

TECHNICAL BULLETIN

NO.18

October 2006



TO ALL EMPLOYERS WITH MEMBERS IN THE LOCAL GOVERNMENT PENSION SCHEME. PLEASE ENSURE COPIES ARE PASSED TO RELEVANT STAFF.

The Local Government Pension Scheme (Scotland) Amendment (No. 2) Regulations 2006

All Unitary Authorities and other Employers, whose employees are eligible to join the Strathclyde Pension Scheme, require to review their policy on the discretions available to them under the LGPS due to recent amendments.

Regulation 105 of the main scheme states that each employer **must** formulate and keep under review their policy concerning the exercise of their discretions. A written statement of policy **must** be forwarded to the SPFO, and a written statement of any changes in policy as a result of a review **must** be forwarded to the SPFO within 1 month of the change.

Employers are **required** to formulate and publish their policy on the following;

- **REG. 30(2) – Early Leavers** - If an employee requests early payment of pension benefits between the ages of 50 and 60, payment can only be made with the consent of the employer.
Note: The employer has to consider the cost of allowing early retirement as in most cases there will be a 'strain on the fund' cost in allowing early release of pension benefit.
- **REG. 30(5) – Early Leavers** - The employer may decide, on compassionate grounds, that the pension and lump sum should be paid without being actuarially reduced for early payment.
Note: The effect of allowing payment without reduction will be to increase the 'strain on the fund' cost to the employer.
- **REG. 30(7A) – Early Leavers** - An employee who has opted out of the LGPS is only entitled to payment of his benefits without reduction from his Normal Retirement Date (NRD) if the employer consents.
Note: This is in line with the new flexible retirement options which would allow payment of deferred pension benefits while the member is still in employment.

- **REG. 34(1A) – Flexible Retirement** - From 1/10/2006 an employee may receive payment of their pension and lump sum and continue working in the same employment, as long as they reduce their hours or grade, if the employer consents.

Note: Employers may want to set limits in their policy, e.g. hours must be reduced to a certain level or by a fixed amount before flexible retirement is authorised. The employee would be receiving pension and pay at the same time and potentially could be much better off. They would also have the right to continue to pay pension contributions to build up a second benefit in the LGPS.

Depending on the age and membership of the member, there could be 'strain on the fund' costs for the employer.

- **REG. 34(1C) and (1D) – Flexible Retirement** - If an employer allows flexible retirement, they may choose to waive, in whole or in part, any reduction in the member's benefits. If the employer chooses to do so they must bear the cost to the fund.

Note: As above but with additional cost for the employer in funding the waiver of the reduction.

- **REG. 51(1) – Augmentation of Benefits** – An employer may augment the membership of an active member at any time, by up to 6 years 243 days or to the member's 65th birthday, if shorter. The employer meets the full cost of the additional membership by payment of a lump sum into the fund, payable within 1 month of a resolution being passed to award augmentation.

Note: This is not a new discretion but should be included in your updated policy statement as previously an employee's service could only be augmented at the beginning or end of their service.

- **REG. 66(1) – Shared Cost AVC's** – An employing authority may resolve to establish a SCAVC arrangement for active members. A resolution must specify whether all active members in employment are eligible and, if not, the conditions for eligibility. The resolution must also specify whether SCAVC's may be used to provide death benefits and the amount of contributions which the authority will pay.

Note: This is not a new discretion but should be included in your updated policy statement.

- **REG. 14 – Employer's discretion to reduce member's contribution rate** – This regulation is deleted from 1/10/2006 as the new tax regime does not restrict the amount of membership which can be accrued. Any employers who have exercised their discretion to reduce or waive contributions when a member has reached 40 years' service before age 60 must now decide whether to recover employee contributions for the period up to 30/9/2006.

Note: From 1/10/2006 any employers who reduced or waived an employee's pension contributions once they had attained 40 years' service and were under 60 must commence deducting contributions from 1/10/2006 as the member now receives the benefit of all service. The only discretion is whether or not to reclaim unpaid contributions for the period prior to 1/10/2006.

Although not a **requirement** of the Regulations, it is recommended a policy is formulated on the following;

- **REG. 6(9) (a) – Election to Join** – A member who has opted out of the Scheme more than once may only re-join if the employer consents.

Note: When a member has joined the scheme and opted out twice to receive refunds, the employer contributions remain in the Pension Fund. Employers should take account of this in reaching a decision on whether to allow re-entry.

It is important that employers' policy statements, especially on new discretions such as flexible retirement, are received by SPFO as soon as possible as members will inevitably make application.

NOTE: Previous information to employers indicated that the SPPA were considering the removal of the option to award Compensatory Added Years (CAY) under the Discretionary Payments Regulations. Draft amendment regulations have now been received and there is currently no change planned and the option to award CAY remains. SPPA has confirmed that this may be reviewed during 2007.

If you have any questions regarding this Bulletin please contact either Janet Cassidy on 0141 287 7414 or Andrew Knox on 0141 287 7415.