on LGPS Policy adoption and review

This is a requirement of the Scheme Regulations – each employer must have a policy in place by 30 June 2015 on regulations 16(2)(e) and 16(4)(d) (Additional Pension Contributions), 29(6) (Flexible Retirement), 29(8) (waiving actuarial reductions), 30 (award of additional pension), and Schedule 2 Paragraphs 2 & 3 of Schedule 2 of the Transitional Regulations (switching on the rule of 85 for members who voluntarily draws benefits between age 55 and 60).

It is recommended that employers also formulate their policy in respect of the other regulations included below.

It must be published (made known to members) and a copy sent to Lothian Pension Fund.

It must be kept under review and revised following any change in policy.

Any revisions must be published and a copy sent to the fund within 1 month of the revision.

In formulating their policy, employers must have regard to the extent to which the exercise of its policy could lead to a serious loss of confidence in the public service.

The Local Government Pension Scheme (Scotland) Regulations 2014

Policy Statement (Draft only)

Under Regulation 58 of the Local Government Pension Scheme (Scotland) Regulations 2014, each employer participating in the scheme is required to formulate a policy concerning the exercise of certain discretions contained within the regulations.

The South East of Scotland Transport Partnership 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, has decided to exercise its discretions in the following way

The statement is applicable to all employees of South East of Scotland Transport Partnership who are eligible to be members of the Local Government Pension Scheme.

COMPULSORY ITEMS

1. Regulation 16(2)(e) & 16(4)(d) of the Local Government Pension Scheme (Scotland) Regulations 2014: Additional Pension Contributions

Policy

The South East of Scotland Transport Partnership will not have a general policy of entering into an APC contract with a scheme member, but will consider individual cases on their merits.

Explanatory Notes

Employers may voluntarily enter into an APC contract with a Scheme member who is contributing to the MAIN section of the scheme in order to purchase additional pension of not more than the additional pension limit (£6,500 from 1st April 2015 subject to annual increase in line with the Pensions (Increase) Act 1971).

Employers may resolve to fund in whole or in part any arrangement entered into by an active scheme member to pay additional pension contributions by way of regular contributions in accordance with Regulation 16(2)(e), or by way of a lump sum in accordance with Regulation 16(4)(d).

The amount of additional contribution to be paid is determined by reference to actuarial guidance issued by the Government Actuaries Department.

Consideration needs to be given to the circumstances under which the scheme employer may wish to use their discretion to fund in whole or in part an employee's Additional Pension Contributions.

2. Regulation 29(5) of the Local Government Pension Scheme (Scotland) Regulations 2014: Retirement Benefits: Early payment of benefits on or after age 55 and before age 60

Policy

South East of Scotland Transport Partnership 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. South East of Scotland Transport Partnership 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. An election made by a member aged less than 60 is ineffective without the consent of the member's employing authority or former employing authority.

Explanatory Notes

Members age 55 or over may elect to receive immediate payment of retirement benefits (provided they have left Local Government employment). Such benefits may be reduced for early payment.

So as to avoid the member suffering the full reduction to their benefits the Scheme employer can 'switch on' the 85 year rule protections thereby allowing the member to receive fully or partly unreduced benefits but subject to the Scheme employer paying a strain (capital) cost to the Pension Fund.

3. Regulation 29(6) of the Local Government Pension Scheme (Scotland) Regulations 2014: Flexible Retirement

Policy

The South East of Scotland Transport Partnership 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 his employer's consent, has also reduced his hours and/or grade. However, where South East of Scotland Transport Partnership consider it can be demonstrated as being to their advantage or in their operational interests, it will consider such requests.

Should the South East of Scotland Transport Partnership 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 benefits.

Explanatory Notes

Where certain conditions are met, the Scheme Regulations allow members to draw some or all of their scheme benefits while still in employment. The conditions are:

- The member must apply for early payment in writing and be at least age 55
- The member, with the employer's consent, reduces the hours he works or his grade of employment and,
- The employer agrees to the early payment of his benefits

On flexible retirement, members must take all benefits in respect of membership before 1 April 2009. With regards to the following benefits, the member has the option to request payment of the as follows:

- All, part or none of the benefits in respect of membership between 1 April 2009 and 31 March 2015
- All, part or none of the benefits in respect of membership from 1 April 2015 onwards
- Any additional benefits such as added years contracts, additional pension contracts (APCs), additional voluntary contributions (AVCs) or additional pension or membership awarded by the employer.

Employers must confirm whether or not they will agree to the member's request.

The benefits would be subject to the same level of reduction which would apply had the member retired from employment, but the employer may, at their cost, waive the reduction.

Employers may wish to specify in their policy that a minimum reduction in hours or grade is required before flexible retirement can be considered.

