

<b>Agenda Item</b>	<b>4</b>
<b>Report No</b>	<b>PC/2/19</b>

## **HIGHLAND COUNCIL**

**Committee:** Pensions Committee

**Date:** 28 February 2019

**Report Title:** **Administration Strategy Statement /Discretionary policies /Overpayment of Pension.**

**Report By:** Report by Head of Corporate Finance and Commercialism

### **1. Purpose/Executive Summary**

- 1.1 The purpose of this report is to update the Administration Strategy Statement and Discretionary Policies and formalise a policy for the recovery of overpayment of Pension.

### **2. Recommendations**

2.1 Members are asked to:

- i. Approve the Administration Strategy Statement, including the schedule of charges
- ii. Approve the Discretionary Policy report
- iii. Agree the proposal for recovering overpayment of pension on death of a member

### **3. Introduction**

- 3.1 The Highland Council is the Administering Authority for the Highland Council Pension Fund. In addition to the Highland Council, 31 employers participate as Admitted Bodies in the Fund.

### **4. Administration Strategy Statement.**

- 4.1 The Administration Strategy Statement is required to ensure that there is a clear understanding of the roles and responsibilities of both the Administering Authority and scheme employers and the processes that are in place.
- 4.2 The draft Administration Strategy Statement is included at Appendix 1.
- 4.3 This Statement has been produced in accordance with paragraph 57 of The Local Government Pension Scheme (Scotland) Regulations 2018 which provide that the administering authority may prepare, maintain and publish a written Statement setting out their policy concerning administration matters, and that the administering authority and its employing authorities must then have regard to that strategy when carrying out their respective functions.
- 4.4 The Regulations also require that the administering authority must consult with its employing authorities (and any other persons it considers appropriate) in preparing or reviewing its administration strategy.
- 4.5 The Administration Strategy Statement sets out the statutory requirements for the Fund and employers to provide accurate and timeous information, which facilitates the accurate calculation and payment of pension benefits. The quality of data is monitored by the Pension Regulator.
- 4.6 Regulation 65 of The Regulations provides that an administering authority (The Highland Council) may recover from a Scheme employer any additional costs associated with the administration of the scheme incurred as a result of a poor level of performance by that employer. In line with other Administering Authorities in Scotland, The Highland Council Pension Fund proposes to introduce a charge to compensate for additional costs incurred by the Fund where information received from an employer has been late or of a poor standard.

### **5 Consultation.**

- 5.1 Regulations require administering authorities to consult and agree the content of the strategy with employers. The draft strategy document was issued to employers for comments on 23<sup>rd</sup> January and none have been received.

### **6 Discretionary Policies ( Administering Authority )**

- 6.1 The Local Government (Scotland) Pension Scheme Regulations 2008 provide the Council and employers participating in the Highland Council Pension Fund with powers to determine certain policies in respect of the Local Government Pension Scheme to reflect local circumstances. These policies require to be reviewed every 5 years, the last full review having been undertaken in 2014.
- 6.2 Appendix 2 shows the updated table of discretionary policies for the Pension Committee to consider.

## **7 Managing overpayments of pension on the death of a scheme member**

- 7.1 Within the Pension Administration Team, there has been a recent change in the administration arrangements for paying pensions (and recovering over payments) which has provided the opportunity to review and document a formal process for the recovery of overpayment of pension, specifically in cases of death of a scheme member.
- 7.2 Understandably, there can be delays in the notification of a death of a pensioner member of the scheme and as it is not possible to stop payment of the pension after a specific stage in the payment process; overpayments can occur. When this happens the Fund will generally seek to recover amounts that are greater than £250.00 (gross). However there may be legal reasons and/or other circumstances which mean that it is not practical to recover the overpayment (in whole or in part).
- 7.3 Where the overpaid amount is £250.00 or less this is deemed to be uneconomical to pursue. In such circumstances, the amount will be charged to the member's former employer. This approach is consistent with several Funds throughout the UK and is based on the HMRC limit for not pursuing tax on unrecovered overpayments which are less than £250.
- 7.4 A policy for dealing with other types of overpayments will be brought to a future Committee for consideration.

## **8. Implications**

- 8.1 There are no additional implications other than those highlighted in the report.

Designation: Head of Corporate Finance and Commercialism

Date: 19 January 2019

Author: Charlie MacCallum

Background Papers:



# Highland Council Pension Fund Administration Strategy

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# Highland Council Pension Fund

## Administration Strategy

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## Pension Administration Strategy

### 1 Introduction

#### Regulatory Context

- 1.1 This document is the Administration Strategy of The Highland Council Pension Fund (“The Fund”) managed by The Highland Council (“Administering Authority”). The Highland Council administers the Local Government Pension Scheme (LGPS) on behalf of employers participating in the scheme through The Highland Council Pension Fund. The administration of the scheme is governed by the Local Government Pension Scheme (Scotland) Regulations 2018 (“the Regulations”).
- 1.2 This Statement has been produced in accordance with regulation 57 of the Regulations. The Regulations provide that the administering authority may prepare, maintain and publish a written Statement setting out their policy concerning administration matters, and that the administering authority and its employing authorities must then have regard to that strategy when carrying out their respective functions.  
  
