

Crawley Borough Council

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Report to Cabinet

9th October 2013

Review of Pension Discretions

1. Key Points

- 1.1 The Local Government Pension Scheme is a statutory scheme however there are some provisions within the scheme which allow discretion to the Council as the employer. The current scheme of discretions has been reviewed to ensure that it covers the full range of discretions available.
- 1.2 There is a requirement set out in regulations relating to pension provision. for all Councils to have an Industrial Injury Scheme . A new scheme has been established as part of the review of pension discretions.

2. Recommendations

- 2.1 **The Cabinet is asked to recommend to the Full Council the approval of The Employer Pension Discretions Policy and The Industrial Injury Scheme.**

LUCASTA GRAYSON
Head of People and Technology

3. Background

- 3.1 West Sussex County Council administer the Local Government Pension Scheme (LGPS) on behalf of Crawley Borough Council. They have provided updated information to all councils in the West Sussex Pension Scheme on the relevant discretions available to employers and have asked that all councils review their current scheme of discretions to ensure that they have guidance on any discretion on which the Council will rely in a retirement situation.

4. Crawley Borough Council Discretions

- 4.1 The existing CBC pension discretions Policy is attached as appendix 1 this sets out the Council's position on the main discretions which relate to redundancy, early retirement on the grounds of efficiency of the service and flexible retirement. There is also an additional discretion to allow early access to retirement on exceptional compassionate grounds. This is a discretion which has not been used but which is available in exceptional circumstances.
- 4.2 The main additions in the new scheme which is attached as appendix 2 are discretions to claim back pension payments in particular circumstances. There are therefore, no additional cost implications in adding these discretions to the scheme but there could be a saving involved. These include:
- 4.2.1 The discretion to recover pension payments from an employee who was ill health retired at the lowest level of ill health retirement and who subsequently recovered sufficiently to return to work in a similar capacity.
- 4.2.2 In situations of grave misconduct, where employees have been found guilty of misconduct against the Council and also against their profession, then recovery of pension contributions may be considered.
- 4.3 The review has also given us an opportunity to consider the presentation of the discretions and to make these easier for employees to understand. Links to supporting documents and procedures are also provided within the revised document.
- 4.4 The scheme does not confer any contractual rights and the discretions can be reviewed at any time.

5. Industrial Injury Scheme

- 5.1 The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 also set out a requirement for each employer to have a procedure for the management of industrial injury payments. The Council has arrangements for the payment of staff who are incapacitated as a result of an accident or injury during the course of their employment. These arrangements have been implemented consistently by Payroll but are not part of a formal procedure that is available to employees. The Council does not currently have a procedure for considering payments in exceptional cases where the employee may be permanently incapacitated. This is a requirement of the regulations. An Industrial Injury Allowance Scheme has therefore been drawn up to cover all these elements required within the

regulations whilst maintaining discretion to the Council in the implementation of the scheme. This Scheme is attached as appendix 3 ?.

- 5.2 The payments within the Scheme are all discretionary and in the case of permanent incapacity there are significant caveats within the scheme which would mean payments were only made in exceptional situations.

6. Ward Members' Views

- 6.1. The proposals are not ward specific.

7. Staffing, Equalities, Financial and Legal Implications/Powers

- 7.1 The proposed revisions to the pension Discretions Policy and the introduction of an Industrial Injury Scheme will provide clearer information for staff on the discretions available to the Council.
- 7.2 The additional discretions are ones where there is no additional financial commitment by the Council and indeed the introduction of the discretions might allow the Council to accrue a saving in some specific and uncommon situations.
- 7.3 An Equality Impact Assessment has been completed and this shows that the introduction of the industrial injury scheme would ensure that we provide reasonable adjustments in cases where an employee is permanently incapacitated in the event of an injury at work. There are no other implications as a result of the assessment.
- 7.4 Unison have been consulted on the changes in the discretions scheme and are in agreement.
- 7.5 The relevant statutory regulations in respect of the new discretion on ill health retirement are the Benefits Regulations (Benefits, Membership & Contributions Regulations) 2007. The relevant statutory regulations in respect of the new discretion in cases of grave misconduct are the Administrative Regulations 2008. The relevant statutory regulations in respect of the new Industrial Injury Scheme are the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011.

8. Risk Implications

- 8.1 The provision of clear information on our pension discretions ensures that the team administering pensions on behalf of the Council are aware of our rules and arrangements. This means it is less likely that there will be any error in the payment of pensions for Council employees.

9. Environmental Impacts

- 9.1 There are no environmental impacts.

10. Other Implications

10.1 There are no other implications.

11. Reasons for the Recommendation

11.1 It is recommended that the Cabinet and Council agree the revised Pension Discretions Policy and Industrial Injury Scheme to ensure that the Council has arrangements in place to meet the discretionary requirements of the regulations related to the Local Government Pension Scheme.

12. Background Papers

WSCC LGPS Employer Discretions Policy
WSCC Industrial Injury Allowance Policy

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Appendix 1

1. Existing Pension Discretions

An outline of the policy agreed by the Council on various pension discretions. This policy confers no contractual rights and the employer retains the right to change the policy at any time. Only the version of the policy which is current at the time a relevant event occurs to the employee/scheme member will be the one applied to that employee/scheme member.

2 RELATED PROCEDURES AND OTHER DOCUMENTS

Local Government Pension Scheme Regulations 1997.
Local Government (Early Termination of Employment) (Discretionary Compensation) (England & Wales) Regulations 2006.
Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007

3. DETAILS OF THE PROCEDURE:-

The Regulations allow the Council to exercise discretions on various aspects and require them to publish these decisions. These are set out below:

Details	Council's Decision
1. RETIREMENT AT 55 OR OVER Employees can apply to retire from 55 onwards but this can only be implemented with the consent of the Council.	The Council will allow early retirement for those over 55 in cases of efficiency of the service or redundancy. The Council will also consider this option in exceptional circumstances, for example, where an individual has to provide long time care for a partner or other close relative with a terminal or debilitating illness.
2. OVER-RIDING PENSION REDUCTIONS ON COMPASSIONATE GROUNDS Where, for example, the Council has allowed someone to retire at 55 with reduced benefits (see 2 above) they have the discretion of determining that there should be no reduction on compassionate grounds.	The Council have decided that this option will not be pursued, except in exceptional compassionate cases.

3. DEFERRED BENEFITS

The Regulations provide a facility for bringing into payment at age 55, deferred benefits for employees leaving the service before that age.

Again the Council will only consider this option in exceptional circumstances.

4. OPTION TO INCREASE SERVICE FOR NEW MEMBERS

The Regulations provide employing authorities with the option of increasing service for new members within six months of them joining.

The Council has decided not to pursue this option.

5. INCREASED SERVICE YEARS IN REDUNDANCY/EFFICIENCY CASES FOR EMPLOYEES LEAVING AT 55+

The Regulations allow employing authorities to increase service years on a formula basis up to a maximum of 10 years for employees over 55 with at least 5 years service.

Discretion withdrawn in July 2009.

6. SHARED COST AVC SCHEMES

The Regulations provide for employing authorities to enter into these arrangements which would provide extra pension benefits.

The Council has decided not pursue this option.

7. PHASING OF PAYMENTS

Employers' contribution to be adjusted on the basis of a three yearly review.

8. WIDOWERS' PENSIONS

Prior to 31 March 1998 eligible female scheme members could opt to count service between 1 April 1972 and 5 April 1988 for widowers' pension purposes. Employing authorities are required to pass resolutions treating the full period covered by these elections as being paid up and counting as full post 5 April 1998 service for widowers' pension purposes.

The Council has passed resolutions relating to specific employees to the effect that such service will count in full. They have also agreed in principle that similar resolutions will be passed for any late applications received where, since the original option date, the employee has married.

9. ABATEMENT OF PENSIONS
FOLLOWING RE-EMPLOYMENT

The County Council as Administering Authority is allowed to formulate an abatement policy where a pensioner is re-employed. The current policy is that pensions are reduced or suspended if an individual is re-employed by an organisations which participates in the Local Government Pension Scheme and a combination of his/her pay in re-employment, plus pension, exceeds the old rate of pay at the date of retiring/ leaving.

The Council has supported the County Council in maintaining this position.

10. REMARRIAGE/COHABITATION AND
DEATH BENEFITS

The Regulations provide improved death benefits and spouses' pensions payable for life, even if the spouse remarries or cohabits for pensioners with service after 31 March 1998. The County Council as Administering Authority has discretion to extend the new spouses' provision to existing pensioners and they have exercised this discretion.

The Council have supported the County Council's stance on these regulations.

11. FLEXIBLE RETIREMENT

The regulations allow discretion for a local authority employer to allow employees to apply for flexible retirement

The Council will consider applications from staff over 55 in circumstances where there is a minimum reduction in hours of 20% and/or a reduction of two grades and where this can be accommodated within the existing role or through redeployment where staffing reductions can be made.

The Council will also consider cases on exceptional compassionate grounds.

12. OVER RIDING PENSION
REDUCTIONS IN FLEXIBLE
RETIREMENT CASES

Where the Council has allowed an employee to take flexible retirement with reduced benefits they have the discretion to determine that there should be no reduction or only a partial reduction on compassionate grounds

The Council will consider this option on exceptional compassionate grounds

13. LUMP SUM COMPENSATION IN
REDUNDANCY SITUATIONS

The 2006 compensation regulations allow employing authorities to calculate redundancy payments up to an actual week's pay where this exceeds the statutory week's pay limit and paying a lump sum of up to a maximum of 104 weeks pay

The Council has decided to calculate redundancy payments up to an actual week's pay where this exceeds the statutory week's pay limit and to pay 2 weeks actual pay for each year of continuous service up to a maximum of 104 weeks pay subject to the employee having two years continuous service at the point of redundancy.

15. AUGMENTATION BY CONVERSION

The 2006 Compensation Regulations allow employing authorities to make an award of augmented membership equivalent in value to the sum (in excess of any redundancy payment) that would otherwise have been payable to the employee following cessation of employment if this is requested by the employee.