Note that for members who have reached age 60, employer consent to early payment is not required.

4. Regulation 29(8) of the Local Government Pension Scheme (Scotland) Regulations 2014: Waiving Actuarial Reduction on Early retirement between 55 and 60.

Policy

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.

The South East of Scotland Transport Partnership 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 South East of Scotland Transport Partnership considers it can be demonstrated as being to their advantage or in their operational interests, it will consider such requests.

Should the South East of Scotland Transport Partnership 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.

Explanatory Notes

Should an employer permit early payment of retirement benefits for a member between age 55 and 60, or flexible retirement, the member will receive immediate payment of their retirement benefits. These benefits may be reduced for early payment.

An employer can agree to waive the reduction which would apply. To do so would mean the employer would be liable for strain on fund costs to cover the cost of early retirement.

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

Policy

The South East of Scotland Transport Partnership 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 who with his employer's consent. However, where South East of Scotland Transport Partnership considers it can be demonstrated as being to their advantage or in their operational interests, it will consider such requests.

Should the South East of Scotland Transport Partnership agree to the early payment of benefits under this regulation in any case, they 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.

Explanatory Notes

Other than on flexible retirement, the rule of 85 does not automatically apply to members who would otherwise be subject to this and have (with their employer's consent) chosen to voluntarily draw their benefits on or after age 55 and before age 60. As a result, the member's benefits will be actuarially reduced. To avoid the member suffering the full reduction to their benefits the Scheme employer can 'switch on' the 85 year rule protections thereby allowing the member to receive fully or partly unreduced benefits but subject to the Scheme employer paying a strain (capital) cost to the Pension Fund.

As the Rule of 85 no longer automatically applies, employers might be more likely to consider member requests for early payment of benefits between age 55 and 60. This is because, unless the employer chooses to apply the Rule of 85, no strain costs will be payable. Instead, the cost will be met by a reduction to the member's benefits.

A further option would be for the employer not to apply the Rule of 85 but to agree to waive part of the actuarial reduction which would apply. In these cases, the employer would meet part of the cost for early payment by paying a strain cost, and the member would meet the balance of the cost by a reduction to their benefits.

6. Regulation 30 of the Local Government Pension Scheme (Scotland) Regulations 2014: Award of Additional Pension

Policy

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

Explanatory Notes

An employer may award a member additional pension which would become payable from the same date as the member's normal pension. The maximum extra pension which can be awarded is £5,000. Such awards can be made to active members, or within 6 months of leaving to members whose employment was terminated on the grounds of redundancy or the interest of efficiency. The employer must make an appropriate payment into the fund within one month of making a resolution.

The figure of £5,000 will be increased annually each April (from April 2016) under the Pension (Increase) Act 1971.

7. Regulation 29(5) of the Local Government Pension Scheme (Scotland) Regulations 2014: (Voluntary Early Retirement between the ages of 55 and 60)

Policy

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.

The South East of Scotland Transport Partnership will not have a general policy of allowing early payment of benefits for former employees, but will consider applications on their merits. The South East of Scotland Transport Partnership may consent to voluntary early release where it can be demonstrated as being in the South East of Scotland Transport Partnership's financial or operational interests. Where early payment is permitted, the employer 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

Explanatory Notes

This is an option in the Scheme Regulations which allows former members to access their deferred benefits early, provided they are at least 55 years old and have their former employer's consent. As Rule of 85 does not automatically apply under such circumstances, the member's benefits would be reduced for early payment. Employers may wish to switch on the Rule of 85 (see item 5. above), however this would result in additional costs. Alternatively, an employer may not apply the Rule of 85 but may agree to waive all or part of the actuarial reduction which would apply.

Employers may wish to consent to early payment where it could be demonstrated that there were financial or operational benefits in doing so.

8. 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)

Policy

Any scheme member aged 55 or over, providing he has left his employment, can ask for the early payment of pension benefits. Where the member is under age 60, it is at the employer's discretion to agree to early payment. This discretion may also apply to former members with deferred pension rights when they attain age 55.

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

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

Explanatory Notes

This discretion applies to former employees with deferred benefits who left the Scheme before 1 April 2015. The Scheme Regulations which allows former members to obtain access to their deferred benefits early; provided they are at least 55 years old. Benefits would be reduced for early payment and pension. The amount of the reduction depends on the extent of the protection applicable to the member in respect of the 'Rule of 85'.

The reduction is calculated in accordance with guidance issued by the Government Actuary's department.

It should be borne in mind that decisions to award early payment of benefits under this regulation put a strain on the pension fund, a cost which is passed on to the employer. However, employers may wish to consent where it could be demonstrated that there were financial or operational benefits in doing so.

