

DCC Employing Authority Discretionary Policy

Introduction

This policy has been determined by the Douglas City Council as the employing authority in accordance with the Local Government Superannuation Scheme (LGSS) 2012.

The discretions will apply to all members and those eligible to be members of the Isle of Man Local Government Superannuation Scheme.

The policy has been approved by the Executive Committee at its meeting on 28 March 2024.

It sets out the criteria that will be considered when making a decision about the use of employing authority discretions. Any decision relating to these discretionary provisions will be subject to the policy which is current at the time of the relevant event. In the event of a conflict between the discretion as written in this policy and the governing regulations, the governing regulations will prevail.

These policy decisions equally apply (where relevant) to all current and former LGSS members, albeit just in relation to discretions exercised since the date of this policy. The policy decisions also apply to pension credit members (an ex-spouse who is awarded a share of a member's pension by the court through a pension sharing order after divorce) where relevant.

Douglas City Council, in its capacity of employing authority, retains the right to change the policy at any time on the proviso that it is published at least one month before the change(s) being introduced come(s) into effect.

This policy does not give, nor shall it be deemed to give, any contractual rights to any employee of the scheme employer, or to any other person whatsoever.

Discretions from 1.4.12. in relation to post 31.3.12 active members and post 31.3.12 leavers being discretions under the Local Government Superannuation Scheme 2012, which in turn is with reference to regulations in England and Wales re the Local Government Pension Scheme: -

- **(Administration) Regulations 2008 [prefix A]**
- **(Benefits, Membership and Contributions) Regulations 2007 (as amended) [prefix B]**
- **(Transitional Provisions) Regulations 2008 [prefix T]**
- **Regulations 1997 (as amended) [prefix L]**

Description	Regulation number	Policy	Costs
1. NON-MANDATORY An employer who is a local authority for a parish district or a joint board may decide to whom to offer membership of the LGPS (designation bodies).	A4(3)	NOT APPLICABLE TO DOUGLAS CITY COUNCIL	N/A
2. NON-MANDATORY The employing authority may agree the terms of the admission agreement by: - ▪ Determining if an employee or class of employees are designated as being eligible for membership of the scheme within the admission agreement, and ▪ Terminating the admission agreement if the admission body, ceases to be such a body. An admission body is defined as a body, other than the governors of a voluntary school (within the meaning of the Education Act 2001(an Act of Tynwald)), which provides a public service in the Isle of Man otherwise than for the purposes of gain which is approved by the Department of Infrastructure for the purpose of admission to the scheme.	A7(1) & A7(2)	NOT APPLICABLE TO DOUGLAS CITY COUNCIL	N/A

3. NON-MANDATORY An employer may extend the 12 month option period from the date of rejoining the scheme, for aggregation of deferred benefits.	A16(4)(b)(ii)	Where an application is received to extend this time limit, this will only be agreed where the employee has not been responsible for the delay.	An indirect strain on the fund may arise if the final pay in the former employment is lower than the remuneration in the new employment. Costs will be met by an adjustment to the employer contribution rate
4. NON-MANDATORY An employer must determine the rate of employees' contributions and how those rates are assessed.	B3 & T9	Details of how this discretion is operated are included in a separate contributions policy which may be viewed on the scheme website - iomlgps.im	Indirect costs may be incurred if average contributions are below scheme funding basis Costs will be met by an adjustment to the employer contribution rate.
5. NON-MANDATORY An employer may allow a late application in writing by member, to pay optional contributions for a period of unpaid child related leave, strike, or unpaid leave of absence beyond 30 days of returning to work or ceasing to be employed without returning to work.	A22(2)	Where an application is received to extend this time limit, this will only be agreed where the employee has not been responsible for the delay.	Employer contributions are payable in respect of any absence for which the member pays the optional contributions.
6. MANDATORY An employer may award additional membership to an active member (by up to 10 years).	B12	This discretion may be used when there is a real and substantial future benefit to the Council in return for the resulting costs.	Costs will be met by a single capital payment into the pension fund from the employer.

7. MANDATORY An employer may award additional pension to an active member (by up to £5,000 p.a. in aggregate).	B13	This discretion may be used when there is a real and substantial future benefit to the Council in return for the resulting costs.	Costs will be met by a single capital payment into the pension fund from the employer.
8. NON-MANDATORY An employer may agree with the administering authority the method of paying for additional membership granted under B12 or additional pension granted under B13.	A40(2) & (4)	All payments are to be made by way of a lump sum calculated in accordance with fund actuary's guidance.	Administration costs only
9. NON-MANDATORY Whether to extend the one month period within which a lump sum payment by the employer under A40 (2) has to be made (to pay for any augmented membership granted under B12 or additional pension granted under B13). Before the resolution to award additional membership can take effect the lump sum payment under A40 (2) must be made by the employer.	A40(9)(b)	An invoice will be issued to the Council for the lump sum following the administering authority's receipt of the resolution authorising the award. The invoice should be paid by the Council within one month of the date that it was issued (30 days) and interest will be charged thereafter.	Administration costs only.
10. NON-MANDATORY An employer may contribute with a member to a shared cost AVC arrangement. The employer may decide, how much, and in what circumstances to contribute to such a scheme.	A25(3) & B15(3)	This discretion may be used when there is a real and substantial future benefit to the Council in return for the resulting costs.	None.
11. NON-MANDATORY For those members' eligible, an employer may allow late application to convert scheme AVCs into membership credit, i.e. allow application more than 30 days after cessation of active membership.	TSch1 & L66(8) & former L66(9)(b)	Where an application is received to extend this time limit, this will only be agreed where the employee has not been responsible for the delay.	Indirect costs will be met by an adjustment to the employer contribution rate, though expected to be negligible.

