



Government Actuary's Department

Local Government Pension Scheme (Scotland)

Flexible Retirement

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1 Introduction

- 1.1 The Scottish Ministers are required under the Local Government Pension Scheme (Scotland) Regulations 2014 ('the 2014 Regulations') (SSI 2014/164) and the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 ('the 2015 Scheme Transitional Regulations') (SSI 2014/233) to issue actuarial guidance on how any benefits under the Earlier Regulations paid to a member on flexible retirement shall be taken into account in any subsequent calculation of his or her benefits.
- 1.2 The Earlier Regulations are defined in the 2015 Scheme Transitional Regulations as the regulations by which the 1974, 1987, 1998 and 2009 Schemes were constituted.
- 1.3 The 2014 Regulations and the 2015 Scheme Transitional Regulations do not fully specify the benefits taken on flexible retirement in relation to benefits earned prior to 1 April 2015, or how to determine subsequent benefits after taking flexible retirement. The Scottish Public Pensions Agency (SPPA) has confirmed the details described in the remainder of this note in relation to all such cases.
- 1.4 The Government Actuary's Department (GAD) seeks to achieve a high standard in all our work. Please go to our [website](#)¹ for details of the standards we apply.
- 1.5 The remainder of this introduction contains:
 - > details of the implementation and future review of this guidance, and
 - > statements about third party reliance and liability.
- 1.6 In the remainder of this note:
 - > the second section describes the options available to a member considering flexible retirement
 - > the third section describes the effect on the remaining entitlements
 - > the fourth section sets out a range of examples based on a member taking flexible retirement and subsequently retiring at NPA, or earlier or later, or dying before NPA.
 - > Appendix A contains the cited regulations
 - > Appendix B contains the legislative references
 - > Appendix C sets out some important limitations.

Implementation and Review

- 1.7 The Scottish Ministers are required to consult the Scheme Actuary before issuing actuarial guidance under the 2014 Regulations [Regulation 2(3) of the 2014 Regulations].

¹ <https://www.gov.uk/government/organisations/government-actuaries-department/about/terms-of-reference>



- 1.8 As part of this consultation SPPA has asked GAD, as Scheme Actuary, to recommend actuarial guidance in respect of the regulations detailed above. This document forms GAD's recommendation for the actuarial guidance required by these regulations.
- 1.9 This note has effect only when this guidance is issued by the Scottish Ministers in accordance with Regulation 2(3) of the 2014 Regulations, and is subject to the implementation instructions provided at that time.
- 1.10 This guidance applies to members (including councillors) who take flexible retirement on or after 1 April 2015, and replaces the previous guidance dated 16 July 2012.
- 1.11 This guidance has been written for pension administrators and assumes some knowledge of general pension terminology, and some familiarity with retirement calculations for the Local Government Pension Scheme ('the Scheme' or 'LGPS'). Any questions concerning the application of the guidance should, in the first instance, be referred to SPPA.

Use of this note

- 1.12 This note has been prepared for SPPA and can be relied upon by them. We are content for this note to be released to third parties, provided that:
- > it is released in full;
 - > the advice is not quoted selectively or partially; and
 - > GAD is identified as the source of the note.
- 1.13 Third parties may wish to seek their own actuarial advice where appropriate. GAD has no liability to any person or third party for any act or omission taken, either in whole or in part, on the basis of this note.

Third party reliance

- 1.14 When issued by the Scottish Ministers in accordance with paragraph 1.9 above, this note should be used as the actuarial guidance required under the regulations cited. Other than for this purpose, no person or third party is entitled to place any reliance on the contents of this note, except to any extent explicitly stated herein.



