

## APPENDIX 1



## EMPLOYER DISCRETIONS – STATEMENT OF POLICY

### LOCAL GOVERNMENT PENSION SCHEME 2008

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#### INTRODUCTION

This statement of policy has been prepared and approved by Cherwell District Council to satisfy the requirements of the Local Government Pension Scheme Regulations as detailed below and has been updated to take into consideration changes as a result of updated legislation as well as to bring all discretions together under the LGPS. Some discretions remain unaffected, although may now be considered under a different regulation and where a new discretion exists, and the council has had to decide whether to consider use of this discretion this is indicated next to the appropriate regulation.

This policy therefore meets the requirements of the appropriate discretionary LGPS regulations which states that each employing authority must formulate and keep under review its policy concerning the exercise of certain discretionary functions within these Regulations.

In preparing and approving this policy, the Council has also been mindful of the requirement that it :

- i) Will have regard to the extent to which the exercise of the discretions could lead to a serious loss of confidence in the public service;*
- ii) Will not be used for any ulterior motive;*
- iii) Will be exercised reasonably;*
- iv) Will only be used when there is a real and substantial future benefit to the employer for incurring the extra costs that may arise;*
- v) Will be duly recorded when applied.*

It is understood that these discretions are applicable to all eligible members of the Scheme. The Scheme rules allow for a revised statement to be issued at least one month in advance of the date that the new policy takes effect, and therefore this policy will be effective from 10 January 2009 (where decisions have been updated for existing discretions or for new discretions) only. The revised statement will be sent to the administering authority and a published statement as revised made available on the intranet.

**Local Government Pension Scheme (Administration) Regulations 2007 (as amended) and Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended)**

**Regulation 12 - Power of an employing authority to increase total membership of active members.**

An employer may resolve to increase the total membership of an employee at any time whilst they are an active member of the Scheme with them. The maximum additional membership period that can be awarded is 10 years.

The employer must pay to the Pension Fund, within one month from the date that any additional membership is awarded (or such longer period as agreed between the employer and the administering authority), a sum as calculated in accordance with guidance issued by the Government Actuary.

**Employer's policy**

The Council will consider whether to exercise its discretion to increase total membership of active scheme members in cases where the Council has agreed that the scheme member is to be made redundant or dismissed on the grounds of efficiency of the service.

It will also give consideration to increasing total membership of an active scheme member if it has been agreed that they should retire on the grounds of permanent incapacity due to ill health and they would not otherwise qualify for additional service because their period of membership is too short.

Each case arising in connection with the use of this discretion will be the subject of a report to the appropriate committee of the Council.

When considering each case, the Council will include, but not be limited to;

- The financial position of the council at the relevant time.
- The personal circumstances of the member of staff in question, including their working history with the council. This may include, for example, length of service and disciplinary record.
- The risk that the making of a payment at any particular level to the individual in question may lead to a loss of public confidence in the council.

**NEW DISCRETION Regulation13 – Power of employing authority to award additional pension.**

An employer may resolve to award an employee, at any time whilst they are an active member of the Scheme with them, additional pension of not more than £5,000 a year payable from the same date as the pension is payable under any provisions. Additional pension may be paid in addition to any increase of membership under regulation 12 of the LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended).

The employer must pay to the Pension Fund, within one month from the date that any additional membership is awarded (or such longer period as agreed between the employer and the administering authority), a sum as calculated in accordance with guidance issued by the Government Actuary.

**Employer's policy – DECISION REQUIRED**

**Cherwell District Council has resolved not to adopt/to adopt this discretion.**

The Council will consider whether to exercise its discretion to increase total pension of active scheme members in cases where the Council has agreed that the scheme member is to be made redundant or dismissed on the grounds of efficiency of the service.

It will also give consideration to increasing total pension of an active scheme member if it has been agreed that they should retire on the grounds of permanent incapacity due to ill health.

Each case arising in connection with the use of this discretion will be the subject of a report to the appropriate committee of the Council.

When considering each case, the Council will include, but not be limited to;

- The financial position of the council at the relevant time.
- The personal circumstances of the member of staff in question, including their working history with the council. This may include, for example, length of service and disciplinary record.
- The risk that the making of a payment at any particular level to the individual in question may lead to a loss of public confidence in the council.

### **Regulation 18 – Flexible retirement**

A member who has attained the age of 55 and who, with their employer's consent, reduces the hours they work, or the grade in which they are employed, may make a request in writing to the appropriate administering authority to receive all or part of their benefits under the Regulations, and such benefits may, with the employer's consent, be paid to the employee notwithstanding that they have not retired from that employment. If the payment of benefits takes effect before the member's 65th birthday they will be reduced in accordance with guidance issued by the Government Actuary unless the employer agrees to waive, in full or in part, any such reduction at their cost. In the case of a person who was an active member on 31st March 2008, and who makes a request before 31st March 2010, substitute the age of 55 above with the age of 50.

