

The Local Government Pension Scheme 2009

Lothian & Borders Community Justice Authority Employer Policy Statement

Under scheme regulations, Lothian & Borders Community Justice Authority has decided to exercise its discretions in the following way.

In the text below regulations prefixed by "A" refer to *the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 (SSI 2008/228)*, prefixed by "B" refer to *the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (SSI 2008/230)*, prefixed by "T" refer to *the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008 (SSI 2008/229)*, and prefixed by "L" refer to *the Local Government Pension Scheme (Scotland) Regulations 1998 (SSI 1998/366)*.

1. Regulation A19 (the late application to pay optional contributions).

On returning from child-related leave or absence due to trade dispute or other approved leave of absence, an employee is permitted to pay contributions to enable the absence to be counted for pension purposes. In line with the administering authority, Scottish Borders Council, Lothian & Borders Community Justice Authority will not generally agree to extend the time-limit of 30 days under this regulation within which an election to pay the contributions is made. Exceptionally, where an employee provides evidence of extenuating circumstances, the time-limit will be extended by a further 30 days

2. Regulation B12 (awarding additional membership).

In line with the administering authority, Scottish Borders Council, Lothian & Borders Community Justice Authority may increase the service of a scheme member up to a maximum of 10 years. There will not be a general policy of increasing scheme membership but individual cases will be considered where it can be demonstrated as being in Lothian & Borders Community Justice Authority's financial or operational interests.

3. Regulation B13 (awarding additional pension)

In line with the administering authority, Scottish Borders Council, Lothian & Borders Community Justice Authority may award additional pension to a scheme member up to a maximum of £5,000 per annum. There will not be a general policy of awarding additional pension but individual cases will be considered where it can be demonstrated as being in Lothian & Borders Community Justice Authority's financial or operational interests.

4. Regulation A22 (establishment of shared cost AVC scheme).

An active member may elect to pay AVCs into a scheme established under an arrangement made between the administering authority and a body approved for the purposes of the Finance Act 2004. An employer may contribute to the AVC scheme and where they do the AVC scheme is known as a shared cost additional voluntary contributions arrangement and contributions to it as SCAVCs. As direct costs would be incurred by Scottish Borders Council, the administering authority of Lothian & Borders Community Justice Authority and an AVC Scheme already exists, the policy of Lothian & Borders Community Justice Authority is not to adopt this discretion.

5. Regulation B18 (Flexible Retirement).

An active member who has attained age 55 and whose hours or grade have reduced may apply to receive their retirement benefits even though they have not retired. (A person who is an active member at 1 April 2009 can apply for flexible retirement from age 50 provided they do so before 1 April 2010).

In line with the administering authority, Scottish Borders Council, Lothian & Borders Community Justice Authority will consider applications under this regulation on their merits and will only approve cases where it is in Lothian & Borders Community Justice Authority financial or operational interests.

In the event that Lothian & Borders Community Justice Authority allows the flexible retirement of a member it will only waive any reduction where it is in its financial or operational interests.

6. Regulation B30 (choice of early payment of pension).

The normal retirement age is 65. From the age of 60 employees can retire before normal retirement age without the employer's consent although the benefits may be actuarially reduced if they do not satisfy the "85 Year Rule" (i.e. the person's age and length of service add up to 85).

A member who leaves a local government employment voluntarily before becoming entitled to immediate payment of benefits can, once they have attained age 55, ask for immediate payment of those benefits. (A person who is an active member at 1 April 2009 can ask for immediate payment from age 50 provided they do so before 1 April 2010). Early payment of benefits will entail an actuarial reduction unless the applicant satisfies the "85 Year Rule" although this may be waived by agreement between Scottish Borders Council, the administering authority, and Lothian & Borders Community Justice Authority on compassionate grounds.

In line with the administering authority, Scottish Borders Council, Lothian & Borders Community Justice Authority will consider all applications on their merits and consent will only be given to early payment under this regulation where it can be demonstrated as being in its financial or operational interests. Consideration will also be given to waiving the actuarial reduction but each case will be considered on its merits.

Any application for early payment of deferred benefits that includes an acceptance by the applicant that they will take actuarially reduced benefits, and does not result in the administering authority Scottish Borders Council or Lothian & Borders Community Justice Authority incurring additional costs, will be determined by the Community Justice Authority Elected Members in consultation with Scottish Borders Council HR Manager.

7. Regulation L30 (choice of early payment – pre 01/04/09 leavers)

A person who left prior to 01/04/09 may apply for early payment of benefits once they attain age 50. In line with the administering authority, Scottish Borders Council, Lothian & Borders Community Justice Authority will consider all applications on their merits and consent will only be given to early payment under this regulation where it can be demonstrated as being in its financial or operational interests. Consideration will also be given to waiving the actuarial reduction but each case will be considered on its merits.

Any application for early payment of deferred benefits that includes an acceptance by the applicant that they will take actuarially reduced benefits, and does not result in the administering authority, Scottish Borders Council or Lothian & Borders Community Justice Authority incurring additional costs, will be determined by the Community Justice Authority Elected Members in consultation with Scottish Borders Council HR Manager.

8. Regulation A66(6) (forfeiture of pension rights).

In line with the administering authority, Scottish Borders Council, Lothian & Borders Community Justice Authority may apply to the Secretary of State 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 was either "gravely injurious to the State" or "liable to lead to serious loss of confidence in the public sector". In the interests of maintaining confidence in the public service, Lothian & Borders Community Justice Authority reserves the right to exercise this discretion should the need arise.

9. Regulation A66(2) (recovery of money from pension rights).

In line with the administering authority, Scottish Borders Council, Lothian & Borders Community Justice Authority may recover from his/her 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, Lothian & Borders Community Justice Authority reserves the right to exercise this discretion should the need arise.

10. Regulation A78 (inward transfer of pension rights)

A request by a person to transfer previous pension rights into the Local Government Pension Scheme must be made in writing within 12 months of becoming an active member or such longer period that an employer may allow. Lothian & Borders Community Justice Authority will only extend the 12 month period in exceptional circumstances as determined by the Community Justice Authority Elected Members.

11. Early Payment of Benefits (other than ill health).

In line with the administering authority, Scottish Borders Council, Lothian & Borders Community Justice Authority certifies that: -

- an employee aged 50 or more is retiring on redundancy or efficiency grounds, or
- an employee is retiring voluntarily with employer consent on or after age 50, and before age 65, or
- the deferred benefits of a former employee are brought into payment on or after age 50, and before age 60

and immediate benefits are payable, Lothian & Borders Community Justice Authority shall pay to Scottish Borders Council Pension Fund such amount or amounts, as agreed with the Administering Authority, representing the actuarial strain on the Pension Fund of the immediate payment of benefits, as certified by the Fund Actuary.

In making this policy, Lothian & Borders Community Justice Authority has had regard to the statutory provisions, advice from Scottish Borders Council as the Pension Scheme administering authority, guidance from the Local Government Employers and the Scottish Borders Council Pension Fund's actuary.

Consideration has also been given to the extent to which the exercise of these discretions could lead to a serious loss of confidence in the public service.

Lothian & Borders Community Justice Authority policies will be kept under review and the Policy Statement revised as and when necessary in line with the administering authority, Scottish Borders Council, to reflect any changes in policy.

Effective Date of Policy Statement:-23rd June 2009.