2 Options on benefits to draw-down

- 2.1 Under Regulation 29(6) of the 2014 Regulations, an active member aged 55 or over whose working hours are reduced or whose employment grade is reduced may, while remaining in service and subject to the employer's consent, elect to receive payment of some or all of the benefits that would have been payable if he or she had retired. This is known as flexible retirement.
- 2.2 The benefits that can be taken on flexible retirement need to be divided into five sections:
- (i) the total (whole-time equivalent) period of membership up to and including 31 March 2008, excluding any relevant service arising from items listed in (v), but including any transferred-in service and employer augmentations ("pre-2008 service").
 - (ii) the total (whole-time equivalent) period of membership from 1 April 2008 up to 31 March 2009, excluding any relevant service arising from items listed in (v), but including any transferred-in service and employer augmentations ("2008-2009 service").
 - (iii) the total (whole-time equivalent) period of membership from 1 April 2009 up to 31 March 2015, excluding any relevant service arising from items listed in (v), but including any transferred-in service and employer augmentations ("2009-2015 service").
 - (iv) the total benefits arising from membership between 1 April 2015 and the date of flexible retirement, excluding any benefits arising from items listed in (v), but including any transferred-in benefits and employer augmentations ("post-2015 service").
 - (v) additional benefits including:
 - (a) service under added years contracts where the election occurred before 1 December 2006;
 - (b) service under added years contracts where the election occurred on or after 1 December 2006;
 - (c) AVCs that commenced before 30 June 2005;
 - (d) AVCs that commenced on or after 30 June 2005;
 - (e) additional pension contracts.

More details on the pre-2008, 2008-2009 and post-2009 service are provided in paragraph 3.1.

Percentage drawn-down

- 2.3 Members who elect to take flexible retirement must take all of their benefits relating to pre-2008 and 2008-2009 service. Members may elect to draw-down part of, or all or none of, their benefits relating to 2009-2015 service and their post-2015 service.



Additional benefits

- 2.4 A member who elects to take flexible retirement must cease contributions under type 2.2(v)(a) or (c) arrangements above, and the resulting benefits must be taken on flexible retirement.
- 2.5 The member can choose to take all or none of the benefits arising from type 2.2(v)(b), (d) or (e) arrangements above at flexible retirement. If the member chooses to take their additional pension (type 2.2(v)(e)) benefits, their existing contract must cease: however, a new additional pension contract could commence after flexible retirement; more AVCs could also be paid.

Statutory underpin

- 2.6 On the first occasion on which a member elects to take flexible retirement the statutory underpin applies. The statutory underpin does not apply on any subsequent such election or on the occasion of the member's final exit.

Other Considerations

- 2.7 Benefits taken on flexible retirement will be subject to actuarial reduction where appropriate.
- 2.8 Flexible retirement constitutes a Benefit Crystallisation Event (BCE) within the meaning of the Finance Act 2004. Therefore, the commutation options as defined in Regulation 33 of the 2014 Regulations and the Scottish Ministers' guidance on commutation will be relevant.
- 2.9 A member may be able to take a flexible retirement option under Regulation 29(6) on more than one occasion. Where a member elects to exercise this option more than once, the same principles apply as those outlined in this Section and in Section 3 to calculate the benefits on final exit.



3 Effect of draw-down on remaining entitlements

3.1 If categories of members and service are defined as set out below, the pre-2008 service, 2008-2009 service, 2009-2015 service and post-2015 service can be further broken down as shown in Table 1. SPA is the member's State pension age, and NPA is the greater of SPA and age 65.

- > Group 1: A member who was an active member prior to 1 December 2006, and born on 31 March 1960 or earlier;
- > Group 2: A member who was an active member prior to 1 December 2006, and born on or after 1 April 1960; and
- > Group 3: A member who was not a member prior to 1 December 2006.

- > Part A: Membership up to and including 31 March 2008
- > Part B: Membership from 1 April 2008 to 31 March 2009
- > Part C1: Membership from 1 April 2009 to 31 March 2015
- > Part C2: Membership from 1 April 2015 to 31 March 2020
- > Part D1: Membership from 1 April 2020
- > Part D2 does not relate to accrual during periods of membership, but includes benefits acquired prior to 1 April 2020 which have an NPA of 65.

Table 1: combinations of pension age and accrual rate

	Group 1	Group 2	Group 3
Part A	CRA/80	CRA/80	65/80
Part B	CRA/80	65/80	65/80
Part C1	CRA/60	65/60	65/60
Part C2	CRA/CARE	NPA/CARE	NPA/CARE
Part D1	NPA/CARE	NPA/CARE	NPA/CARE
Part D2	65/Non-Accrual	65/Non-Accrual	65/Non-Accrual

Note that Part A membership relates to pre-2008 service, Part B relates to 2008-2009 service, Part C1 relates to 2009-2015 service while Parts C2 and D1 membership is a further breakdown of the post-2015 service. Part C1 membership is final salary membership under the 2009 Scheme, while Parts C2 and D1 membership are career average membership under the 2015 Scheme.