### **Employer's policy**

The Council will not consider requests from employees aged 55 or over, to reduce their hours or the grade in which they are employed and have their pension paid whilst continuing to be employed.

### **Regulation 30 – Choice of early payment of pension**

If a member leaves a local government employment before they are entitled to the immediate payment of retirement benefits, once they have attained the age of 55 they may choose to receive payment of them immediately. However a member aged less than 60 needs employer consent (or former employer) to have the benefits released early, and if the decision is to allow early release of retirement benefits then the employer must pay to the Pension Fund a sum representing the capital cost of releasing those benefits early.

The pension must be reduced by the amounts shown as appropriate in guidance issued by the Government Actuary although the employer may determine on compassionate grounds to waive the actuarial reduction. In the case of a person who was an active member on 31st March 2008, and who makes a request before 31st March 2010, substitute the age of 55 above with the age of 50.

### **Employer's policy**

The Council will give consent to the retirement of members who apply between the ages of 55 and 59, with immediate payment of benefits, where it can be clearly shown to be in the Council's interests to do so. In assessing this an important consideration, but not the only consideration, will be the net financial effect on the Council of the early retirement and all associated changes. Each case arising in connection with this policy will be the subject of a report to the appropriate committee of the Council, detailing the financial and other effects, subject to the limitation that the Council will not normally consider such an application from any individual member within one year of considering a previous application from the same member.

The Council will not waive the reduction of benefits on compassionate grounds under this regulation.

Requests for early payment of deferred retirement benefits from former employees will be considered on the same criteria as above.

## **Local Government Pension Scheme (Administration) Regulations 2008**

### **Regulation 16 - Re-employed and re-joining deferred members**

Where a deferred member becomes an active member again before becoming entitled to the payment of those deferred retirement benefits, they may elect to have his former deferred membership aggregated with current active membership on or after the date that the employee again becomes an active member. An election must be made within 12 months from the date that the member re-joins the Local Government Pension Scheme or such longer period as his employer may allow.

It is worth noting that if the member has more than one former period of deferred membership, it is only the most recent deferred membership period that can be aggregated with current active membership unless earlier periods of deferred membership have already been aggregated with the most recent period of deferred membership.

### **Employer's policy**

Cherwell District Council adopts regulation 16 on the basis that the impact will be limited to a small number of employees.

## **Regulation 22 – Applications to make absence contributions**

This provides for a scheme member to pay optional contributions, for a period of unpaid absence from work, within 30 days of returning to, or of ceasing, employment. The employer can agree to extend this time limit.

### **Employer's policy**

Cherwell District Council chooses to use its discretion in exceptional circumstances to extend the time limit, and will be based on a case by case request. Where no request is made the extension will not apply.

## **Regulation 25 – Additional Voluntary Contributions (AVCs) and Shared Cost Additional Voluntary Contributions (SCAVCs).**

An active member may elect to pay AVCs into a scheme established under contract between his appropriate administering authority and a body approved for the purposes of the Finance Act 2004.

Under paragraph 3 of this regulation an employer can, at its discretion contribute to the AVC scheme and where they do the AVC scheme is known as a shared cost additional voluntary contributions arrangement and contributions to it as SCAVCs

### **Employer's policy**

The Council will not establish or maintain a shared cost additional voluntary contributions scheme.

## **Regulation 83 – Inward transfers of pension rights**

This provides that an active scheme member may elect to transfer into the Local Government Pension Scheme relevant pension rights held elsewhere. The member must request the transfer of such rights in writing within 12 months of becoming a member of the Local Government Pension Scheme or such longer period as the employer may allow.

### **Employer's policy**

Cherwell District Council has resolved that it continues to allow transfer of relevant pension rights held elsewhere within the 12 month period, with no time extension allowed.

## **Regulation 57(5)(c) – Notification of decisions under regulation 58.**

Responsibility for determinations under the first stage of the Internal Disputes Resolution Procedure rests with a “specified person” appointed by the (former) employer of a scheme member.

### **Employer’s policy**

The specified post to be used for this employer is:

**Name: To Be Confirmed**  
**Job Title: Head of Finance**  
**Address: Cherwell District Council, Bodicote House,  
White Post Road, Bodicote, Nr Banbury, Oxon, OX15 4AA**

### **The Local Government (Early Termination of Employment ) (Discretionary Compensation) (England and Wales) Regulations 2006 as amended**

Regulation 5 – Whether to base redundancy payments on actual weeks pay rather than statutory weeks pay limit

Regulation 6 – Whether to award a lump sum compensation of up to 104 weeks pay in cases of redundancy, termination of employment on grounds of efficiency, or cessation of a joint appointment.

