

Corporate Policy and Strategy Committee

10.00am, Tuesday 2 December 2014

Managing Retirement Policy – Additional Report

Item number 7.5
Report number
Executive/routine
Wards

Executive summary

The Council's policies on retirement have been brought together in one document called the Managing Retirement Policy. This was considered by the Corporate Policy and Strategy Committee on 2 September 2014. Elected Members raised a number of queries about the report and asked that it be deferred to the Committee on 4 November 2014 for further consideration.

At the 4 November 2014 Corporate Policy and Strategy Committee a further report provided responses to the queries raised by the Committee on 2 September 2014. The Trade Unions submitted a paper to the Convenor in advance of a deputation to the Committee meeting. The Committee agreed to the Convenor's recommendation that the item be deferred to the 2 December 2014 meeting but no longer.

The purpose of this report is to update the Committee since the meeting in November 2014 and make recommendations for action.

Links

Coalition pledges [P27](#)
Council outcomes [CO24](#); [CO26](#); [CO27](#)
Single Outcome Agreement

Managing Retirement Policy – Additional Report

Recommendations

- 1.1 The Committee is recommended to:
 - 1.1.1 agree to delete the Interim Policy on Preparation for Normal Retirement giving the required 4 months' notice;
 - 1.1.2 replace it with a provision for 13 'wind down' days in the last three months before normal retirement for all staff over 60;
 - 1.1.3 note that staff choosing to wind down to retirement over a longer period will be able to apply for flexible retirement for a period of four months or longer; and
 - 1.1.4 approve the new Managing Retirement Policy attached at Appendix 1.

Background

- 2.1 The Council has various policies on retirement including policies on flexible retirement and early retirement. The new Managing Retirement Policy brings all these policies together into one document that covers all aspects of retirement.
- 2.2 The Interim Policy on Preparation for Normal retirement provides a benefit for staff between the ages of 64 and 65 based on the old default retirement age of 65. The policy provides for a maximum of 78 'wind down' days at a cost of £730k per annum in lost productivity.
- 2.3 The policy is open to legal challenge on grounds of age discrimination because the default retirement age of 65 was abolished in 2011. To minimise the risk of legal challenge, any continuing provision for 'wind down' days before retirement would have to be extended to all staff over 60.
- 2.4 Extending the current scheme would expose the Council to a potential cost of £9.8m (based on uptake by all staff presently over 60). Officers therefore recommended that the scheme in its current format be withdrawn.
- 2.5 On 31 October 2014 the Joint Trade Unions submitted a counter-proposal to the Convenor in advance of a deputation to the Committee on 4 November 2014. The Corporate Policy and Strategy Committee agreed to continue this item to its meeting in December 2014.

2.6 The report to the Corporate Policy and Strategy Committee on 4 November 2014 also provided elected members with responses to the queries they raised at the meeting on 2 September 2014, which were:

- clarification on the figures given at 3.10 of the report, as these were different to those advised verbally at Committee;
- confirmation of the length of the consultation period with the Trades Unions on the changes effected by the Managing Retirement Policy;
- an attempt to assess the likely take-up of the Interim Policy on the Preparation for Normal Retirement and therefore the potential cost to the Council;
- information on life expectancy of employees at the time they might be considering retirement; and
- confirmation on whether the Trade Unions had agreed the Interim Policy on Preparation for Normal Retirement and, if so, on what basis.

Main report

- 3.1 Since the meeting in November 2014 further discussions have taken place between officers and trades union.
- 3.2 It is now proposed to reduce the number of wind down days from 78 to 13, which can be taken in the last three months before retirement. Staff wishing to wind down over a longer period will have access to flexible retirement.
- 3.3 This will be available to all staff over 60 who choose to retire and do not need permission to do so from the Council. (Members of the Scottish Teachers Pension Scheme have separate provision for phased retirement).
- 3.4 If all 1,658 staff currently over the age of 60 opted to retire and take 13 wind down days as soon as this provision is introduced, the full cost of lost productivity would be £1.63m (based on uptake by all staff presently over 60). This compares favourably with the cost of extending the current scheme.
- 3.5 This proposal also helps minimise the risk of legal challenge associated with the current arrangements.
- 3.6 The indicative potential costs of the current policy and the proposed approach over a five year period are shown below:

	Year 1	Years 2 to 5	Total over 5 years
Current Policy Aged 64 to 65 78 days per year	£730k	£2.92million	£3.65million
Proposed Aged 60 and over 13 days in last 3 months <i>(based on 100% immediate take up by all 60-65 year olds)</i>	£1.63million	£1.3million	£2.93million

- 3.7 The Managing Retirement Policy has been amended to make provision for 1 wind down day per week for the last three months prior to normal retirement and to allow staff to apply for flexible retirement for periods of four months or longer.

