



Leadership Advisory Panel

10.00am, Tuesday, 31 March 2020

Administering Authority Discretions Policy

1. Recommendations

The Leadership Advisory Panel is requested to:

- 1.1 approve the draft revised Administering Authority discretions policy;
- 1.2 note that LPF intends to consult with employers on the revised Pensions Administration Strategy; and
- 1.3 approve the draft revised Pensions Administration Strategy, subject to any further amendment arising from the forthcoming employer consultation being reported to the Panel or Pensions Committee, as appropriate, at its next meeting.

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Executive Director of Resources

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2. Executive Summary

- 2.1 The Lothian Pension Funds' (LPF) Administering Authority discretions policy has been reviewed to update regulatory references following the introduction of the new Local Government Pension Scheme from 1 June 2018. In addition, further changes have been made following customer feedback and to incorporate good practice.

3. Background

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- 3.1 The Local Government Pension Scheme (LGPS) allows for certain decisions to be made by the administering authority, mainly in relation to operational matters. The current Administering Authority discretions policy was approved by the Pensions Committee in December 2016.
- 3.2 The draft revised discretions policy is attached as Appendix 1 to this report.

4. Main Report

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- 4.1 The Policy has been updated in four key areas:

Updates due to regulatory changes

- 4.2 References to the Scheme Regulations have been updated to reflect the introduction of the Local Government Pension Scheme (Scotland) 2018. In addition, Regulation 78 (Payments for persons incapable of managing their affairs) now includes wording clarifying the definition of incapacity – within the meaning of section 1 of the Adults with Incapacity (Scotland) Act 2000. Reference to this legislation means that the Fund is no longer required to exercise discretion on whether to pay the person's benefits to another person. As such, a previous discretion has been deleted.
- 4.3 Discretion 32 has been amended to reflect a change of numbering in the Regulations.

Early payment of pensions where the former employer has ceased to be a scheme employer

- 4.4 Wording has been amended to clarify that this discretion applies only to members with deferred benefits who left the Scheme prior to 1 April 2009. Such members

have transitional protection to access benefits between age 50 and 55, however any payments would give rise to a tax charge. As such, payment would require employer consent, or where the former employer has ceased to be a scheme employer, the consent of the administering authority. LPF's general policy is not to grant early payment in these circumstances.

Payment of small pensions

- 4.5 Following customer feedback and as previously agreed by Committee, discretion 43 has been updated to state that while LPF's general policy is to commute small pensions in accordance with the provisions of the Finance Act 2004, where a member requests otherwise, then a small pension will be paid instead.

Elections to make additional pension contributions (APCs) by lump sums

- 4.6 A new discretion (53) has been added to reduce the risk of money laundering in cases where a member elects to make APCs by lump sum. In cases where lump sum payments are made, the member will be required to complete a source of funds check. If the information provided raises suspicion of money laundering, LPF will refuse the APC application and a suspicious activity report will be submitted to the National Crime Agency.

5. Financial impact

- 5.1 There is no direct financial impact aside from potential recovery of costs in the event of employer failure to provide specified information within required timescales.

6. Stakeholder/Regulatory Impact

- 6.1 The Pension Board, comprising employer and member representatives, is integral to the governance of the fund and they are invited to comment on the relevant matters at Committee meetings.
- 6.2 There are no adverse health and safety, governance, compliance or regulatory implications as a result of this report.

7. Background reading/external references

- 7.1 None.

8. Appendices

Appendix 1 – Draft Revised LPF Discretions Policy

Lothian Pension Fund

Pensions Discretions Policy



Appendix 1

This is the Pensions Discretions Policy of the Lothian Pension Fund (“the Fund”). It is prepared and maintained by the LPF group which administers the Fund. This statement was agreed by the Pensions Committee on 25 March 2020.

Lothian Pension Fund’s policy where discretion is applicable is shown in the table below. Where further discretion is required, officers’ overriding priority will be to act in the best the interests of the Fund by taking into account advice (where applicable) and rulings on similar cases from the Pensions Ombudsman.

	Local Government Pension Scheme Administering Authority Discretions/Decisions	Current Policy
1	Whether to agree to an admission agreement with a body applying to be an admission body.	Funding Strategy Statement
2	Agree terms of admission agreement	
3	Whether to agree to an admission agreement with a NHS Scheme employing authority.	
4	Whether to terminate a transferee admission agreement in the event of <ul style="list-style-type: none"> • insolvency, winding up or liquidation of the body; • breach of its obligations under the admission agreement; • withdrawal of approval by HMRC to participate in the scheme; and • failure to pay over sums due to the Fund within a reasonable period of being requested to do so. 	
5	Agree method for paying additional pension with employer	
6	Whether to set up a separate admission agreement fund.	
7	Decide on Funding Strategy for inclusion in funding strategy statement for approval by Pensions Committee.	
8	Whether to obtain revision of employer’s contribution rate on termination of an admission agreement where underfunding not met by insurer, bond or indemnity.	
9	Whether to obtain revision of employer’s contribution rate if there are circumstances which make it likely a Scheme employer will become an exiting employer	