Regulation 11 (2) – to award compensatory added years to a person aged 50 or over with 5 or more years membership (or notional membership) of the LGPS in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment which occurred after 30 September 2006 and before 1 April 2007 (but only if employment commenced pre 1 October 2006).

### **Employers Policy**

#### **Redundancy**

In cases where employment is terminated on the grounds of redundancy the Council will use the government’s statutory redundancy payment calculator to calculate the number of weeks pay an employee is entitled to receive.

In addition the Council may exercise its discretion to make a payment as follows:-

- 1 To calculate the payment on a weekly pay figure up to the employee’s actual week’s pay (i.e. the statutory maximum weekly pay figure is waived).
- 2 To take into account all continuous service (up to a maximum of 20 years) with bodies listed in the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999 (as amended).
- 3 Assessing each case on its merits, consider whether to apply a multiplier up to a maximum of 3.46 to the statutory redundancy payment calculator to calculate the number of weeks pay an employee may receive.

- 4 Assessing each case on its merits, consider whether to make use of Regulation 12 of the Local Government Pension Scheme Regulations (Augmentation) to award additional years of pension service (1997 Regulations).
- 5 When considering points 3 and 4 above the criteria for considering each case will include but not be limited to;
  - I. The financial position of the council at the relevant time.
  - II. The personal circumstances of the member of staff in question, including their working history with the council. This may include, for example, length of service and disciplinary record.
  - III. The risk that the making of a payment at any particular level to the individual in question may lead to a loss of public confidence in the council.

The Council will not allow employees in membership of the Local Government Pension Scheme to convert the amount of lump sum compensation payment (in addition to the statutory redundancy payment) into added years of pension service.

Only one discretionary element (options 3 or 4 above) may be awarded.

### **Efficiency of the Service**

In cases where employment is terminated on the grounds of 'efficiency of the service' the Council may exercise its discretion to make a payment as follows:-

- 1 Consider making a one-off payment, based on the merits of each case.
- 2 The payment will not exceed a maximum of 104 weeks.
- 3 Assessing each case on its merits, consider whether to make use of Regulation 12 of the Local Government Pension Scheme Regulations to award additional years of pension service.
- 4 When considering the 'merits of the case' and whether it is in the Council's interests to terminate an individual's employment on the grounds of efficiency of the service, the Council will include:
  - overall benefits to the Council taxpayer of the employee leaving the Council's service
  - direct financial savings and costs to be incurred by the employee leaving the Council's service
  - employee relations issues
  - as a general rule, the Council will seek to make a financial saving over the longer term through an efficiency termination.

The Council will not allow employees in membership of the Local Government Pension Scheme to convert the amount of lump sum compensation payment (in addition to the statutory redundancy payment) into added years of pension service.



## **Local Government (Early Termination of Employment) (discretionary Compensation) (England and Wales) Regulations 2000**

Some discretions under the above Regulations continue to be relevant as they apply to pension scheme members who have added years pensions in payment under the Regulations. The relevant discretions are as follows:-

### **Regulation 17 - The Effect of New Employment on Part IV Compensation**

If a member who is receiving a compensatory added years pension in accordance with Part IV of these Regulations is re-employed by a LGPS employer then the annual pension resulting from the award of a credited period will be reduced, or suspended, if the combined total of earnings from the new employment and pensions in payment exceed the value of the current rate of pay of the member's former employment.

It should be noted that this adjustment is in addition to any adjustment that may be made to the basic LGPS pension as a result of re-employment with a LGPS employer. Oxfordshire County Council has a policy, which it is required to make under other Regulations as the administering Authority for the Oxfordshire LGPS fund, which is as follows: -

- (a) no abatement to be applied to pensions of less than £1500 a year or when awarded to someone retiring on their own benefits (ie without added years)
- (b) in other cases abatement will apply if new earnings and pension in payment exceed 125% of leaving pay, increased by the appropriate pension increases.

### **Regulation 19 - The effect of Cessation of New Employment on Part IV Compensation**

After ceasing the re-employment the credited period will be adjusted or stopped altogether if the resulting pension from the re-employment and the basic LGPS pension from the first employment exceed the value of the pension which could have been paid if the member had remained in the first employment until age 65.

### **Regulation 21 - Awards to Surviving Spouses and Children**

Where more than one current, legal spouse has survived a deceased person, the annual compensatory added years pension will be divided equally.

A spouse's pension will continue to be paid even if the spouse remarries or co-habits, unless at 1.4.98 a pension was already suspended due to remarriage.

In the very rare event of a children's compensatory added years pension being payable in circumstances not covered by the main Pension Regulations full details will be supplied to the appropriate officer for a determination.