Measures of success

- 4.1 All staff will have access to a maximum of 13 pre-retirement wind down days;
- 4.2 Increased discussion around planned retirement allowing managers to ensure operational efficiency and support workforce planning;
- 4.3 Increased uptake of Flexible Retirement will support both the reduction in staff costs and the retention of key skills and experience.

Financial impact

- 5.1 Savings from increased uptake of flexible retirement.

Risk, policy, compliance and governance impact

- 6.1 The changes bring the Council's policies on retirement up-to-date with legislative and statutory requirements and significantly reduce the risk of challenge.

Equalities impact

- 7.1 The policy makes clear that there is no longer a default retirement age. This positively impacts on older employees by making it clear they can continue to work until they choose to retire.
- 7.2 The changes to flexible retirement make that choice a more attractive option for more employees.

Sustainability impact

- 8.1 None.

Consultation and engagement

- 9.1 The changes to these policies have been the subject of regular and continuing discussion with the Trades Unions since March 2014.
- 9.2 The Trades Unions welcome the Council's positive response to the concerns they expressed about the deletion of the current policy and the work that has been done to reach a compromise. However the feedback from the Trades

Unions is that “the three month period being proposed by management is still too short to be of any meaningful benefit.”

- 9.3 The Trade Unions support the Managing Retirement Policy and welcome the retention of provision for pre-retirement wind down days and the changes to Flexible Retirement.

Background reading/external references

[Managing Retirement Policy and Death in Service Benefit Scheme, Corporate Policy & Strategy Committee, 2 September 2014](#)

[Managing Retirement – Additional Report, Corporate Policy & Strategy Committee, 4 November 2014](#)

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Links

Coalition pledges	P27 - Seek to work in full partnership with Council staff and their representatives
Council outcomes	CO24 - The Council communicates effectively and internally and externally and has an excellent reputation for customer care CO26 - The Council engages with stakeholders and works in partnership to improve services and deliver on agreed objectives. CO27 - The Council supports, invests in and develops our people
Single Outcome Agreement	
Appendices	Appendix 1 – Managing Retirement Policy

MANAGING RETIREMENT

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NOTE: This policy does not apply to teaching staff. The [Scottish Teachers' Superannuation Scheme](#) has separate arrangements and provisions. If you are a member of the Scottish Teachers' Superannuation Scheme, you should contact them for more information.

1. POLICY STATEMENT

- 1.1 The Council values a diverse workforce and recognises the skills, knowledge and experience older employees bring to our organisation. The Council believes that all employees should be allowed to work for as long as they wish, provided they meet the performance standards required of their job. Therefore, the Council does not operate a fixed retirement age.
- 1.2 The aims of this policy are to:
 - a) list the options for retirement that are available to staff;
 - b) set out what staff should do when they want to retire; and
 - c) provide information about the pre-retirement courses available for staff once they have an agreed retirement date.
- 1.3 Retirement is a stage in life where an individual member of staff decides to stop working. For many people, the decision to retire is influenced by issues around their pension.
- 1.4 Council employees are automatically enrolled into the [Lothian Pension Fund](#). If you are a member of the Lothian Pension Fund, you can [contact them](#) to find out how much your pension will be.
- 1.5 The key stakeholders and their responsibilities are set out in [Appendix A](#).

2. CORE PRINCIPLES

- 2.1 Discussions with all employees on their future career plans and development needs will normally take place annually at the [performance, review and development \(PRD\) meeting](#) or the [professional review and development meeting](#) for teachers.
- 2.2 Where appropriate, this can include discussions about retirement plans, though managers should not assume that employees are considering retirement just because they consider the employee to be of retirement age. However, a manager may prompt an employee to consider retirement as an option at other times where this might be appropriate, e.g. during reviews where posts may be surplus.
- 2.3 Any discussions between an employee and their manager about retirement will not result in any assumptions being made about an employee's commitment to the Council.
- 2.4 Retirement is normally voluntary and we would usually expect the process to be led by the employee. This also applies to requests for flexible or early retirement.