Service under added years contracts (i.e. additional benefits under paragraph 2.2(v)(a)) should be treated as Part A Membership if the election was before 1st December 2006 and Part D2 membership otherwise.

Transferred-in service and employer service augmentations should each be allocated to the appropriate category above.



- 3.2 The expressions in Table 1 are defined in terms of Schedule 2 of the 2015 Scheme Transitional Regulations and the Early Payment of Pension guidance in force at 1 April 2015. In particular, a "CRA" pension age means the earliest age at which the condition in paragraph B7 of Appendix B of that guidance is met, in relation to service up to the relevant date.

Initial Draw-down Percentage

- 3.3 The percentages of service which a member decides to draw-down is referred to as the Initial Draw-down Percentage ("IDP%"). The member will need to decide the IDP% for each part of their membership.
- 3.4 The member must draw-down all of their Part A and Part B membership (pre-2008 service and 2008-2009 service). Therefore, IDP(A)% and IDP(B)% will be 100%.
- 3.5 For their post-2009 service, a member will need to decide the respective draw-down percentages for their C1, C2 and D1 membership. Partial drawdown is permitted and the same percentage need not apply. So, the IDP(C1)%, IDP(C2)%, and IDP(D1)% can each range from 0 to 100% and need not be the same.
- 3.6 Certain additional benefits not related to a period of actual service are treated as part D2 membership. Partial draw down of such benefits is not permitted – a member must take all or none of these benefits on flexible retirement (see paragraphs 2.4 and 2.5).

Final pay on exit

- 3.7 The specific proportions of the various periods of membership deemed to be drawn-down will have no effect on the subsequent calculation of a member's final pay on exit.

Transitional protection of retirement age

- 3.8 All service accrued following flexible retirement will be based on a pension age equalling the State pension age, or age 65 if higher, regardless of any transitional protection that the member had prior to flexible retirement. Under paragraph 5(2) of Schedule 2 of the 2015 Scheme Transitional Regulations, for service up to the payment of benefits drawn under flexible retirement which had CRA protection, the CRA will still be determined by service before and after flexible retirement, regardless of the benefits taken on flexible retirement. However, after determining the CRA, benefits in respect of service following flexible retirement will be subject to actuarial reduction if taken before NPA. Therefore, for the purposes of determining actuarial adjustments, this service following flexible retirement should be treated as Part D1 membership.

Calculation for Part C1 membership at final exit

- 3.9 All Part A and Part B benefits will have been taken on the first instance of flexible retirement. The calculation of 2015 Scheme benefits from 1 April 2015 following flexible retirement is set out in regulations.
- 3.10 Following a flexible retirement, a subsequent award of benefits will be calculated based on the 2015 Scheme Transitional Regulations plus, in relation to 2009 Scheme benefits, the sum of:



- (i) $[100 - \text{IDP}(\text{C1})]\%$ of whole-time equivalent Part C1 membership, and
- (ii) any additional benefits of type 2.2(v) which were not taken at the point of flexible retirement

3.11 There will be no effect on the flexible retirement benefits already in payment.

Ill-health retirement

3.12 Following a flexible retirement, if a member leaves under the terms of Regulation 34 (ill-health retirement), the benefits should be calculated based on the 2015 Scheme Transitional Regulations plus, in relation to the 2009 Scheme, the benefits calculated under paragraph 3.10 should be paid immediately without actuarial reduction for early payment.

3.13 There will be no effect on the flexible retirement benefits already in payment.

Death benefits

3.14 If a member dies after taking flexible retirement, but before taking the remainder of his benefits, the lump sum death benefit will be calculated based on the 2015 Scheme Transitional Regulations plus, in relation to 2009 Scheme benefits, a death grant under Regulation 35 of the 2009 Scheme regulations based on the flexible retirement benefits in payment.

3.15 If the member is survived by an eligible partner or spouse, that person will be entitled to benefits based on the 2015 Scheme Transitional Regulations plus, in relation to 2009 Scheme benefits, the sum of:

- (i) a survivor's pension calculated under Regulation 24 of The Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 ('the 2008 Benefits Regulations') excluding the service underlying the flexible retirement, plus
- (ii) a survivor's pension under Regulation 36 of the 2008 Benefits Regulations in relation to the service underlying the flexible retirement benefits in payment.

3.16 Children's pensions under Regulations 40 and 46 of the 2014 Regulations are similarly calculated to avoid the double counting of service.