The Regulations also require that the administering authority must consult with its employing authorities (and any other persons it considers appropriate) in preparing or reviewing its administration strategy.
- 1.3 In addition, regulation 65 of the Regulations allows an administering authority to recover additional costs from a scheme employer where, in its opinion, they are directly related to the poor performance of that scheme employer. Where this situation arises the administering authority is required to give written notice to the scheme employer, setting out the reasons for believing that additional costs should be recovered, the amount of the additional costs, together with the basis on which the additional amount has been calculated.
- 1.4 The Administration Strategy of The Highland Council Pension Fund therefore sets out the information as required by the Regulations mentioned above.

#### Aims & Objectives

- 1.5 Strategy principles - in agreeing this strategy, all parties commit to the following **key objectives**:
  - Provide a high quality pension service to scheme members
  - Continually develop and improve Fund/Scheme employer working arrangements
  - Strive to achieve and exceed the Fund/Scheme employer service standards
  - Ensure the Fund operates in accordance with the Regulations and is aligned with the Pension Regulator in demonstrating compliance and scheme governance
- 1.6 The Fund is committed to providing a high quality pension service to both members and employers and particularly to ensuring members receive their correct pension benefit entitlement. These aims are best achieved where the Fund and Scheme employers work in partnership and are clear about their respective roles and responsibilities.

- 1.7 This document sets out the roles and responsibilities of both the Fund and Scheme employers. It also specifies the level of services the parties are capable of providing to each other and the performance measures used to evaluate them.
- 1.8 The document also provides the action(s) that may be taken where standards are not met by employers and/or when persistent non-compliance occurs
- 1.9 This strategy statement has been produced in consultation with Scheme employers and becomes effective from XXXXXX. The statement will be kept under review and revised where appropriate. Changes will be subject to consultation with Scheme employers. The statement will be published to all participating Fund employers via the Fund website.

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## 2 Roles and Responsibilities

### Scheme employer and Fund responsibilities

2.1 See **Appendix 1** for Scheme employer and Fund responsibilities

### Scheme employer – Primary employer contact

- 2.2 Each Scheme employer must nominate a person who will act as the Fund’s primary employer contact. There may be further contacts for finance, payroll etc.
- 2.3 It is the Scheme employer’s responsibility to ensure that the primary contact and all other key staff contact details held by the Fund are correct, and to notify the Fund of any changes.
- 2.4 The Scheme employer must ensure the nominated primary contact (and other key staff) is aware of its Scheme employer duties and keeps up to date with guidance issued by the Fund.
- 2.5 The Scheme employer must ensure that they retain a good level of understanding of the LGPS and have a succession plan in place for their nominated contacts
- 2.6 The primary employer contact should ensure all information provided to the Fund is correct by having an appropriate quality review process in place prior to information being submitted to the Fund.

### Key Scheme employer and Fund functions

2.7 The table sets out the key functions of Scheme employers and the Highland Council Pension Fund.

	Process	Owner	Target
1)	GENERAL TASKS		
1.1	<b>Nominated primary employer contact</b> – Inform the Fund of the nominate primary employer contact(s) and update if this changes	Scheme employer	On becoming a Scheme employer or within 30 days of a change to nominated person
1.2	<b>Internal dispute process (IDRP)</b> - Appoint a person (the adjudicator) to consider disputes under stage 1 and provide full up to date contact details to the Fund. Update the Fund if this changes.	Scheme employer	On becoming a Scheme employer or within 30 days of a change to primary contact
1.3	<b>Employer discretion policy</b> – formulate, publish and keep under review, policies in relation to all areas where an employer discretion may be exercised	Scheme employer	Policy document to be forwarded to the fund within 30 days of a change in policy
1.4	<b>Regular review of Administration strategy</b> – as part of the process ensure consultation with Scheme employers	Fund	3 month lead in to policy being adopted