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10	Whether any strain on Fund costs be paid up front by employing authorities following redundancy, early retirement, flexible retirement, or the waiver (in whole or in part) of any actuarial reduction on flexible or discretionary retirement.	
11	Agree to bulk transfer payment	
12	<p>Governance compliance statement must state whether the administering authority delegates their function or part of their function in relation to maintaining a pension fund to a committee, a sub committee or an officer of the administering authority and if they do so delegate, state:</p> <ul style="list-style-type: none"> • the frequency of any committee or sub committee meetings • the terms of reference, structure and operational procedures appertaining to the delegation • whether representatives of employing authorities or members are included and, if so whether they have voting rights <p>The statement must also state</p> <ul style="list-style-type: none"> • the extent to which a delegation, or the absence of a delegation, complies with guidance from Scottish Ministers and the extent it does not comply, state the reasons for non-compliance and • the terms, structure and operational procedures appertaining to the local Pensions Board 	Annual Governance Compliance Statement
13	Decide frequency of payments to be made over to the Fund by employers and whether to make an administration charge.	Pensions Administration Strategy
14	Decide form and frequency of information to accompany payments to the Fund.	
15	Recover additional costs arising from employing authority's level of performance.	
16	Whether to charge interest on payments by employers which are overdue.	
17	Whether the Fund should appeal against employer decision (or lack of decision).	
18	Specify information to be supplied by employers to enable administration. Authority to discharge its functions.	
19	Whether to have a written pensions administration strategy and if so the matters it should include.	

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20	A pension account may be kept in such form as the administering authority considers appropriate	Lothian Pension Fund will decide the form in which pension accounts are kept based on any published advice or best practice and in the most efficient manner that can be devised.
21	Decide, in the absence of an election from the member within 12 months of ceasing a concurrent employment, which ongoing employment benefits from the concurrent employment which has ceased should be aggregated (where there is more than one ongoing employment).	If no option is received Lothian Pension Fund will aggregate the terminated concurrent employment to the active account that is most beneficial to the member.
22	Whether to obtain a satisfactory medical certificate before agreeing to an application to pay Additional Pension Contributions (APCs) or Shared Cost Additional Pension Contributions (SCAPCs).	Members will be required to produce medical evidence in support of an application to purchase additional pension, unless SCAPCs are being paid in respect of lost pension due to short-term absence such as career break, child-related leave or reserve forces leave. Where that evidence incurs costs, these will be met by the member.
23	Whether to accept an application to pay an APC/SCAPC if not satisfied that the member is in reasonably good health.	Where satisfactory medical evidence cannot be obtained in support of the member's application, the request will not be granted.
24	Whether to turn down a request to pay APCs or SCAPCs over a period of time where it would be impractical to allow such a request.	In view of the administration costs involved for both the Fund and the employer, requests to pay APCs or SCAPCs over a period of time to make up lost pension for an absence of less than 10 working days will be refused. Members will still be able to proceed but will be required to make APCs or SCAPCs as a lump sum payment.

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25	Whether to charge a member for provision of estimate of additional pension that would be provided by the scheme in return for transfer of in-house AVC funds.	Member is entitled to one free estimate within a 12-month period. If a further estimate is to be provided within a 12-month period, then a charge will be made.
26	Whether to extend the 3-month election period that allows a member on leaving employment (by reasons of redundancy) to capitalise their added years contract.	Lothian Pension Fund will not extend the election time period of three months for capitalisation except where a member was not made aware of this right.
27	Make an election on behalf of deceased member with a certificate of protection of pension benefits.	Lothian Pension Fund will determine the pay figure and make an election on behalf of a deceased person.
28	Allow extension of period within which a scheme member must submit election for benefits or alter the date from which they elect to have pension paid.	Members may make an election for payment of benefits up to three months before their intended retirement date.
29	<p>Can pay death grant due to personal representatives or anyone appearing to be beneficially entitled to the estate without the need for confirmation, grant of probate/letters of administration.</p> <p>Decide to whom a death grant is paid.</p>	As required Lothian Pension Fund will use its absolute discretion in accordance with the regulations and in the first instance consider the member's expression of wish form. Where no valid nomination exists or is considered inappropriate, before deciding to whom the death grant should be paid the fund will gather background information including any valid will. Where a will has been made consideration will be given to the deceased's wishes. Where no valid will exists, payment may be made to obvious beneficiaries i.e. spouse, children, dependant, relative, executors or any other person who makes a valid claim. In cases where a number of potential beneficiaries exist, dependency and intestate law will be considered as a guide to determining claims