Withdrawal

3.17 If a member withdraws from the scheme following flexible retirement, their residual Pre-2015 deferred benefits are calculated as in paragraph 3.10.

3.18 If a member retires through ill-health under Regulation 36 of the 2014 Regulations after withdrawing from the scheme following flexible retirement, the benefits calculated under paragraph 3.10 should be paid immediately without actuarial reduction for early payment.

3.19 If a member dies after withdrawing from the scheme following flexible retirement, the lump sum death benefit will be calculated based on the 2015 Scheme Transitional Regulations plus, in relation to 2009 Scheme benefits, the sum of:



- (i) a death grant under Regulation 32 of the 2008 Benefits Regulations (relating to a deferred member) excluding the service underlying the flexible retirement benefits, plus
- (ii) a death grant under Regulation 35 of the 2008 Benefits Regulations based on the flexible retirement benefits in payment.

If the member is survived by an eligible partner or spouse, they will be entitled to benefits based on the 2015 Scheme Transitional Regulations plus, in relation to 2009 Scheme benefits, the sum of:

- (iii) a survivor's pension calculated under Regulation 33 of the 2008 Benefits Regulations excluding the service underlying the flexible retirement benefits, plus
- (iv) a survivor's pension under Regulation 36 of the 2008 Benefits Regulations in relation to the service underlying the flexible benefits in payment.

Children's pensions under Regulations 43 and 46 of the 2014 Regulations are similarly calculated to avoid the double counting of service.

Other considerations

- 3.20 Early retirement - where a member's final retirement is before age 65 or CRA, as relevant, then the 2009-2015 benefits which are not yet in payment should be reduced for early retirement in line with the Scottish Ministers' guidance. There will be no effect on the benefits already in payment.
- 3.21 Late retirement - where a member's final retirement is after age 65 then the 2009-2015 benefits which are not yet in payment should be increased for late retirement in line with the Scottish Ministers' guidance. There will be no effect on the benefits already in payment.
- 3.22 Pensions increases - note that the increase applicable to the drawn-down pension in payment at the first Pensions Increase date following final exit may differ from that applicable to the residual pension at final exit.
- 3.23 Transfer values - where a member who has taken flexible retirement benefits subsequently wishes to take a Cash Equivalent Transfer Value to another scheme under the terms of Regulation 94 of the 2014 Regulations before finally leaving the scheme, this will only be based on the benefits in paragraph 3.10 and any post-2015 benefits that have not been taken on flexible retirement. The flexible benefits in payment cannot be transferred-out.
- 3.24 CETV on divorce - where a Cash Equivalent Transfer Value calculation is required for divorce purposes in respect of a member who has taken flexible retirement but not yet finally left the scheme, this will be made up of two elements. The first element will be calculated as in paragraph 3.10 together with any post-2015 benefits that have not been taken on flexible retirement: the second element will be a "pensioner cash equivalent" and will relate to the flexible retirement benefits in payment.



- 3.25 Pension debits - where a member wishing to take flexible retirement benefits is subject to a pension debit under the terms of Regulation 50 of the 2014 Regulations, the debit relating to that part of the membership which is being drawn-down should be applied at the point of flexible retirement. Where the member elects to draw-down only a proportion of the membership, the debit should be pro-rated (in proportion to the membership being drawn-down) and applied to the relevant benefit being drawn-down. The remaining debit should be applied when the member eventually retires (or a further part of it may be applied earlier if the member exercises a further flexible retirement option). For further information reference should be made to the Scottish Ministers' guidance on Application of a Pension Debit for Divorced Members.
- 3.26 Aggregation - any aggregation option exercised under Regulation 3(6) of the 2015 Scheme Transitional Regulations following a flexible retirement will not affect the flexible retirement benefits already in payment. The aggregation option will exclude any service drawn-down as part of that flexible retirement.
- 3.27 Where a member elects to take flexible retirement more than once, similar considerations as those set out in this guidance apply to determine the benefits at each point of draw-down and subsequently to calculate the benefits on final exit.



4 Example of Pre-2015 benefits at and after flexible retirement

In this example, a Group 2 member takes flexible retirement. His employer gives consent for him to take flexible retirement at age 57 as a result of grade reduction. His salary falls by 20%. He must draw-down his entire Part A membership (i.e. pre-2008 service) and Part B membership (i.e. 2008-2009 service), in addition he decides to draw down 50% of his Part C1 membership.