	Process	Owner	Target
1.5	<b>Regular review of the Fund's Funding Strategy statement</b> – At each triennial valuation and in consultation with Scheme employers and Fund's actuary	Fund	Completed by the 31 <sup>st</sup> March following most recent valuation
1.6	<b>Regular review of the Statement of Investment Principles</b> – as part of the ongoing management of the Fund	Fund	Annual review and published following approval from the Funds pension committee
1.7	<b>Regularly review the Fund's communication policy</b> – as part of the ongoing management of the Fund	Fund	Annual review and published following approval from the Funds pension committee
1.8	<b>Regularly review the Fund's governance and compliance statement</b> – as part of the ongoing management of the Fund	Fund	Annual review and published following approval from the Funds pension committee
1.9	<b>Regularly review the Fund's termination policy</b> – as part of the ongoing management of the Fund	Fund	Within 2 months of any change being made to the policy
1.10	<b>Publish the Fund's annual report and annual statement of accounts</b> – as part of the ongoing management of the Fund	Fund	By 31 <sup>st</sup> December following the accounting year-end process
2)	CONTRIBUTIONS		
2.1	<b>Payment of employer and employee monthly pension contributions</b> – including the monthly breakdown contribution report	Scheme employer	Payment and breakdown report received by the Fund by the 19 <sup>th</sup> of the month following deductions
2.2	<b>Consultation with Scheme employers as part of Triennial Valuation</b> - ensure that an appropriate consultation period has taken place with Scheme employers	Fund	Minimum of 3 months in advance of the completed Rates & Adjustment certificate
2.3	<b>Notification of employer contribution requirements</b> - for the three years requirements effective from the April following the triennial valuation process	Fund	Minimum of 4 weeks prior to the completed Rates & Adjustment certificate
2.4	<b>Employee contribution rate</b> - determine the % contribution rate of employee deduction	Scheme employer	First pay period on joining the LGPS
2.5	<b>Employer contribution rate</b> – implemented changes to employer contribution rate as instructed by the Fund actuary	Scheme employer	Implement as per the Rates & Adjustment certificate or as part of entry to the Fund as a new employer
2.6	<b>Ensure correct deduction of employee contributions</b> – deducted correctly from member's pensionable pay (LGPS 2018 (Scotland) Regulation definition). Includes all additional contributions, AVC deductions etc.	Scheme employer	As per the payment period of the Scheme employer (Monthly, 4 weekly etc)
2.7	<b>Strain on the Fund payments</b> – ensure that where applicable additional fund payments are paid to the Fund (for e.g. redundancy / flexible retirement)	Scheme employer	As part of the Highland Council receipt of invoice timescales
2.8	<b>New scheme employer contribution rates</b> – assessment of new scheme employer contribution rate	Fund	Implement within 6 weeks of receipt of admission request (with all applicable information being received) or on commencement as a scheme employer

	Process	Owner	Target
3)	NEW STARTERS		
3.1	<b>Determine eligibility for LGPS membership</b> – including the date membership starts	Scheme employer	At the date of employee joining employment or the date employee becomes eligible for LGPS membership if different
3.2	<b>Notify the Fund of new starts</b> – electronic submission	Scheme employer	New start information will be submitted electronically by scheme employers in a format agreed with the Fund. Data submitted in any other format will be rejected.
3.3	<b>New members informed of LGPS details</b> , key facts and where to find ongoing Fund communication (website details)	Fund	Information on the LGPS will be issued to new members electronically wherever possible by the Fund following notification of joining the scheme being received from the Scheme employer.
4)	ACTIVE MEMBERSHIP		
4.1	<b>Advise the Fund of any membership changes affecting pension entitlement</b> – via electronic submission	Scheme employer	Notified by the end of the month following the date of change
4.2	<b>50:50 selection</b> – employees moved into the 50:50 section or Main Scheme	Scheme employer	Inform the Fund from the next pay period following employees election
5)	LEAVING LGPS MEMBERSHIP		
5.1	<b>Early leaver (non-retirement)</b>	Scheme employer	Inform the Fund by the end of the month following the member leaving or opting out of the scheme
5.2	<b>Retirement</b> – member choice	Scheme employer	Forms should be sent to the Fund as soon as the retirement date is known. This should be no later than 20 working days from the date of retirement.
5.3	<b>Ill Health Retirement</b>	Scheme employer	Forms should be sent to the Fund as soon as the retirement date is known. This should be no later than 20 working days from the date of retirement  IRMP certificate should also be included within this Retirement paperwork.
5.4	<b>Flexible Retirement</b>	Scheme employer	Forms should be sent to the Fund as soon as the retirement date is known. This should be no later than 20 working days from the date of retirement
6)	EMPLOYER SUPPORT		
6.1	<b>Provided employer support</b> – face to face, written communication, fund	Fund	Fund to provide the option to meet employers in person either at the

	Process	Owner	Target
	contact numbers		Council office or (if convenient) at an employer's premise.  Employers to be provided with details of the Fund's communication policy
6.2	<b>Employer training session</b>	Fund	Available on request to the Fund
6.3	<b>Employer data submission</b> – The Fund to provide a facility for employers to submit monthly data (i.e. Membership, Final Salary, CARE salary)	Fund	The Funds system provider, Heywood, have an option for monthly data submissions via their <i>iConnect</i> solution
6.4	<b>IDRP Employer Guidance</b>	Fund	The Fund to provide an up to date IDRP employer guidance document. This confirms the role and responsibility for all scheme employers in relation to IDRP.
6.5	<b>Year-end data communication</b> – The Fund to provide Scheme employers with the year-end requirements in advance of data submissions	Fund	Communication to be sent by the Fund to Scheme employers, confirming Year end requirements by the end of January.
6.6	<b>Year-end data return</b> – The Scheme employer must provide a year-end data return to 31 <sup>st</sup> March. <b>Due to the critical and time sensitive nature of this return, there is a separate charging policy for late/and or inaccurate returns – see section 4</b>	Scheme employer	Accurate return should be submitted to the Fund by no later than 10 working days after 30 <sup>th</sup> April
6.7	<b>Year-end data submission</b> – year-end data submission from the Scheme employer	Fund	Accepted / rejected email to the scheme employer within 10 working days. If rejected, advising the reason for rejection of submission.
7)	CONTRACTING OUT OF SERVICES		
7.1	<b>Notify the Fund of the intention to contract out of services</b> - involves a TUPE transfer of staff to another organisation so that information can be provided to assist in the decision	Scheme employer	At the point of deciding to tender
7.2	<b>Admission agreement</b> - Work with the Fund to arrange for an admission agreement to be put in place when contracting out a service, and assist in ensuring it is complied with. Ensuring that the agreement is finalised, the affected staff list confirmed and pension records have been updated	Scheme employer	In advance of the date of completed and signed contract agreement
7.3	<b>End of contract (employer)</b> – advise the Fund of the contract end date or when this has been adjusted. Organise with the Fund any pension funding issues.	Scheme employer	As soon as this information has been confirmed
7.4	<b>End of contract (fund)</b> – advise the contracted employer and Scheme employer of pension funding implications	Fund	Following confirmation of the end of the contract, the Fund will immediately work with its Actuary and confirm the pension funding implications to the contracted