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30	Decide to whom any Additional Voluntary Contributions or Shared Cost Additional Pension Contributions monies (including life assurance monies) are to be paid on the death of the member.	Lothian Pension Fund will decide, based on the circumstances of the individual case, who should receive payment of the member's monies, having full regard for the fact that they must be applied for the benefit of the member's nominee, personal representative or any person appearing to have been a relative or dependent of the member.
31	Approve medical advisors used by employers (for ill-health retirement)	Lothian Pension Fund approves and maintains a list of medical advisors.
32	Whether to extend six-month period to lodge a stage 1 Internal Dispute Resolution Procedure appeal.	The "appointed person", as nominated by Lothian Pension Fund in accordance with Scheme Regulation 69(7)(b), under its Internal Dispute Resolution Procedure, may extend the time limit depending on the merits of the case.
33	Date to which benefits shown on annual benefit statements are calculated.	Benefit statements will show benefits calculated as at 31 March for active members. Deferred and pension credit members will show benefits calculated to the most recent pension increase date.
34	Decide policy on abatement of pensions following re-employment.	Lothian Pension Fund will not abate pensions of pensioner members on re-employment (This excludes the abatement of Compensation Pensions where no such discretion exists).
35	Allow transfer of pension rights into the Fund	Transfer in of previous pension rights is restricted to Public Sector Transfer Club (PSTC). Applications must be made within twelve months of joining the pension scheme.

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36	Decide whether deferred beneficiary meets permanent ill-health criteria	Lothian Pension Fund will pay early payment of deferred on health grounds subject to ill-health medical certification.
37	For pre 1 April 2009 deferred members, decide whether to allow access to deferred benefits on compassionate grounds between age 50 and 55, where the former employer has ceased to be a scheme employer.	Lothian Pension Fund will not grant early payment of benefits between age 50 and 55 unless there are exceptional extenuating circumstances.
38	Decide evidence required to determine financial dependence of co-habiting partner on scheme member or financial interdependence of co-habiting partner and scheme member	Lothian Pension Fund will require at least one of the following types of evidence from at least two years prior to the date of death: <ol style="list-style-type: none"> 1. Joint tenancy agreement/mortgage statement 2. Council tax charges 3. Joint bank account that shows regular utility payments i.e. rent, mortgage, shopping etc 4. Utility bills
39	Decide to treat a child who commences full-time education or vocational training after the date of the member's death as an eligible child after the child attains age 18 until age 23.	At the time of a member's death, a child over age 17 who is in full-time education not having had a break of over one year will be treated as an eligible child.
40	Decide to treat child as being in continuous education or training despite a break.	A break of one year will be disregarded so long as there is a clear intention to return to education or training following the break.
41	Decide to suspend child's pension during a break in education or training.	Lothian Pension Fund will suspend a child's pension during a break in education or training.
42	Decide to treat a child who is disabled within the meaning of the Equality Act 2010 as being an eligible child.	Lothian Pension Fund will rely on medical certification. Where that evidence incurs costs, these will be met by the child's guardian.

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43	Decide whether to commute a small pension.	While Lothian Pension Fund's general policy is to commute small pensions in accordance with the provisions of the Finance Act 2004, should a member not wish such and request otherwise, then a small pension will be paid.
44	For members <i>subject to the provisions of earlier regulations</i> , decide whether to commute pension on grounds of serious ill-health	Subject to the member's wishes and medical certification that life expectancy is less than one year, Lothian Pension Fund will commute pension on grounds of serious ill-health.
45	Decide, in the absence of an election from the member, which benefit is to be paid where the member would be entitled under 2 or more regulations in respect of the same period of membership	Lothian Pension Fund will award the benefit that produces the best benefit for the scheme member.
46	Decide valuation day for pension sharing order	The valuation day for pension sharing orders shall be the date of divorce. The implementation date for the pension sharing order will be the last day of the four-month implementation period from the date of decree.
47	How to discharge Pension Credit liability	Lothian Pension Fund will discharge pension credit liabilities by conferring appropriate rights under the Scheme on the ex-spouse or ex-civil partner. The ex-spouse or ex-civil partner may request a transfer of pension rights to another qualifying arrangement.
48	Decide charges to be levied in Pension Sharing cases	Charges are set with reference to the National Association of Pension Funds schedule of charges and are increased in line with the cost of living each year.

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49	Agree to pay annual compensation on behalf of employer and recharge payments to employer	Lothian Pension Fund on behalf of the City of Edinburgh Council pays compensation on behalf of employers and recharges payments to the employer, subject to any future reviews of the process.
50	Extend the time limit for repayment of a previous refund (16/5/74 to 05/04/1978)	Lothian Pension Fund will extend the time limit indefinitely.
51	Intervals at which instalments of annual compensation are payable (may agree different to LGPS pension date)	Lothian Pension Fund on behalf of the City of Edinburgh Council pays annual compensation in line with the LGPS pension date i.e. in arrears on the 15 th of each month, subject to any future reviews of the process.
Other Discretions (not covered under the provisions of the LGPS)		
52	For upheld complaints, consider any financial awards in line with Lothian Pension Fund's Policy relating to compensation for distress or inconvenience.	When considering financial awards, consideration will be given to the levels of compensation awarded by the Pensions Ombudsman for similar cases.
53	Where a member elects to make Additional Pension Contributions (APCs) by lump sum; take steps to reduce risk of money laundering	Lothian Pension Fund will require members to complete a source of funds check in cases where a member elects to make a lump sum APC. If the information provided raises suspicion of money laundering, the application will be refused and a Suspicious Activity Report (SAR) will be submitted to the National Crime Agency