- 2.5 Staff are encouraged to give their manager as much notice as possible of their wish or intention to retire. This is to allow the manager to make the necessary decisions and operational arrangements to support your request and will also help to make sure that your pension fund has plenty of time to process your request to start having your pension paid.
- 2.6 Staff who decide to retire will be expected to co-operate with handover arrangements and in the transfer of their knowledge and skills before they leave.
- 2.7 Pensions paid early under Early Retirement or Flexible Retirement may be reduced **unless the rule of 85 applies** (see [Appendix B](#)).
- 2.8 The Council may withdraw its consent for flexible retirement or the early payment of pension where an employee becomes the subject of disciplinary action, is dismissed for reasons of misconduct or the employment otherwise ends before the termination date. Moved from section 10
- 2.9 There is **no** right of appeal if a request for early or flexible retirement is refused.

3 NORMAL RETIREMENT

- 3.1 You can retire voluntarily from age 60 onwards. You do not need the Council's permission – you simply have to let your manager know in writing. When you decide you want to retire, you should try to give as much notice as possible: at least the period of notice in your contract of employment. In your letter, you should say that you intend to retire and give the date that you would like to be your last day of work.
- 3.2 If you are in the Council's Pension Scheme, you may have to give your manager more notice of your decision to retire than the notice period in your contract. This is because the Local Government Pension Scheme needs at least 20 working days' notice to process your retirement so that you'll get all the benefits when you leave.
- 3.3 If you are retiring voluntarily at age 60 onwards you will be entitled to reduce your working hours by one day per week during the last three months before your retirement date. This will be calculated on a pro-rata basis for part-time staff. Your pay will be unaffected by the reduction of one day per week.
- 3.4 If you wish to take advantage of this 'wind down' provision you must give your manager **at least 4 months'** notice and **no more than 6 months** notice of your intention to retire. The details of when you take the wind down days and how your work will be covered during this period must be agreed with your line manager.

- 3.5 Once you have given written notice of your retirement you will be expected to retire on the date you have specified. In exceptional circumstances, you may be able to change the date after you have handed in your notice but only with your manager's agreement. Some examples of exceptional circumstances would be the death of a partner or some other serious occurrence that has a significant impact on your future plans.
- 3.6 Your manager will set up a meeting with you, after you hand in your notice of retirement, in order to conduct an exit interview. This is a good opportunity to discuss issues like handover, succession plans, outstanding holidays and final payments. It is also an opportunity to decide how you want to communicate your departure and whether you want to have a leaving celebration. It is also a chance for you to raise any issues you may have.

4 WHAT IS FLEXIBLE RETIREMENT?

- 4.1 Flexible retirement allows members of the Local Government Pension Scheme, who are aged 55 or over, access to their pension while continuing to work on reduced hours and/or at a lower grade. It also allows the Council to benefit from retaining the skills, knowledge and experience of older staff. Flexible Retirement can also be considered in cases where a reduction in hours would be beneficial to an employee with medical issues and medical retirement is not an option.
- 4.2 If you are not a member of the Local Government Pension Scheme but you would like to reduce your hours, you can make an application to do so by using the Flexible Work Options Policy.
- 4.2 Your flexible retirement period must last for at least **4 months** before you retire. Reducing your hours, reducing your grade and getting your pension early are all **permanent changes to your contract of employment. These changes cannot be reversed.** You cannot increase your hours or move to a post at a higher grade at any point in the future, if you have elected to take flexible retirement. You can choose to reduce your hours again and if you want to do this you should discuss this with your line manager. They will then make a decision based on the needs of the service.
- 4.3 Your flexible retirement will have to result in reduction in the cost of your annual basic salary of **at least 20%**. You might have to reduce your hours or your grade by more than you thought to achieve this.
- 4.4 In order to consider your request and whether it can be supported, your manager is required to consider a number of things and will need to discuss this with you such as:
- will it provide a business benefit to the Council;

- will it support workforce and/or succession planning;
- the operational impact on the service;
- the impact on the work of rest of the team;
- how you will manage your reduced duties;
- how the duties you will no longer be doing will be distributed; and
- your final retirement date.