	Process	Owner	Target
			employer
8)	Member communication		
8.1	<b>Active member annual benefit statement</b> – as at 31 <sup>st</sup> March	Fund	To be supplied to all active members by the 31 <sup>st</sup> August following the end of the most recent tax year
8.2	<b>Deferred member annual benefit statement</b> – as at pension increase date in April	Fund	To be supplied to all deferred members by 31 <sup>st</sup> August following pension increase date
8.3	<b>Pension saving statements</b> – those members who have exceeded their annual allowance	Fund	To be supplied by the 6 <sup>th</sup> of October to all affected members
8.4	<b>Member forms</b> – keep all administration forms used by members up to date and easily accessible	Fund	Any revision of the forms to be completed and accessible within 30 days of proposed changes
8.5	<b>Member replies</b> – via email or letters received by the Fund	Fund	Answer or acknowledge the member communication within 10 working days

### 3 Performance standards

#### Importance of scheme data: year-end and monthly returns

3.1 Due in large part to the annualised nature of the pension accrual for a Career Average Revalued Earnings (CARE) pension scheme, the importance of accurate and timely year-end and monthly membership data returns to the Fund has never been greater. The requirements and demands of running a CARE pension scheme, such as the LGPS, means that we must receive accurate annual and monthly membership data from all of our Scheme employers. This is in order that the Fund can fulfil its statutory and organisational responsibilities, such as completion of member retirements and the production of annual benefit statements.

#### The Pension Regulator

3.2 As of the 1st April 2015, the oversight body responsible for the effective governance, management and administration of individual LGPS funds is the Pension Regulator (TPR). TPR has made it clear that LGPS funds and Scheme employers who do not comply with their scheme data responsibilities will be challenged and potentially fined if non-compliance or no or little improvement is found. The Fund is targeting full compliance from our Scheme employers both in accuracy and timeliness of data returns.

#### Performance standards

##### 1. Scheme employer Process tasks

Standard – target compliance rate 90%	%age in target
New starts notification – within 30 days of joining (or 10 days from first deduction if later)	
Retirement information - to allow benefits to be paid on time	
Early leaver notification – within 30 days of leaving (or 10 days after last deduction if later)	
Death in service notification – within 7 days of death	
Year-end query responses – within 14 days	

##### Contribution payments (due 19th of month)

Latest 12 months	%age received in target
April - March	

## 2. Fund

### Standard work

Standard	%age in target
Estimates supplied – within 10 days	
Query responses – within 10 days	

### Key Administration Tasks

Task	Target	% Completed within target
New entrants	Issue starter pack within 14 days of receipt of new start notification	
Early leavers	Issue entitlement notice within 2 months of leaving	
Retirements	To be paid by date of entitlement	
Deaths in service	Contact next of kin within 5 days of notification	
Transfers In	Stat notice within 14 days of receipt of payment	
Transfers Out	Payment made within 14 days of receipt of election	
Estimates	Issue within 10 days of request	
Annual Benefit Statements	Issued by 31st August	
Annual Increase Notification to Pensioners	Issued by 30th April	

## 4 Performance – compliance measures

### Performance – monitoring compliance levels

- 4.1 Various means will be employed, as determined from time to time, to assist in monitoring compliance with this Administration Strategy. More detailed methods may be included in a service level agreement (SLA) between an individual scheme employer and the Fund.

Methods may include:

- Internal/External audit review of processes and internal controls
  - Performance monitoring against Scheme employer tasks and functions noted in Sections 2 and 3 of this Administration strategy document
  - Training sessions offered by the Fund on the most pertinent issues affecting Fund members and employers
  - Annual Scheme employer pension forums
  - Member complaints
  - Internal Dispute Resolution Procedure (IDRP)
- 4.2 Using the means mentioned above, the Fund will monitor progress against this Administration Strategy. This information is reported to the Funds Pension Committee and Pension Board alongside any remedial action taken where the expected standards are not being met. In addition, key performance indicators relating to the Fund and Scheme employers performance will be reported in the Annual Report and Accounts.