**Local Government Pension Scheme Regulations (Benefits, Membership and Contributions) Regulations 2007 (as amended)**

**Regulation 5 - Contributions payable by active members**

An active member shall make contributions to the Scheme at the contribution rate from their pensionable pay in each employment in which they are an active member. The contribution rate to be applied to pensionable pay in any financial year (starting with 1st April 2008) is the rate determined by the employer to represent the assumed pensionable pay for the forthcoming year.

**Employer's policy**

Cherwell District Council has resolved not to re-determine the contribution rate in the course of the financial year. The exception to this will be where a member requests a review of his/her contribution rate as a result of a change in jobs. See full policy details below.



## PENSIONS BANDING POLICY STATEMENT

Local Government Pension Scheme  
(incorporating changes resulting from the New Look Local  
Government Pension Scheme 2008)

### **Introduction**

This policy statement incorporates changes to the Local Government Pension Scheme Regulations effective from 1 April 2008, together with locally agreed rules which have been negotiated and agreed with Unison.

It applies to all members of the Local Government Pension Scheme at 31 March 2008, and all those eligible to join the scheme under the scheme's regulations. All members of the scheme at 31 March 2008 will be automatically transferred into the new scheme. This excludes casual employees (see paragraph below).

### **Eligibility**

To be eligible to join the scheme, individuals will have a contract with Cherwell District Council for at least 3 months, and be aged between 16 and 75. Casual employees do not have the option to join the scheme. All casual employees who are current members of the Local Government Pension Scheme will be informed that they can no longer be a member for their casual work, due to the change in regulations.

### **Contribution Rates**

From 1st April 2008 the contribution rates will be changed from 6% to contribution bands based on whole time equivalent salary and pensionable allowances in accordance with the following table:

<b>Band</b>	<b>Range (based on pensionable earnings) *</b>	<b>Contribution Rate</b>
1	£0 - £12,000 pa	5.5%
2	£12,000.01 - £14,000.00	5.8%
3	£14,000.01 - £18,000.00	5.9%
4	£18,000.01 - £30,000.00	6.5%
5	£30,000.01 - £40,000.00	6.8%
6	£40,000.01 - £75,000.00	7.2%
7	£75,000.01 and above	7.5%

\*The salary ranges above will be increased each year at 1st April in line with the Retail Price Index (RPI)

The 5% protected contribution rate for former manual workers will be phased out between 2008 and 2010 as follows:

Effective Date	New Contribution Rate
1 April 2008	5.25%
1 April 2009	5.5%
1 April 2010	6.5% (or appropriate band as indicated above if it is lower)
NB Where an employee moves to a job which is no longer classified as a former manual occupation, they will transfer to a contribution rate based on the appropriate banding above.	

#### Assessment

An assessment of pensionable earnings will be made at 1st April each year based on the rules below. Once an assessment has been made there will be no other assessment during the year unless there is a change of job.

#### Employees in post at 31st March

The assessment will be made using the whole time equivalent salary applicable at 1st April together with any pensionable allowances based on:

Whole time equivalent basic salary for full and part-timers employed all year round, plus the actual pensionable allowances received for the previous financial year i.e. 1st April-31st March; **OR**

Whole time equivalent basic salary factored down to term time for term-time only employees, plus the value of the actual pensionable allowances received for the previous financial year ie 1st April-31st March.

Where there is a change of job, the contribution rate will be reassessed on the new salary, as determined below, and effective from the date of change.

A salary increase in the same post, or payment of a pensionable allowance in the same post, will not result in a revised assessment for that year.

#### Newly appointed employees

The assessment will be made as above, but where new appointments have contractual pensionable allowances paid as part of their regular salary, the expected amount and duration of these will be taken into account for the assessment.

Where new appointments have variable additional pensionable allowances paid by claim and not part of a regular salary, the pension contribution band will be assessed solely on their whole time equivalent salary as above. The pensionable allowances paid during the first financial year will only be taken into account in the following year's assessment.

### Multiple Employments

Employees with more than one job with the Council will be assessed separately for each individual contract.

### Pensionable Earnings

Any elements of pay which are pensionable will be made clear on the contract of employment.

### Appeals

If an employee feels that their contribution rate has not been assessed correctly and in accordance with this policy statement, they must contact the Payroll Team Leader to ask for a breakdown of the assessment no later than 31 March in the year in which their assessed contribution relates, or 3 months following any change, whichever is the later.

Where it is confirmed that the assessment has been made in accordance with this policy statement and appropriate LGPS Regulations but the employee is challenging the assessment, then the complaint will be referred to the Payroll and Performance Manager.

If a complaint cannot be resolved satisfactorily then employees can use the Independent Resolving Disagreements Procedure (IRDP).

Head of Human Resources  
March 2008

Alternative formats of these policies can be made available on request.  
These include other languages, large print, Braille, audio cassette, computer disk or e-mail.  
Please contact Human Resources.