The continued operation of the flexible retirement arrangement will depend on the need of the service as well as your needs.

- 4.5 You cannot combine a request for flexible retirement with a request for wind down days (under paragraph 3.3 above), early retirement, voluntary early release or voluntary redundancy. Any requests to do so will **not** be considered or approved. There is **no** right of appeal if a request is refused.
- 4.6 When you take flexible retirement Lothian Pension Fund rules mean you must take the entire pension you have accrued up to April 2009. However, you can choose to take only a percentage of the pension you have accrued after 2009. You can get more details about this from [Lothian Pension Fund](#).

5. WHO CAN APPLY FOR FLEXIBLE RETIREMENT?

- 5.1 Staff can apply for flexible retirement if they:
- a) are members of the LGPS;
 - b) are 55 or over and have at least 2 years' LGPS membership (including membership transferred in from another scheme);and
 - c) have their manager's approval;
- 5.2 Teachers have a separate pension scheme which has its own arrangements for flexible retirement. You can get more details on this on [their website](#). The terms contained in this policy do not therefore apply to teachers.

6. HOW DOES FLEXIBLE RETIREMENT WORK?

- 6.1 The purpose of flexible retirement is to deliver a business benefit to the Council by improving efficiency, supporting workforce planning, or providing a saving to the Council. You can do this by:
- a) reducing your contractual working hours; or
 - b) reducing the grade of your current job; or
 - c) reducing your hours **and** your grade; or
 - d) including a flexible retirement request as part of an application for a Council vacancy at a lower grade. Your request for flexible retirement will be considered as part of the application.

- 6.2 There will also be a financial assessment made before any decision to support your request is made – see section 11.
- 6.3 If your request for flexible retirement is supported by your manager on the grounds that it will deliver savings to the Council any reduction in your hours and/or level of responsibility must provide a **minimum saving of 20%** of your basic annual salary.

Reducing your hours of work

- 6.4 You will have to reduce your hours by a minimum of 20%. You might have to agree to reduce by more than this so that, where savings are required, your manager can show that the costs to the department can be paid within 2 years.
- 6.5 **Reducing the grade of your current job**
You may want to stay in your current job but work at a lower grade with less responsibility. This would require that the higher graded work in your job is re-allocated to other staff. Your manager might be able to support this. This could be done by moving to a lower grade post in your team or losing some of your current duties. In the latter case, your new duties would need to be evaluated, so that your new job could be graded.
- 6.6 **Reducing your hours and your grade**
A combination of a reduction in hours and grade may be necessary to achieve a 20% reduction in your salary costs.
- 6.7 **Applying for a vacancy at a lower grade**
You can also reduce your grade by applying for a vacancy at a lower grade through the Council's normal recruitment and selection process. The service area that is advertising the vacancy will consider your flexible retirement request alongside your job application.

7. FLEXIBLE RETIREMENT AND YOUR PENSION

- 7.1 When you start flexible retirement, you can still remain a member of the LGPS and continue to make contributions to your pension. You can also choose to leave the pension scheme, if you want to.
- 7.2 You do not have to end your employment to get your pension if you opt for flexible retirement.
- 7.3 The decision to take flexible retirement and reduce either your salary or your grade is voluntary. This means that the reduction in your salary will not be eligible to be covered by a pension protection certificate as these are only issued when your salary reduces involuntarily e.g. as the result of an organisational review or redeployment.

8 WHAT IS EARLY RETIREMENT?

- 8.1 Early retirement allows staff who are members of the Local Government Pension Scheme (LGPS) and aged 55 or over to request early payment of your pension i.e. before you are old enough to get your pension automatically.
- 8.2 If you are over 55 and **under 60** and you decide you want to leave employment before your pension would normally be paid to you, you will need the Council's permission to do so as there may be costs to the Council. If you are **60 or over**, you do not need the Council's permission to retire.
- 8.3 When making a decision on whether permission to retire early can be given the Council will consider if:
- it is in the Council's interests and achieves business efficiencies;
 - the costs are affordable and can be met within 2 years; and
 - your request is fully supported by a business case that shows the benefit to the Council.
- 8.4 If you get your pension paid to you early under this policy, the amount of your pension benefits may be reduced. This is called an actuarial reduction. The Council will not take any action to waive this actuarial reduction. Lothian Pension Fund will provide you with all the information you need about how taking early payment will affect your pension. You should discuss this with them before you make your application (see Appendix B).