### Statutory requirements

- 4.3 Regulation 65 of the Local Government Pension Scheme (Scotland) Regulations 2018 provides that an administering authority (The Highland Council) may recover from a Scheme employer any additional costs associated with the administration of the scheme incurred as a result of a poor level of performance.

Where an administering authority wishes to recover any such additional costs they must give written notice stating:-

- The reasons in their opinion that the scheme employer's poor performance contributed to the additional cost;
  - The amount of the additional cost incurred;
  - The basis on how the additional cost was calculated; and
  - The provisions of the pension administration strategy relevant to the decision to give notice.
  - In instances where the performance of the scheme employer results in fines being levied against the administering authority by the Pension Regulator, Pensions Ombudsman or other regulatory body, these costs will be recoverable immediately.
- 4.4 It is the policy of the administering authority to recover additional costs incurred in the administration of the Scheme as a direct result of the unsatisfactory level of performance of any scheme employer.

### Description of instances where additional costs will be recovered from Scheme employers

- 4.5 The circumstances where such additional costs will be recovered from the scheme employer are, but not limited to:
- failure to provide relevant information to the Fund, scheme member or other interested party in accordance with specified performance targets in this Administration Strategy (either as a result of timeliness of delivery or quality of information)



- failure to pass relevant information to the scheme member or potential members, either due to poor quality of information or not meeting the agreed timescales outlined in the performance targets in this Administration Strategy
- failure to deduct and pay over correct employee and employer contributions to the Fund within the stated timescales
- Instances where the performance of the scheme employer results in fines being levied against the Fund by the Pension Regulator, Pensions Ombudsman or other regulatory body.
- Instances where an act or failure to act by an employer results in an unauthorised payment under the Finance Act 2004 which results in the Fund being subject to a tax liability.
- Instances where an act or failure of a scheme employer results in a benefit being incorrectly awarded and the subsequent overpayment is not able to be recovered from the scheme member.

### Approach by the Fund

4.6 The approach by the Fund when such instances occur is as follows:

1. Write to the employer noting the Fund's areas of concern regarding the employer's performance and offer training or a meeting to address the issue.
2. If no improvements is made from one month (or within agreed timescale) following either a training session or a meeting with the Employer, or where the matter in question is not a regular event and no improvement is made at the next occasion that that matter occurs following the training or meeting, the Fund will issue a formal written notice. The notice will set out the area(s) of concern that have been identified, the steps taken to resolve those area(s) and notice that the additional costs will now be reclaimed.
3. An invoice and formal written notice will then be issued to the Scheme employer which sets out calculations of any loss resulting to the Fund, or additional cost, taking account of time and resources in resolving the specific area(s) of unsatisfactory performance, in accordance with the fee scale set out in this document.



**All instances of additional cost recharges will be presented to the Pension Fund Committee and Local Pension Board**

4.7 The Fund will ensure that all communications in relation to poor performance is not only supplied to the Scheme employer primary contact but is also directed (if different) at either the Chief Executive or Finance Director (or equivalents) within the Scheme employers' organisation.

**Illustrative additional administration costs**

4.8 Based on the Fund's experience of resolving issues of poor performance, the costs below reflect the additional resource required to correct inaccurate data.

As such the fees shown below are illustrative and may be higher (or lower) if individual circumstances are atypical.

Scheme employer function		Illustrative charge (based on the estimated time taken by the Fund to resolve)
Administration process	Description	
<b>Monthly contribution pay over</b>	Late payment of employee, employer and additional pension contributions (APC/ARC/Added years) to the Fund by the 19th of the month following deduction	Charge £60 per incidence
	No schedule of payments sent and received by the Fund	Charge £30 per incidence
<b>New active member</b>	Scheme employer has not notified the Fund within 10 working days of the relevant calendar month end	Charge £50 per form and a further charge of £30 per month the form is outstanding
<b>Leavers (non-retirement)</b>	<p>Scheme employer has not notified the Fund of any leaver.</p> <p>The late or non-provision of a leaver form.</p> <p>Poor data detailed on the form, in particular inaccurate pay details.</p>	Charge £50 per form and a further charge of £30 per month the form is outstanding

Scheme employer function		Illustrative charge (based on the estimated time taken by the Fund to resolve)
Administration process	Description	
<b>Retirement</b>	<p>Scheme employer has not notified the Fund that a member is due to retire within 10 working days before date of leaving.</p> <p>Non-provision of retirement form, poor data detailed on the form – particularly inaccurate pay details.</p>	Charge £60 per form and a further £30 charge each month the form is outstanding or poor data remains
<b>Year End data</b>	<p>Scheme employer has not provided year end data by 10 working days from the 30<sup>th</sup> April and/or quality of data provided is poor and requires manual intervention and additional data cleansing.</p>	Charge £400 and a further charge of £200 per month the data is outstanding and/or still requires manual intervention from Fund officers
<b>Year End data queries</b>	<p>Scheme employer has not responded to the Funds queries regarding submitted year end data within 14 days of this request or the response has been unsatisfactory and queries remain outstanding</p>	Charge £100 and a further charge of £60 per month of non-response or unsatisfactory replies

It is hoped that with commitment to the principles of this statement any non-compliance issues arising would be addressed promptly and there would be no need to resort to any punitive action. However for completeness the following actions are possible:

- In the event of a failure to meet its requirements, the Fund may be penalised in accordance with The Occupational Pension Schemes (Disclosure of Information) Regulations.
- The Fund may contact Scottish Ministers regarding a decision, or failure to make a decision, under scheme regulations by an employer.
- Persistent failure to comply with contributions payment requirements will result in the Fund informing The Pensions Regulator, as required of Scheme Administrators by the Pensions Act 1995.
- Where the employer fails to comply with their scheme duties e.g. failure to make payment of contributions due, the Fund reserves the right to notify the member(s) involved and to notify all members employed by the employer in the event of serious or persistent failure.

- Where any orders or instruction issued by The Pensions Regulator or the Pensions Ombudsman requires financial compensation or a fine to be paid from the Fund, or by any officer responsible for it, and it is due to the default, omission or otherwise negligent act of the employer, the sum concerned will be recharged to the employer.
- All breaches of the law, that have been determined as being of material significance to the Pension Regulator, will be reported.

Full details of employer's administrative responsibilities are set out in the Employers section available

from the Fund's website <http://www.highlandpensionfund.org/>

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## Appendix 1 - Responsibilities

### Scheme employer responsibilities

In addition to the duties outlined above, the employer's responsibilities are summarised as follows:

- To maintain employment records for each scheme member for the purposes of determining membership and entitlement to pension benefits.
- To determine a members pay (or fees) for the purpose of pension contributions and to determine final pay (if required both final salary and CARE regulation definitions) for the purposes of calculating benefits due from the Scheme
- To determine annually a member's contribution rate on the basis of the member's rate of pensionable pay having regard to guidance issued. To collect, pay over and account for the deduction of the correct rate of pension contributions payable by both the members and the Employer.
- To appoint a person designated to receive appeals from employees on 'first instance decisions' under the 2018 Regulations.
- To notify, in writing, every person whose rights or liabilities are affected by a 'first instance decision' made by the Employer under the 2018 (Scotland) Regulations (see Regulation 68 of the 2018 (Scotland) Regulations).
- To ensure all information is provided as required regarding members' employment, using electronic transfer of data where at all possible (especially for bulk exercises) and agreed with the Fund. Data provided should comply with the General Data Protection Regulations and secure transfer methods used.
- To use an independent Medical Officer qualified in Occupational Health Medicine, (who has been approved by the Fund), in determining ill-health retirement and provide the Fund with a relevant certificate where appropriate.
- To provide additional information as required for actuarial valuation, year-end exercises, data matching or communication purposes. The specification for such exercises will be provided by the Fund and may, after consultation, be modified from time to time.
- To provide prospective members with basic information about the Scheme using, where appropriate, material provided by the Fund.
- To ensure those not joining are fully aware of the benefits given up and that equalities principles are met.
- To pay the Fund, by lump sum and within prescribed time limits, any amounts arising as a result of the employer's decision to increase annual pension under the 2018 LGPS (Scotland) Regulations.
- To pay the Fund, by lump sum payment and within prescribed time limits, any strain cost

arising from a decision made by the employer to award early payment of benefits.

- To pay monthly contributions due to the Fund.
- To ensure the Fund is informed about, and Government guidance is followed in respect of, any transfer of members in respect of an outsourcing of service arrangement, and any subsequent changes to that arrangement which would impact on those members.
- To inform the Fund of any planned changes to their pension provision for employees, including whether the scheme is open to new employees, bulk transfers of employments or any redundancy exercises as soon as known.
- To provide details of officers (specifically the primary employer contact) or representatives who are to receive employer communications issued by the Fund and keep these up to date as necessary. Details should be kept up to date as necessary.

### **The Fund responsibilities**

In addition, the responsibilities of the Fund in administering the Scheme are as follows:

- To appoint an actuary for the purposes of the triennial valuation of the Fund and to provide periodical actuarial advice when required.
- To appoint an Additional Voluntary Contributions provider
- To comply with any orders or instructions issued by The Pensions Regulator or the Pensions Ombudsman. Where the order or instruction requires financial compensation or a fine to be paid from the Fund, or by any officer responsible for it, and it is due to the default, omission or otherwise negligent act of the employer, the sum concerned shall be recharged to the employer (see 4.9 above).
- To issue forms, newsletters, booklets and such other materials as are necessary in the administration of the Scheme, for members and for use by employers.
- To provide accurate, timely data to the Fund actuary for the purposes of the triennial actuarial valuation of the Fund and for employer accounting reports requested (e.g. IAS19/FRS102 reports).
- To provide assistance to employers in regard to the pension implications of outsourcing services and to deal with any related bulk transfers of pension rights.
- To comply with HMRC reporting requirements regarding pension benefits.
- To ensure that sufficient information is issued in the form of newsletters, booklets and other materials to satisfy the requirements of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996.
- To ensure that steps are taken at all times to pay benefits to appropriate beneficiaries only and to reduce the possibility of fraud.
- To ensure compliance with the General Data Protection Regulation legislation including

use of appropriate secure data transfer methods.