The example gives an illustration of the 2009 Scheme benefits at flexible retirement and subsequently on:

1. age retirement
2. ill-health retirement
3. death
4. retirement on working beyond NPA

The calculation of 2015 Scheme benefits from 1 April 2015 following flexible retirement are set out in regulations, and are not considered here.

Note – This example has been simplified for ease of understanding and some figures have been rounded. Any pensions increases are applied in an approximate manner and ignore the requirement under Paragraph 2 of Section 8 of the Pensions (Increase) Act 1971. Salary increases are also applied in an approximate manner.

Note -- This member does not meet the criteria for protection under the statutory underpin (see Regulation 4 of the 2015 Scheme Transitional Regulations).

Basic information

Gender	Male
Date of birth	31 March 1961
Date of commencement of service	1 April 1992
Critical retirement date	31 March 2019
Critical retirement age (CRA)	58 (exact) ²
Marital status	Married
State pension age (assumed)	67

At flexible retirement:

Date of flexible retirement	31 March 2018
Age (last birthday)	57
Part A membership	16 years
Part B membership	1 year
Part C1 membership	6 years
Pensionable pay (<i>before salary falls by 20%</i>)	£25,000.00 pa
Final pensionable pay (<i>before salary falls by 20%</i>)	£25,000.00 pa
IDP(A)%	100%
IDP(B)%	100%
IDP(C1)%	50%

² Note that the member meets the Rule of 85 at age 58 (31 March 2019).



Assume no commutation of pension for lump sum.
Assume that the member has no additional benefits.

Pre-2015 pension drawn-down

Part A membership for flexible retirement = 16 years
Part A pension (before actuarial reduction) = $16 / 80 \times \text{£}25,000.00 = \text{£}5,000.00$ pa
(Part A retirement grant of $3 \times \text{£}5,000.00 = \text{£}15,000.00$)

Part B membership for flexible retirement = 1 year
Part B pension (before actuarial reduction) = $1 / 80 \times \text{£}25,000.00 = \text{£}312.50$ pa
(Part B retirement grant of $3 \times \text{£}312.50 = \text{£}937.50$)

Part C1 membership for flexible retirement = 0.5×6 years = 3 years
Part C1 pension (before actuarial reduction) = $3 / 60 \times \text{£}25,000.00 = \text{£}1,250.00$ pa

The appropriate Early Retirement factors from the current guidance are:

<u>Part A</u>	<u>Part B</u>	<u>Part C1</u>
$P_{CRA} = 6\%$	$P_{65} = 36\%$	$P_{65} = 36\%$
$RG_{CRA} = 3\%$	$RG_{65} = 21\%$	

(Part A: In accordance with Paragraph 1(d) of Schedule 2 of the 2015 Scheme Transitional Regulations, a 1 year deduction applies for the period between age 57 and CRA of 58.)

(Part B and Part C1: The pension has been calculated in accordance with Section 2 of the guidance on Early Payment of Pension in force at 1 April 2015.)

The Pre-2015 benefits paid to the member at flexible retirement will be:

Part A pension = $\text{£}5,000.00 \times (1 - 0.06) = \text{£}4,700.00$ pa
(Retirement grant of $\text{£}15,000.00 \times (1 - 0.03) = \text{£}14,550.00$ will also be paid to the member.)

Part B pension = $\text{£}312.50 \times (1 - 0.36) = \text{£}200.00$ pa
(Retirement grant of $\text{£}937.50 \times (1 - 0.21) = \text{£}740.63$ will also be paid to the member.)

Part C1 pension = $\text{£}1,250.00 \times (1 - 0.36) = \text{£}800.00$ pa

Total Pre-2015 drawn-down pension at flexible retirement =
 $\text{£}4,700.00 + \text{£}200.00 + \text{£}800.00 = \text{£}5,700.00$ pa

Scenario 1 – Retirement at NPA

In accordance with paragraph 3.8, normal pension age for the 2015 pension will be age 67, attained on 31 March 2028. His Pre-2015 benefits will be as follows:

Residual Part C1 membership up to the date of flexible retirement
= 0.5×6 years = 3 years (see paragraph 3.10)

Final pay at age 67 (illustrative) = $\text{£}24,000.00$ pa

Pension from residual Part C1 pension at age 67 = $(3 \text{ years}) / 60 \times \text{£}24,000.00$



= £1,200.00 pa, to which must be added a 2 year late retirement increase (11%) to arrive at a pension of £1,332.00

Pre-2015 pension to come into payment at age 67 = **£1,332.00 p.a.**

This residual pension will be paid alongside the drawn-down pension already in payment and the 2015 Scheme benefits.

Note that the increase applicable to the drawn-down pension in payment at the first Pensions Increase date following final exit may differ from that applicable to the residual pension at final exit.

Scenario 2 – Ill-health retirement

If the member subsequently retires on tier 1 ill-health at age 59 exactly (attained on 31 March 2020), his Pre-2015 benefits will be as follows:

Residual Part C1 membership up to the date of flexible retirement

$$= 0.5 \times 6 \text{ years} = 3 \text{ years (see paragraph 3.10)}$$

Final pay at age 59 (illustrative) = £25,000.00 pa

Pension from residual Part C1 pension at age 59 = (3 years) / 60 x £25,000.00

= £1,250.00 p.a.

Pre-2015 pension to come into payment at age 59 = **£1,250.00 p.a.**

This pension will be paid alongside the drawn-down pension already in payment and the 2015 Scheme benefits.

Note that the increase applicable to the drawn-down pension in payment at the first Pensions Increase date following final exit may differ from that applicable to the residual pension at final exit.

Scenario 3 – Death

If the member dies at age 58 exactly (i.e. on 31 March 2019), the following benefits will be payable:

- A death grant in relation to the continuing active membership;
- A death grant in relation to the drawn-down pension in payment;
- A spouse's or dependant's pension in relation to the continuing active membership;
- A spouse's or dependant's pension in relation to the residual C1 membership; and
- A spouse's or dependant's pension in relation to the drawn-down pension in payment.

For the fourth of these items, the calculation is as follows:

Residual Part C1 membership up to the date of flexible retirement

$$= 3 \text{ years (see paragraph 3.10)}$$

Final pay at age 58 (illustrative) = £25,000.00 pa

Spouse's pension from residual Part C1 membership = (3 years) / 160 x £25,000.00

= £468.75 p.a.



Spouse's pension from residual Part C1 membership on member's death = **£468.75 p.a.**

In addition, if the member dies leaving one or more eligible children then children's benefits are also payable in respect of the residual Part C1 membership.

Scenario 4 – Retirement after NPA

If the member continues in work to age 69 (ie at 31 March 2030), his Pre-2015 benefits will be as follows:

Residual Part C1 membership up to the date of flexible retirement

$$= 0.5 \times 6 \text{ years} = 3 \text{ years (see paragraph 3.10)}$$

Final pay at age 69 (illustrative) = £24,600.00 pa

Pension from residual Part C1 pension at age 69 = (3 years) / 60 x £24,600.00

= £1,230.00 pa

Plus LRF adjustment: £1,230.00 x 1.24 = £1,525.20

Pre-2015 pension to come into payment at age 69 = **£1,525.20 p.a.**

This residual pension will be paid alongside the drawn-down pension already in payment and the 2015 Scheme benefits.

Scenario 5 – Withdrawal from service

If the member leaves service at age 58 exact (ie on 31 March 2019) his Pre-2015 benefits will be as follows:

Residual Part C1 membership up to the date of flexible retirement

$$= 3 \text{ years (see paragraph 3.10)}$$

Final pay at age 58 (illustrative) = £25,000.00 pa

Deferred pension from residual Part C1 membership = (3 years) / 60 x £25,000.00

= £1,250.00 p.a.

Deferred Pre-2015 pension from residual Part C1 membership at date of leaving service

= **£1,250.00 p.a.**

This is payable, and is subject to revaluation and Pensions Increases, in the same way as a normal deferred pension benefit. Once it comes into payment it will be payable alongside the drawn-down pension already in payment and the 2015 Scheme benefits.



Appendix A: Cited Regulations

A.1 Excerpts from the 2014 Regulations³

Introductory

2. —

...

(3) The Scottish Ministers may, after consultation with the Scheme Actuary, issue actuarial guidance to administering authorities.

Flexible retirement pension accounts

27.—

(1) When an active member is entitled to immediate payment of a retirement pension under regulation 29(6) (flexible retirement pensions) in relation to an employment—

- (a) a flexible retirement pension account must be opened; and
- (b) the balance in the active member's pension account must be reduced by the amount of accrued pension transferred into the member's flexible retirement account.

