

STAFF COMMISSION FOR EDUCATION AND LIBRARY BOARDS

LOCAL GOVERNMENT PENSION SCHEME REGULATIONS (NI) 2002

POLICY STATEMENT ON EMPLOYER'S DISCRETIONS

1. Introduction

- 1.1 Under the Local Government Pension Scheme Regulations (Northern Ireland) 2002, which came into operation on 1 February 2003, the Staff Commission for Education and Library Boards (the 'Commission') is required to publish and keep under review a Statement of its Policy on certain discretions, which it can exercise under the Regulations.
- 1.2 In formulating this Policy Statement the Commission has ensured that its discretionary powers:
 - have been exercised reasonably
 - will not be used for ulterior motive
 - will be used with regard to all relevant factors
 - will be duly recorded when used
- 1.3 The Policy Statement has been prepared following consideration of the views of :
 - recognised Trades Unions (for staff employed under NJC terms and conditions of employment);
 - the Department of Education for Northern Ireland; and
 - the NILGOS Committee.
- 1.4 In applying this Policy Statement the Commission confirms that its discretions will be:
 - applied reasonably and appropriately;
 - used when necessary to assist in attracting and retaining staff;
 - and used when necessary to facilitate the premature retirement of staff in the mutual interests of the employee and the Commission.
- 1.5 This Policy has been subject to screening in accordance with Section 75 of the Northern Ireland Act 1998 and the result was that there was no adverse impact.

2. Policy Statements

2.1 Regulation 6(9)(a) - Re-entry to the Scheme for members who have opted out

Background

- 2.1.1 The Commission has the discretion to accept a member who has opted out of the Scheme more than once to rejoin the Pension Scheme.

2.2 Policy Discretion

- 2.2.1 *The Commission will make an individual decision taking into account all relevant circumstances in considering whether or not to allow employees who have opted out of the Scheme more than once to rejoin.*

2.3 Regulation 14 - Contribution Waiver where Scheme Membership exceeds 40 years

Background

- 2.3.1 The Commission has the discretion to waive an employee's standard contribution once the employee has completed 40 years Scheme membership in local government employment excluding any transferred in service.

2.4 Policy Discretion

- 2.4.1 *This discretion will be considered for employees who complete 40 years NILGOS Scheme membership with the Commission, the Education and Library Boards and their statutory predecessors. Their contributions will be waived from the date 40 years membership is attained until the employee reaches age 60.*

2.5 Regulation 33 - Employee's and Former Employee's request to retire early

Background

- 2.5.1 From age 50, employees who are members of the NILGOS Scheme and former employees with deferred benefits for membership after 31 January 2003 have the right to apply for early payment of their benefits subject to the consent of the Commission.
- 2.5.2 If the employee's or former employee's age and membership (in whole years) is less than 85 years reduced benefits are payable. This is known as the '85 Year Rule'*

* The 85 year rule test is if the total of the employee's age (whole years) and membership (in whole years) is equal to or greater than 85. Where the total is less than 85 a reduction dependent on the shortfall is applied.

2.5.3 Employees or former employees who are aged 60 or over do not require the Commission's consent to retire early but reduced benefits will be paid where the 85 year rule is not met.

2.6 Policy Discretion

2.6.1 To allow employees aged over 50 and less than 60 who request to leave to receive their benefits early.

2.6.2 *Each request from existing staff members will be judged equally on its own merits and this discretion will only be exercised when the cost of the early retirement can be funded by the cost saving of release and recouped within a 2 year period.*

2.6.3 To allow former employees over age 50 and less than 60 with preserved benefits for membership after 31 January 2003 to receive early payment of their benefits.

2.6.4 *Early payment of benefits for former employees will not be considered unless in exceptional circumstances on compassionate grounds.*

2.6.5 To waive the reduction to benefits where the 85-year rule is not satisfied for employees and former employees allowed to retire over age 50 and under age 60 and for employees and former employees who voluntarily retire over age 60.

2.6.6 *Requests to waive the reduction in benefits where the 85-year rule is not satisfied will be considered only on compassionate grounds.*

Exercising Discretion on Compassionate Grounds

Each request on compassionate grounds for either the early payment of benefits and/or a request to waive the reduction in benefits where the 85-year rule is not satisfied will be considered on its own merits regardless of cost. The Commission will consider requests on compassionate grounds to allow employees or former employees to care for a sick spouse, parent, child or sibling, etc or for financial hardship. However before exercising this discretion the Commission will require:

- Full details of the exceptional circumstances and independent supporting evidence;
- Details of all employments held since leaving the Commission and details of pensions deferred or in payment and any other benefits payable;
- Medical reports, if appropriate, to support a case of retirement to look after an elderly or infirm spouse, child, parent, sibling or other dependant;

- Confirmation in financial hardship cases that the hardship would not be better assisted by the Department of Work & Pensions and the effect the payment of Scheme benefits would have on the receipt of any state benefits the member is entitled to.

2.7 Regulation 54 – To grant additional membership to members who leave after 50

Background

2.7.1 The Commission has power to increase Scheme membership for members who leave employment aged 50 or over. The additional period of membership awarded must not exceed the shortest of:

- the member's total membership;
- 40 years minus the member's total membership;
- potential membership from the date of leaving to age 65;
- 6 years 243 days.

2.8 Policy Discretion

2.8.1 *This discretion to grant additional membership to members who leave after age 50 will only be exercised in cases of retirement on redundancy or in the interests of efficiency of the service, in accordance with the Commission's agreed severance package.*

2.9 Regulation 55 – To grant additional years of membership to new members

Background

2.9.1 This discretion allows the Commission to grant additional years of membership to new employees. The additional membership must be granted within 6 months of becoming a Scheme member and the employee must be aged less than 59 when joining the Scheme.

2.9.2 The membership granted must not exceed the maximum allowed by the Inland Revenue after taking account of any period for any retained benefits in any other pension arrangement and will be the shorter of:

- the period by which the members potential period of membership to age 65 falls short of 40 years;
- the member's potential period of membership to age 65.

2.9.3 The additional period granted will not count as part of the member's total membership if the member leaves before being entitled to an immediate pension.

2.10 Policy Discretion

2.10.1 *The application of this discretion will only be exercised in rare and exceptional circumstances and when financial implications can be justified.*

2.11 Regulation 69 - To introduce a Shared Cost AVC Arrangement

2.11.1 The Employer may establish and maintain a Shared Cost Additional Voluntary Contribution Scheme (SCAVC) to provide a top up pension or death in service cover for employees. Who can join, how much the Commission and employees will jointly pay and the benefits provided must be considered.

2.12 Policy

2.12.1 *The Education and Library Boards and the Commission do not propose to introduce SCAVC but reserve the right to consider the introduction of the scheme in the future.*

3. Implementation

3.1 The Policy Statement was approved by the Commission on 16 June 2003 and each of the policy discretions will be subject to review in June 2005.