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## Appendix B – Summary of Discretions and Highland Policy Position

The following table sets out each of the administering authority discretions set out within the Local Government Pension Scheme (Scotland) Regulations 2018 and the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014.

Additionally, where appropriate, it also includes reference to those legacy discretions still required in respect of former scheme provisions.

Regulation No- R – 2018 Regulations TP – 2014 Transitional Regulations B – 2008 Regulations T – 2008 Transitional Regulations L – 1998 Regulations	Description of discretion	Current Highland Council practice / discretion	Proposed change
<b>R3(4) &amp; Part 2 of Sch 2</b>	Whether to agree to an admission agreement with a community body	Allow admission bodies that meet the criteria to join the scheme	Removed reference to “Community Bodies”
<b>R4(4) &amp; Part 2 of Sch 2</b>	Whether to agree to an admission agreement with a Care Trust or NHS Scheme employing authority	Yes	
<b>R Sch 2 Part2</b>	Whether to obtain revision of an admission body’s contribution rate with a view to ensure no underfunding by time admission agreement terminates	Yes	

Regulation No- R – 2018 Regulations TP – 2014 Transitional Regulations B – 2008 Regulations T – 2008 Transitional Regulations L – 1998 Regulations	Description of discretion	Current Highland Council practice / discretion	Proposed change
<b>R Sch2, para 9</b>	Whether to terminate a transferee admission agreement in the event of <ul style="list-style-type: none"> <li>• insolvency, winding up or liquidation of the body</li> <li>• breach by that body of its obligations under the admission agreement</li> <li>• failure by that body to pay over sums due to the Fund within a reasonable period of being requested to do so</li> </ul>	Yes	
<b>R16(1)</b>	Refusal to allow APC or SCAPC over a period of time where it is considered impractical to do so	Refuse requests where cost is less than £250 or period of absence being purchased is less than 10 working days	New discretion from April 2015
<b>R16(10)</b>	Whether to require a satisfactory medical before agreeing to an additional pension contribution (APC) election	Yes, but not in respect of purchase of “lost” pension following a period of absence	Explicit wording added regarding “lost” pension
<b>Regulation 17(12), 38(2), 41(2) and 44(2)</b>	Decide to whom death grant is paid	Fund will use its absolute discretion in all cases.  Will seek to comply with expression of wish forms where they exist	Amendment to wording of policy suggested



Regulation No- R – 2018 Regulations TP – 2014 Transitional Regulations B – 2008 Regulations T – 2008 Transitional Regulations L – 1998 Regulations	Description of discretion	Current Highland Council practice / discretion	Proposed change
<b>R22(3)(c)</b>	Pension accounts to be kept in a format specified by the administering authority	To be maintained in a format compliant with administration software	New discretion from April 2015
<b>R28(9)</b>	Whether to waive, in whole or in part, any actuarial reduction to benefits where a member voluntarily retires early, including flexible retirement, where former scheme employer has ceased to exist	Will not waive, in whole or part any actuarial reduction to benefits except in exceptional circumstances	New discretion from April 2015
<b>R31(8)</b>	Extension of time limits within which a scheme member must give notice to receive certain benefits	Consider individual applications to extend time limits on the merits of each case	New discretion from April 2015
<b>R33(1) &amp; (2)</b>	Decide whether to commute small pension	Yes	
<b>R35(3)</b>	Approve medical advisors used by employers (for ill health benefits)	No	
<b>R36(3)</b>	Decision regarding payment of deferred benefit on permanent ill health	Consider on a case by case basis	New discretion
<b>R47(1)(c)</b>	Decide, in the absence of an election from the member, which benefit is to be paid where the member would be entitled to a benefit under 2 or more regulations in respect of the same period of Scheme membership	Will always chose benefit that would provide highest level of payment	

Regulation No- R – 2018 Regulations TP – 2014 Transitional Regulations B – 2008 Regulations T – 2008 Transitional Regulations L – 1998 Regulations	Description of discretion	Current Highland Council practice / discretion	Proposed change
R52(1)	Whether to set up a separate admission agreement fund	No	
R57(1) & (2)	Whether to have a written pensions administration strategy and, if so, the matters it should include	Yes, to be reviewed annually	
R61(3)	Issue of a “suspension notice” suspending payment of an exit payment	Each case will be considered on an individual basis and in line with the Funding Strategy Statement and Admissions/Cessation policy	New discretion
R61(6)	Whether to obtain revision of the rates and adjustments certificate on the termination of an admission agreement where underfunding not met by insurer, bond or indemnity	Yes	
R63(2)	Whether to require any strain on Fund costs to be paid “up front” by employing authority following redundancy, flexible retirement, or the waiver (in whole or in part) of any actuarial reduction on flexible retirement (but not waiver of reduction in full on compassionate grounds).	The Fund will consider the recovery period and payment up front on a risk basis to safeguard the Fund. The maximum recovery period will be the lesser of 5 years or to age 60 of the scheme member.  No waiver	Revised to incorporate right to require strain funds up front