9. WHO CAN APPLY FOR EARLY RETIREMENT?

- 9.1 Staff can apply for early retirement if they meet the following conditions:
- a) you must be aged 55 or over and have 2 years' LGPS membership (or have transferred at least 2 years' membership of another pension scheme to LGPS); and
 - b) if you are under 60 the Council must approve the early payment of your pension.
- 9.2 Ex-employees, who are deferred members of the LGPS, can also ask to get their pension paid early. The Council has a procedure for dealing with these requests, which is set out in the Council's [Policy on Employer Discretions](#).
- 9.3 You cannot combine a request for early retirement with a request for wind down days (under paragraph 3.3 above), flexible retirement, voluntary early release or voluntary redundancy. Any requests to do so

will **not** be considered or approved. There is **no** right of appeal if a request is refused.

10. HOW DOES EARLY RETIREMENT WORK?

- 10.1 You must submit a written request for the early payment of pension to your line manager in the first instance. Your request will be kept confidential.
- 10.2 Where your line manager thinks that operationally the service may be able to support your request, s/he will ask People & Organisation to obtain an estimate of your pension benefits for you and an estimate of the costs to the Council from the Lothian Pension Fund.
- 10.3 If, on the basis of the estimates provided to you both, you and your line manager decide to go ahead with an application, it will be submitted to the Service Director for support in principle.
- 10.4 Requests for early payment of pension are approved at the Council's discretion. When considering requests, the Council will consider the personal circumstances of the applicant, the business case, the impact on the service and the affordability of any costs.
- 10.5 If you are under 60 you should wait until your request for early retirement has received final approval before you resign and give notice in writing. The length of notice you have to give is set out in your contract of employment.
- 10.6 If you have received early payment of pension you will not be eligible to be re-employed by the Council within the 2 year cost savings period (see 11.1 below). Thereafter, you can only be re-employed if you apply for a post and are recruited through the Council's normal recruitment procedures.

11. FINANCIAL ASSESSMENT

- 11.1 Initial approval of a request for flexible or early retirement is at the discretion of the management team in your service area. They will consider the business benefit to and/or impact on the service, the savings to the Council and whether there are any costs to the Council. These could be pension strain costs, the cost of replacing you or the cost of re-grading the post and reallocating the work. Any costs must be met by savings in the Service budget within 2 years of your leaving.
- 11.2 Each request for flexible/early retirement needs to have a financial assessment done and approved by Finance. The assessment will show:
 - a) the business benefit to the service resulting from your flexible or early retirement;

- b) any reduction in your salary costs that will result from your retirement. In the case of flexible retirement requests the reduction must be a minimum of 20% of your basic annual salary;
- c) how much the change will cost the Council (e.g. pension strain costs, replacement cost); and
- d) whether the costs are affordable and can be paid back in 2 years or less.

If the assessment does not meet all of these criteria, **your request will not be approved.**

11.3 Final approval of your request by the Council must be obtained before any decision can be sent to you. Final approval involves:

- a) where your full-time equivalent salary and/or the costs to the Council are each £50,000 or less, the case must be approved by the Director of Corporate Governance and the Head of Finance on the Council's behalf;
- b) where your full-time equivalent salary and/or the costs to the Council each exceed £50,000, the case must be approved by the Directors of Corporate Governance and the Head of Finance, in consultation with the Convener of the Finance and Resources Committee; and
- c) a request involving the Chief Executive, a Director or Chief Officer must be submitted for consideration and approval through a formal committee process.

11.4 Where a case is approved, the Service Director (or nominee) will notify the employee in writing of the decision. People and Organisation will then initiate the retirement arrangements.

11.5 Where a case is refused, the Service Director (or nominee) will notify the employee of the decision and the reasons in writing. There is no right of appeal against this decision.

11.6 All approved cases will be reported to the Council Management Team as part of the regular monitoring reports on Workforce Management and included in an annual report to the Finance and Resources Committee.

12. RAISING A CONCERN

- 12.1 There is **no** right of appeal where a request is refused.
- 12.2 An employee who is concerned about the way the policy has been applied or the process followed should talk it over informally with their line manager, or another manager, as early as possible, in line with the grievance procedure. If the matter cannot be resolved informally, the employee can raise the concern formally through the Council's Procedure for Hearing Employee Grievances.