12. NON-MANDATORY The employer may deduct contributions from an employee's pay or any payment to a member who is absent on reserve forces leave.	A45(1) & (2)	The Council will deduct contributions directly from a member's pay at each pay reference period. Where the member holds more than one position, contributions should be deducted with reference to each individual post at each pay reference period.	Administration costs only
13. NON-MANDATORY A member is not entitled to a refund of contributions (subject to minimum membership requirements) where the member has left employment due to an offence of a fraudulent character or grave misconduct in connection with the member's employment, unless the employer directs that a payment (equal to the sum of the contributions either in full or part) may be made out of the pension fund either to the member, spouse, civil partner, nominated cohabiting partner or any dependent.	A47(2)	The Council has determined that where the circumstances covered in these provisions take place, the Council will determine on a case by case basis what sum (if any) will be paid.	Administration costs only.

15. NON-MANDATORY

The former employer may decide to apply to the Department of Infrastructure for a forfeiture certificate, where a member is convicted of a relevant offence.

A forfeiture certificate can be issued where the offence is:

- Gravely injurious to the State; or
- Liable to lead to serious loss of confidence in the public service.

Where a forfeiture certificate is issued and the former employer has suffered a loss which it cannot recover, it may then decide to direct the person's benefits to be forfeited.

Interim payments may be paid to the member until a decision is taken to either apply the forfeiture certificate or to pay benefits.

The former employer may decide to recover from the Pension Fund any monetary obligation or, if less, the value of the member's benefits or contributions where a benefit would not be otherwise payable (other than transferred in pension rights or AVCs/SCAVCs) where the obligation was incurred 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 employment.

The former employer may decide to recover from the Pension Fund any financial loss caused by a fraudulent offence or grave misconduct of the employee (who has left because of that), or the amount of the refund of contributions if less.

A72(1) &
A72(3) &
A72(6) &
A73(1) &
A73(2) &
A74(2) &
A76(2) &
(3)

Where the Council suffers financial loss as a result of the circumstances covered in these provisions, the Council will positively act on these discretions and seek to recover all monies where possible.

Possible savings by using these discretions, though advisor fees may be payable.

16. NON-MANDATORY An employer may extend the normal time limit for acceptance of a transfer value beyond 12 months from joining the scheme, though where this occurs the transfer is treated on a non-club basis in all instances in accordance with the regulations.	A83(8)	Where an application is received to extend this time limit, this will only be agreed to in exceptional circumstances and where the employee has not been responsible for the delay.	There may be a cost where the Scheme Actuary's transfer basis and the Fund Actuary's valuation basis differ. Costs will be met by an adjustment to the employer contribution rate.
17. NON-MANDATORY The employer may allow a member to select the final pay period in respect of a fee paid employment to be any 3 consecutive years ending 31st March in the 13 years prior to leaving active membership.	B11(2)	The final pay period would normally be the average of all fees for 3 consecutive years ending with the date of leaving active membership. Where it is beneficial to the member the Council will adopt this policy and by doing so will allow for the final pay period to be extended to any 3 consecutive years ending 31st March in the 13 years prior to leaving active membership, nominated by the member.	Any indirect costs will be met by way of the employer contribution rate though circumstances are extremely rare to be of any material value.
18. MANDATORY An employer may consent to a member reducing hours or moving to a lower graded post and may further consent, where the member is aged 55 or over, to the member receiving immediate payment of all or part of their pension benefits (flexible retirement).	B18(1)*	This discretion has been adopted, and will be used when there is a real and substantial future benefit to the Council in return for the resulting costs.	Any costs due to the early payment of benefits will be met by a single capital payment to the pension fund from the employer.

19. MANDATORY An employer may determine to waive, in whole or in part, any actuarial reduction on benefits paid to a member on flexible retirement.	B18(3)*	This discretion has been adopted, and will be used when there is a real and substantial future benefit to the Council in return for the resulting costs.	Costs will be met by a single capital payment to the pension fund from the employer.
20. MANDATORY An employer (former employer) may grant an application for early payment of benefits on or after age 55 and before age 60.	B30(2)*	The Council will not automatically consent to requests for early retirement. Where an employee has left the Authority and then submits a written request for their preserved pension benefits to be released early, the application will be considered on an individual basis and evidence will be required that the case is one of compassion if it is so claimed. Such applications will only be considered where there are exceptional reasons for doing so.	Any costs will be met by a single capital payment to the pension fund from the employer.
21. MANDATORY An employer (former employer) may determine to waive, on compassionate grounds, any actuarial reduction applied to benefits paid to a member early.	B30(5)*	This discretion has been adopted, and will only be used in exceptional circumstances.	Costs will be met by a single capital payment to the pension fund from the employer.

22. MANDATORY A former employer may grant an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60.	B30A(3)	The Council will not automatically consent to requests for early retirement. Where an employee has left the Authority and then submits a written request for their preserved pension benefits to be released early, the application will be considered on an individual basis and evidence will be required that the case is one of compassion if it is so claimed. Such applications will only be considered where there are exceptional reasons for doing so.	No costs.
23. NON-MANDATORY A former employer may decide as to whether or not a deferred beneficiary meets the permanent ill health criteria and thereafter, agree to early payment of the deferred benefit.	B31	Where, taking into account a report from an Independent Registered Medical Practitioner (IRMP), and any other relevant information provided, the Council determines that the former employee meets the necessary criteria, the Council will agree to the early payment of the deferred benefit on health grounds. A final decision will be taken by the CEO following receipt of the IRMP report and recommendation	Costs will be met by an adjustment to the employer contribution rate where necessary as part of the next triennial Valuation process.