(2) The flexible retirement pension account must specify—

- (a) the amount of accrued pension transferred from the active member's pension account;
- (b) the amount of additional pension (if any) purchased under regulation 17(7)(b)(i) (additional voluntary contributions);
- (c) the early payment reduction or deferred payment enhancement (if any) and the amount of pension to which that reduction or enhancement is to be applied;
- (d) the commutation amount (if any);
- (e) the amount of any pension adjustment; and
- (f) the amount of pension payable from time to time and the date from which it is to be paid.

(3) The amount of accrued pension specified in paragraph (2)(a) must be reduced to take account of the commutation amount.

(4) The amount of any pension adjustment not already accounted for under paragraph (2)(a) is, for the purposes of paragraph (2)(e), the aggregate of the amounts calculated in accordance with actuarial guidance issued by the Scottish Ministers to account for an adjustment as a consequence of a matter specified in regulation 23(6) or 25(5) (adjustments to active member's pension accounts).

(5) The balance in the member's flexible retirement pension account at the end of the Scheme year in which the member became entitled to the immediate payment of a retirement pension under regulation 29(6) (flexible retirement) is adjusted at the beginning of

³ The Local Government Pension Scheme (Scotland) Regulations 2014 (SSI 2014/164)



the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the member became entitled to that retirement pension, in accordance with actuarial guidance issued by the Scottish Ministers.

(6) The revalued balance calculated under paragraph (5) is the opening balance for the following Scheme year and, thereafter, the balance in the account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the Pensions (Increase) Act 1971 applied.

Retirement benefits

29. —

...

(6) An active member who has attained the age of 55 or over who reduces working hours or grade of an employment may, with the Scheme employer's consent, elect to receive immediate payment of all or part of the retirement pension to which that member would be entitled in respect of that employment if that member were not an employee in local government service on the date of the reduction in hours or grade, adjusted by the amount shown as appropriate in actuarial guidance issued by the Scottish Ministers.

A.2 Excerpts from the 2015 Scheme Transitional Regulations⁴

Membership before 1st April 2015

3.—

(1) Notwithstanding the revocations effected by regulation 2, and subject to this regulation, the Regulations listed in Schedule 1 (other than regulation 3(4) of the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008) continue to have effect so far as is necessary—

- (a) so that membership accrued in the Earlier Schemes in respect of service before 1st April 2015, the pension rights accrued at that date, and any rights and obligations imposed on any person under those Schemes in relation to service before 1st April 2015, are preserved; and
- (b) so that benefits are payable in accordance with these Regulations.

...

(6) Where a member who has not had a disqualifying break aggregates benefits from Earlier Schemes with benefits from the 2015 Scheme, the benefits from the Earlier Schemes other than additional pension under regulation 13 or 14 of the Benefits Regulations are payable as final salary benefits or, in the case of councillor members, career average pay benefits.

...

(10) Any guidance issued by the Scheme Actuary in accordance with any provision in the Earlier Regulations is to be treated as actuarial guidance issued by the Scottish Ministers as defined in Schedule 1 to the 2014 Regulations and any reference to guidance issued by the

⁴ The Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 (SSI 2014 / 233)



Government Actuary in the Earlier Regulations is to be construed as a reference to actuarial guidance issued by the Scottish Ministers.

Retirement benefits

11. —

...

(2) A member who became an active member of the Scheme by virtue of regulation 5(1) (membership of the 2015 Scheme) must, if exercising the option in regulation 29(6) of the 2014 Regulations (flexible retirement), make a request to receive the benefits mentioned in paragraph (3) and such benefits may, with the member's employer's consent be paid to the member notwithstanding that the member has not retired.

(3) The benefits referred to in paragraph (2) are—

- (a) all of the aggregated benefits from the 1998 Scheme;
- (b) all, part or none of the aggregated benefits accrued under the 2009 Scheme;
- (c) all, part or none of the aggregated benefits accrued under the 2015 Scheme; and
- (d) any additional benefits, in accordance with actuarial guidance issued by the Scottish Ministers.

Schedule 2

1.—

(1) Sub-Paragraph (3) applies where a member of the description in paragraph 3(1) or (2) makes a request to receive immediate payment of retirement benefits under—

...

(d) regulation 29(6) (retirement benefits: flexible retirement) of the 2014 Regulations.