Employers may also resolve to waive any actuarial reduction applied to the member's benefits where there are compelling compassionate grounds for doing so.

NON-COMPULSORY ITEMS

9. Regulation 17(1) of the Local Government Pension Scheme (Scotland) Regulations 2014: Shared Cost AVC's

Policy

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

Explanatory Notes

To our knowledge, very few employing authorities in the UK have established a shared cost AVC scheme. To do so would result in additional costs for the employer.

10. Regulation 89 of the Local Government Pension Scheme (Scotland) Regulations 2014: Forfeiture of pension rights after conviction for employment-related offences

Policy

Under this regulation, the South East of Scotland Transport Partnership 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, the South East of Scotland Transport Partnership reserves the right to exercise this discretion should the need arise.

Explanatory Notes

This provision allows the employer the option to apply to the Scottish Ministers to forfeit all or part of a scheme member's pension benefits in specific circumstances (such as a conviction for a serious crime) and it is recommended that all employers adopt this provision.

11. Regulation 90 of the Local Government Pension Scheme ((Scotland) Regulations 2014: Recovery or retention where former member has misconduct obligation

Policy

Under this regulation, the South East of Scotland Transport Partnership may recover from his 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, the South East of Scotland Transport Partnership reserves the right to exercise this discretion should the need arise.

Explanatory Notes

This provision allows employers to recover monies from pension benefits (for example, the theft of a substantial sum of money could be recovered from a scheme member's total benefits in respect of acts of theft or fraud carried out by an employee. This provision can also apply to former employees (for example, the theft of a substantial sum of money could be recovered by deducting this amount

from a member's transfer value and only the reduced benefit deferred until retirement age). It is recommended that all employers adopt this provision.

12. Regulation 98 of the Local Government Pension Scheme (Scotland) Regulations 2014: Inward Transfer of Pension Rights

Policy

The South East of Scotland Transport Partnership 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 South East of Scotland Transport Partnership and Lothian Pension Fund.

Explanatory Notes

The Scheme Regulations allow members to transfer previous pension rights into the Local Government Pension Scheme. The Regulations state that all transfers must be requested within 12 months of the member joining the scheme. However, employers and administering authorities have the discretion to allow transfers to proceed after this time-limit has expired.

Employers may wish to consider extenuating circumstances as to why the member did not request the transfer previously. The employer may have a policy not to allow late transfers to proceed as this will increase the member's pension liabilities. This would be a particular consideration if there is a possibility that early retirement may be considered in the future as such an increase in liabilities could give rise to increased strain on Fund costs.

13. Regulation 9(4) of the Local Government Pension Scheme (Scotland) Regulations 2014: Member Contributions

Policy

Under this regulation, the South East of Scotland Transport Partnership 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, the South East of Scotland Transport Partnership reserves the right to exercise this discretion should the need arise.

Explanatory Notes

Employers have to allocate members into the appropriate contributions band for 2015/16 and every financial year from then on. If a member's pay moves into a different band during a financial year, the employer has discretion to implement the new band immediately but may prefer to wait until the next annual review.

14. Regulation 16(16) of the Local Government Pension Scheme (Scotland) Regulations 2014: Additional Pension Contributions

Policy

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. The South East of Scotland Transport Partnership will not generally agree to extend this time limit, but will do so exceptionally, where an employee provides evidence of extenuating circumstances.

Explanatory notes

Following a period of approved unpaid absence, the member can elect to buy back the lost pension. If they make such an election within 30 days of their return to work, then the cost of buying back the lost pension can be shared with the employer. Elections made after 30 days would require the member to bear the full costs of the additional pension contract. The Regulations allow the employer to extend the 30 day time limit at their discretion.

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

Policy

South East of Scotland Transport Partnership operates the provision of its Severance Policy (April 2011) last reviewed and approved by the South East of Scotland Transport Partnership Board, with no changes, in September 2015.

In particular, Section 3 of that policy covers Compensatory Payments on the grounds of the following:

- 3.1 general provisions
- 3.2 on the grounds of efficiency, severance and voluntary redundancy
- 3.3 on the grounds of compulsory redundancy
- 3.4 compensatory added years
- 3.5 pension scheme members – mandatory pension scheme benefits
- 3.6 payment in lieu of notice and outstanding annual leave.

The above policy is available at:

http://www.sestran.gov.uk/wp-content/uploads/2017/01/SEStran_Severance_Policy_Approved_March_2011_.pdf

Policy Review

In making this policy, the South East of Scotland Transport Partnership has referred to the statutory provisions and to advice from the City of Edinburgh Council 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.

Authorised Signature:

Designation:

Date: