

**LOCAL GOVERNMENT PENSION SCHEME 2008 –
EMPLOYER DISCRETIONS**
Updated Policy with effect from 12 May 2010

INTRODUCTION

At its meeting on the 10 December 2008 the Personnel Committee approved an updated employer discretions policy under various current and updated Local Government Pension Scheme (LGPS) Regulations. The policy only included a review of updated regulations at that time and did not include a complete review of all discretions including those under The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 and 2006 and the Local Government Pensions Scheme Regulations 1997, the Local Government Pension Scheme (Administration) Regulations 2008, the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) and the Local Government Pension Scheme (Transitional Provisions) Regulations 2008.

Reviews of this policy under these regulations can only take place on an annual basis and once agreed must not be implemented until at least one month has passed from the date of publication. Therefore it is proposed any changes take place with effect from 12 May 2010 (one month after the appropriate Executive meeting).

Any changes made to current discretions will be applied to an updated policy to go to Executive on the 12 April 2010.

Such discretionary provisions in the LGPS enable local authority employers to manage employment situations to the advantage of the Council and the employee, although any such associated costs need to be taken into consideration during any decision making process. This is especially important at a time when local authorities need to be flexible and ensure a degree of organisational change can be implemented. This is likely to impact on the numbers and type of staff required in the future. This discretionary pension's policy will facilitate the achievement of any changes in a way that supports those that are directly affected and hopefully will remain sufficiently attractive to attract those that wish to take voluntary redundancy as well as supporting good employee relations.

The following detail shows the current discretions and the current position. Underneath each is a proposal for any change where the current discretion can be applied. It is assumed that where a current discretion is not utilised that this will not be considered for use in the future.

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.

Employer's policy from 12 May 2010

It is recommended that the use of this discretion under Regulation 12 and Regulation 13 (below) be withdrawn on the basis that any enhancement either to added years or in terms of monetary value adds cost to the Council in terms of additional pensionable costs in the longer term. There may also be a challenge under any Age Regulations as this type of previously used discretion has tended to favour employees over the age of 50 (age 55 from 1 April 2010), and this would be difficult to justify on an ongoing basis.

Regulation 13 – 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

Cherwell District Council has resolved 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.

Employer's policy from 12 May 2010

It is recommended that this discretion is no longer utilised – see reasons above in Regulation 12.

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.

Employer's policy from 12 May 2010

It is recommended that this discretion remains unused.

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 scenario, consideration should be given to the net financial effect on the Council of the early retirement and all associated changes. This is not the only consideration. 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.

Employer's policy from 12 May 2010

Agreeing to requests for early retirement can be a useful employment strategy in certain circumstances. Early retirement under this regulation would be for reasons not covered by other regulations or employment policies. Employees who leave on the grounds of redundancy, efficiency or ill health receive their pension benefits immediately under different regulations. Therefore it is recommended that access to this discretion remains unchanged.

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 by use of their discretion.

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.

Employer's policy from 12 May 2010

Although the discretion may be limited in usage the cost to the Council could be substantial if long periods of previous service are allowed to be aggregated and then the pension is drawn. The employee has 12 months to decide whether they wish to do this and this would seem an appropriate period of time. Therefore it is recommended this discretion not be used.

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.

Employer's policy from 12 May 2010

Although the discretion may be limited should the discretion be used then there would need to be a fair and equitable explanation of 'exceptional circumstances' which at present does not exist. The extension to any time limit may support those that wish to consider an period of unpaid leave which may also support future flexibility in the organisation when staff may chose to use unpaid leave as a method of determining what their future options are but also support flexibility in services with short tem staffing reductions without losing long term expertise. Therefore it is recommended this discretion could be used.

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.

Employer's policy from 12 May 2010

It is recommended that this discretion remain unused due to the potential cost of any use of such a discretion.

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. However the employer has discretion to extend this limit.

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, but with no time extension allowed.

Employer's policy from 12 May 2010

It is recommended that this discretion remain unused.

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: Karen Curtin
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 - Current

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.

Employers Policy – Proposals for 2010

Redundancy

Remain using the statutory redundancy payment calculator to calculate the number of weeks pay an employee is entitled to receive.

Remain calculating 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).

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).

To consider whether to apply a multiplier but to change the multiplier to no more than 2 to the statutory redundancy payment calculator to calculate the number of weeks pay an employee may receive. Following research with the other local authorities in Oxfordshire as well as a few more by use of the internet it would appear that most authorities have a policy stating the multiplier is 2 at present. However some authorities have also stated they will be reviewing this discretion in view of the current economic climate and the cost of enhancements.

When considering use of the multiplier ensure the following is looked at when a business case is made:

The financial position of the council at the relevant time including the direct financial savings and costs to be incurred by the employee leaving the Council.

The personal circumstances of the member of staff in question, including their working history with the council.

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 discretion for Regulation 12 of the Local Government Pension Scheme Regulations (Augmentation) to award additional years of pension service (1997 Regulations) be withdrawn (see earlier in the report).

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. – this should remain in place.

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:-

Consider making a one-off payment, based on the merits of each case but that the payment will not exceed a maximum of 30 weeks instead of up to 104 weeks. (This falls in line with the multiplier being 2).

Other areas of discretion remain unchanged as removed.

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 year's 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 (i.e. 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.

Employer's policy from 12 May 2010

This discretion is important where employees return to the LGPS and remains in favour of the employer by reducing costs if the employee returns to employment at any point after gaining access to their pension. Therefore it is recommended that this discretion remain unchanged.

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.

Employer's policy from 12 May 2010

As the employer is required to have a policy on how this regulation will be dealt with it is recommended this remain unchanged.

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.

Employer's policy from 12 May 2010

As the employer is required to have a policy on how this regulation will be dealt with it is recommended this remain unchanged.

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.

Employer's policy from 12 May 2010

It is recommended that this discretion remain unchanged.



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:

Band	Range (based on pensionable earnings) *	Contribution Rate
1	£0 - £12,600 pa	5.5%
2	£12,601 - £14,700	5.8%
3	£14,701 - £18,900	5.9%
4	£18,901 - £31,500	6.5%
5	£31,501 - £42,000	6.8%
6	£42,001 - £78,700	7.2%
7	£78,701 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 i.e. 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 2010

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.