13. PREPARING FOR RETIREMENT

- 13.1 The Council offers pre-retirement courses for staff and their partners. Members of Council staff will get paid time off to attend the course. [Details about pre-retirement courses](#), including eligibility, are on the Orb.
- 13.2 The Council may also provide other relevant supporting information to employees who are retiring. These include money management seminars and pensions events. Details about this will be posted on the Orb and sent to all managers, so they can bring it to the attention of all their staff.
- 13.3 You can still attend the Council's pre-retirement courses when you are on flexible retirement, once you have agreed a final retirement date.

14. LOCAL AGREEMENT

- 14.1 This is a local collective agreement between the Council and the recognised trade unions. Every effort will be made by both parties to make sure that this policy is reviewed regularly and amended by agreement, if required, to meet future needs. In the event of a failure to reach agreement both parties reserve the right to end this local agreement by giving four months notice in writing. In such circumstances the terms of the local agreement will no longer apply to existing and future employees.

Appendix A

KEY STAKEHOLDER RESPONSIBILITIES

Employees who are retiring should advise their manager as soon as possible. Employees who are seeking flexible or early retirement should be aware of the process involved and discuss this with their manager as soon as possible. They should give serious consideration to the estimate of benefits that is provided by the Lothian Pension Fund and seek independent advice on the implications of leaving employment early before making a final decision. They must then follow the process set out in this policy.

The **Service Manager** will consider a case in the first instance to decide if support in principle can be given on the basis. They are also responsible for managing any operational or financial impact arising from the application of any of the options it covers. Managers are responsible for making decisions about applications for early or flexible retirement and for completing the process for normal retirement. When an employee indicates that they want to retire or applies for any retirement option under this policy managers must action that as quickly as possible.

Service Directors are responsible for making sure this policy is implemented. They will consider whether a case can be supported on the basis that it is in the Council's interests, business efficiencies will be achieved, the financial assessment provides a satisfactory outcome and the necessary approval has been obtained from the Department of Finance.

The **Finance team** will consider and approve the financial assessment in support of a case.

The **Director of Corporate Governance** and the **Head of Finance** (and the Convener of the Finance and Resources Committee, where appropriate) will consider supported cases, as required under the Council's approval arrangements to decide if consent can be given.

People & Organisation staff and the Human Resources and Payroll Service Centre (HRPSC) will liaise with all parties involved and facilitate the process.

Lothian Pension Fund will provide an estimate of pension benefits to the member of staff considering/requesting early payment of pension, liaise with staff, the manager and the HRPSC as required and facilitate the process.

**REDUCTION IN PENSION BENEFITS
(based on extract from the LGPS Guide)**

Will my pension and lump sum be reduced if I voluntarily retire early?

1. Your pension benefits will be reduced to take account of being paid for longer if you retire before the expected date of retirement. How much your benefits are reduced by depends on how early you draw them. Your benefits will be reduced if:
 - you have reached the age of 60 and decide you want to retire before you are 65; or
 - the council agrees to your application for early payment of benefits before age 60.
2. If you were a member of the LGPS on 30 November 2006, some or all of your benefits paid early could be protected from the reduction if you are a protected member. You can find out more about this from the Lothian Pension Fund scheme guide.
3. The reduction applied to your pension benefits is calculated in accordance with guidance issued by the Pension Scheme Actuary. The reduction is based on how early you decide to retire i.e. the period between the date you retire and start receiving your pension and age 65*. The length of time is calculated in years and days. The earlier you retire, the greater the reduction.

(*If you are a protected member, the period is calculated to the date you could have received unreduced benefits).
- 11 Information on how much your pension will be reduced if you take it early can be found on [Lothian Pension Fund's website](#).
5. You can reduce or avoid the reductions by not taking immediate payment of your benefits on retirement i.e. by delaying payment until a later date. If you decide not to draw immediate benefits, the benefits would normally become payable at age 65 but you can defer payment beyond that age, although benefits must be paid by age 75. If benefits are deferred beyond age 65 they will be increased accordingly to reflect late payment.

Note: [LGPS scheme guide](#) is available from the [Lothian Pension Fund website](#).