Regulation No- R – 2018 Regulations TP – 2014 Transitional Regulations B – 2008 Regulations T – 2008 Transitional Regulations L – 1998 Regulations	Description of discretion	Current Highland Council practice / discretion	Proposed change
R64(1)	Decide frequency of payments to be made over to Fund by employers and whether to make an admin charge	<p>Contributions to be paid over by 19<sup>th</sup> of following month. A monthly schedule should be attached with PEN202 form detailing employee, employer contributions and any APCs include any adjustments made since the previous month.</p> <p>Complete annual return data to be supplied by each employer by Accurate return should be submitted to the Fund by no later than 10 working days after 30th April in the format specified by the scheme</p> <p>Charges will be applied for inaccurate, poor quality or late data as per the Administrative Strategy Statement</p>	
R64(4)	Decide form and frequency of information to accompany payments to the Fund	Details included within Administration Strategy	
R65(2)	Whether to issue employer with notice to recover additional costs incurred as a result of the employer's level of performance	Review on a case by case basis	

Regulation No- R – 2018 Regulations TP – 2014 Transitional Regulations B – 2008 Regulations T – 2008 Transitional Regulations L – 1998 Regulations	Description of discretion	Current Highland Council practice / discretion	Proposed change
R66(1)	Whether to charge interest on payments by employers overdue by more than 1 month	Review on a case by case basis	
R74	Whether administering authority should appeal against employer decision (or lack of a decision)	Yes	
R75(1)(b)	Exchange of information and the requirement for scheme employers to provide such information as the administering authority requires to enable it to perform its functions	In accordance with Fund specification and in line with regulatory requirements and best practice	Discretion inserted as part of review
R77(2)	Can pay death grant due to personal representatives or anyone appearing to be beneficially entitled to the estate without need for grant of probate / letters of administration	Fund will use its absolute discretion in all cases.  In the absence of an expression of wish the fund would seek to make payment to a surviving spouse, otherwise the fund will seek confirmation of estate	Change of wording suggested to reflect absolute discretion
R78	Payment of pension where the recipient is incapable of managing their affairs	Each case will be considered on its individual merits.  Will seek to identify most appropriate person to whom payment should be made.	Discretion inserted as part of review

Regulation No- R – 2018 Regulations TP – 2014 Transitional Regulations B – 2008 Regulations T – 2008 Transitional Regulations L – 1998 Regulations	Description of discretion	Current Highland Council practice / discretion	Proposed change
<b>R80(3)</b>	Outstanding employee contributions can be recovered as a simple debt or by deduction from benefits	Debt to be recovered by whichever option is most appropriate, on a case by case basis	
<b>R82</b>	Deduction of tax chargeable under the Finance Act 2004	Tax will be deducted, where required by the Finance Act 2004.  Annual allowance voluntary scheme pays in accordance with Fund scheme pays policy	Discretion inserted as part of review
<b>R93(1)(b)</b>	Agree to bulk transfer payment	Yes	
<b>R95(7)</b>	Allow transfer of pension rights into the Fund	Will accept transfer requests from Public Sector schemes made within 12 months of joining scheme. Will consider applications outside of this in exceptional cases	Additional wording suggested regarding exceptional cases outside of the 12 month period
<b>R Sch 1</b>	Decide evidence required to determine financial dependence of nominated cohabitee of scheme member or financial interdependence of nominated cohabitee and scheme member	Evidence to be provided in accordance with Fund's requirements	Revised wording reflecting current position with regard to cohabitees

Regulation No- R – 2018 Regulations TP – 2014 Transitional Regulations B – 2008 Regulations T – 2008 Transitional Regulations L – 1998 Regulations	Description of discretion	Current Highland Council practice / discretion	Proposed change
<b>R Sch 1</b>	Decide to treat child as being in continuous education or training despite a break	Yes, but not paid during a break	
<b>R Sch 1</b>	Decide to treat a dependent child as unable to engage in gainful employment because of physical or mental impairment	Yes, subject to the required evidence being provided	Change suggested reflecting slightly different requirement of the Regulations
<b>R Sch2, Part 2, para 12(a)</b>	Definition of “employed in connection with” for the purpose of admission agreements	To be taken in accordance with the terms of individual admission agreements	
<b>TP3(11)</b>	Decide policy on abatement of pensions following re-employment	Abatement not applied	
<b>TP3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b),</b>	Election on behalf of deceased member with a valid certificate of protection as at the date of death	Will always chose benefit that would provide highest level of payment	
<b>TP Sch1 &amp; L147</b>	How to discharge Pension Credit liability	Yes	
<b>TP Sch2, para 1(2) and 2(1)</b>	Whether to apply rule of 85 where a member retires voluntarily on or after age 55 and before age 60 (other than on the grounds of flexible retirement), where former scheme employer no longer exists	Will not apply rule of 85 where a member retires voluntarily on or after age 55 and before age 60 except in exceptional circumstances	New discretion from April 2015

## Appendix C – Discretions under the Local Government Pension Scheme Regulations 1995 (as amended) in relation to pre 1.4.98. scheme leavers

Regulation No-	Description of discretion	Current Highland Council practice / discretion	Proposed change
F7(1)	Suspension of spouses' pensions during remarriage or cohabitation	Not applied	