...

(3) Where this sub-paragraph applies—

- (a) if the member satisfies the 85 year rule, that part of the member's retirement benefits which is calculated by reference to any period of membership before the relevant date shall not be reduced in accordance with regulations 30(4) of the Benefits Regulations or regulation 29(5) or (6) of the 2014 Regulations; and
- (b) if the member does not satisfy the 85 year rule, that part of the member's retirement benefits which is calculated by reference to any period of membership before the relevant date is reduced by reference to the period between the date of the request and the date the member would satisfy the 85 year rule, or age 65 if earlier.

...

5.—

...

(2) Where this paragraph applies, this Schedule, with the exception of paragraph 4(2)(b)(iii), continues to apply to any undrawn benefits accrued by the member before the date the member started to receive payment of benefits under those regulations.



Appendix B: Legislative references

- B.1 SPPA has asked GAD to recommend actuarial guidance in respect of the regulations detailed below.
- B.2 An active member who has attained the age of 55 or over who reduces working hours or grade of an employment may, with the Scheme employer's consent, elect to receive immediate payment of all or part of the retirement pension to which that member would be entitled in respect of that employment [Regulations 29(6) of the 2014 Regulations].
- B.3 Where the member was an active member of the 2009 Scheme in an employment immediately before 1st April 2015 and became an active member of the 2015 Scheme on 1st April 2015, on taking flexible retirement they must make a request to receive the following benefits [Regulation 11(2) of the 2015 Scheme Transitional Regulations]:
- > all of the aggregated benefits from the 1998 Scheme;
 - > all, part or none of the aggregated benefits accrued under the 2009 Scheme;
 - > all, part or none of the aggregated benefits accrued under the 2015 Scheme; and
 - > any additional benefits, in accordance with actuarial guidance issued by the Scottish Ministers.
- B.4 The Earlier Regulations continue to have effect so far as is necessary so that membership accrued in the Earlier Schemes in respect of service before 1st April 2015, the pension rights accrued at that date, and any rights and obligations imposed on any person under those Schemes in relation to service before 1st April 2015, are preserved [Regulation 3(1) of the 2015 Scheme Transitional Regulations].
- B.5 The value of any benefits under the Earlier Regulations paid to a member on flexible retirement shall be taken into account in any subsequent calculation of his benefits in accordance with actuarial guidance issued by the Scottish Ministers [Regulation 18(5) of the 2008 Benefits Regulations, Regulation 3(10) of the 2015 Scheme Transitional Regulations].
- B.6 This note sets out GAD's recommendation for how any benefits under the Earlier Regulations paid to a member on flexible retirement shall be taken into account in any subsequent calculation of his benefits as required by Regulation 18(5) of the 2008 Scheme Regulations, which continue to have effect by virtue of Regulation 3(1) of the 2015 Scheme Transitional Regulations.
- B.7 It also sets out how any additional benefits may be taken on flexible retirement [Regulation 3(2) of the 2015 Scheme Transitional Regulations].
- B.8 The 2015 Scheme benefits payable on flexible retirement, and the subsequent calculation of 2015 Scheme benefits following flexible retirement, are set out in regulations [Regulations 27 of the 2014 Regulations].
- B.9 The benefits payable on flexible retirement, and the benefits paid subsequently, may be subject to early or late retirement adjustments. The actuarial guidance required is contained in the current guidance documents: Early Payment of Pension, and Late Retirement.



Appendix C: Limitations

- C.1 This note should not be used for any purpose other than to determine benefits relating to flexible retirement in accordance with the regulations cited above.
- C.2 This note should be considered in its entirety as individual sections, if considered in isolation, may be misleading, and conclusions reached by a review of some sections on their own may be incorrect.
- C.3 This note only covers the actuarial principles around the calculation and application of benefits relating to flexible retirement. Any legal advice in this area should be sought from an appropriately qualified person or source.
- C.4 Administrators should satisfy themselves that flexible retirement complies with all legislative requirements including, but not limited to, tax and contracting-out requirements.
- C.5 This guidance is based on the Regulations in force at the time of writing. It is possible that future changes to the Regulations might create inconsistencies between this guidance and the Regulations. If users of this guidance believe there to be any such inconsistencies, they should bring this to the attention of the SPPA. In no circumstances should this guidance take precedence over the Regulations. Administrators should ensure that they comply with all relevant Regulations.