The Council will action requests from employees to augment membership by conversion where these comply with the 2006 Compensation Regulations.

Lucasta Grayson
Head of People & Technology
6th February 2012

LGPS Employer Discretions Policy

Crawley Borough Council

Aim

The Local Government Pension Scheme (LGPS) is a statutory scheme. The rules and regulations governing the scheme are laid down by the Government.

There are some provisions of the Scheme that are discretionary. Discretionary powers allow employers such as Crawley Borough Council to choose how, or if, they apply certain provisions.

This document aims to summarise the discretions the Council exercises as an employer in relation to the Local Government Pension Scheme.

Scope

This policy applies to all employees of Crawley Borough Council who are in, or are eligible to join, or have been a member of the Local Government Pension Scheme. The policy confers no contractual rights and the employer retains the right to change the policy as necessary.

Policy Provisions

The discretions have been grouped under the following headings:

- Joining Crawley Borough Council (CBC).
- During your employment with CBC.
- Leaving your employment with CBC.
- Adjustments to your pension rights following ill health.
- Loss of pension rights as a result of a fraudulent offence or grave misconduct.
- Re-employment with CBC.
- Following your death.

All pension discretions will be reviewed as and when circumstances change.

Joining Crawley Borough Council

How much will it cost?

(Determination of Pension Contributions - *Regulation B3 (2) & 3(4) & A55 (9) of the Benefit Regulations 2007*)

You will pay between 5.5% and 7.5% of the pay you receive for your contractual hours. The rate you pay depends on the band you fall into. If you work part time

your rate will be based on the whole-time pay for your job although you will only pay contributions on the pay you actually earn.

Assessment of pay bandings normally takes place on an annual basis each April.

Further information can be found by following the link below

Contributions – how much will it cost?

<http://www.lgps.org.uk/lge/core/page.do?pageId=101472>

When will my pension contributions be deducted?

(Deduction of contributions from a member's pay -Regulation A45 (1) Administration Regulation 2008)

They will be collected from pay on your regular pay day.

What elements of my pay are pensionable?

(Determination of elements of pay on which pension contributions should be assessed - Regulation B4 (1) (b) of the Benefit Regulations 2007)

Pension contributions must be paid on all the salary, wages, fees and other payments you receive as an LGPS member.

Any element of pay that is being paid to you and complies with the definitions as described in the Benefit Regulations listed above will be regarded as pensionable. Certain payments such as travel and subsistence expenses, pay in lieu of notice and non-contractual over-time payments are excluded from this.

Only sums that are liable for income tax may be specified as pensionable. The Employee Handbook sets out which elements of your pay are pensionable.

Can I combine my previous pension benefits to my current period of scheme membership?

(Extension of period for scheme member to elect to aggregate former deferred Benefits -Regulation A16 (4) (b) (ii) of the Administration Regulations 2008)

If you have a previous period of LGPS membership and re-join the LGPS you may combine this period with previous membership. Your decision to do this must be made within 12 months of becoming a member of the scheme again; however the 12 month time period may be extended.

The Head of People & Technology will consider an extension to the time limit on a case by case basis if it is clear that you were unable to meet the normal time period due to circumstances beyond your control.

Can I transfer my previous pension into the LGPS?

(Extension of period for a scheme member to elect to transfer previous pension rights- Regulation A83 (8) Administration Regulations 2008)

You are allowed to transfer previous pension into the LGPS. Your request to move them must be made within 12 months of starting scheme membership.

The Head of People & Technology will consider an extension on a case by case basis if it is clear that you were unable to meet the normal time period due to circumstances beyond your control.

During your employment with Crawley Borough Council

Does the Council have a shared cost Additional Voluntary Contribution (AVC) arrangement?

(Establishment of a Shared Cost AVC (SCAVC) facility -*Regulation A25(3) of the Administration Regulations 2008*)

No, a shared cost AVC scheme is where the Council contributes AVC's as well as yourself. The Council does not intend to exercise this discretion.

The Council does operate a non-shared AVC scheme where you can invest money through an AVC provider, often an insurance company or building society. The scheme provider for the Council is Standard Life. AVC's are deducted directly from your pay and attract tax relief.

Non-shared AVC scheme

<http://www.lgps.org.uk/lge/core/page.do?pageId=102221>

Can I pay contributions following an authorised leave of absence on reduced or no pay?

(Extension of period for a scheme member to elect to pay contributions in respect of a period of absence -*Regulation 22(2) of the Administration Regulations 2008*)

You must pay pension contribution in respect of the first 30 days of any authorised absence.

However you can choose to pay contributions for the whole period of your absence (up to a maximum of an additional 35 months) and keep your full benefits in respect of the period you have paid (up to the maximum of 36 months).

For the period to count towards your membership, you must pay the contributions that you would have paid if you had been at work. If you choose to do this you must inform the Council, in writing to the Payroll Section, within 30 days of your return to work.

The 30 day limit may be extended if it is clear that you were unable to meet the normal time period due to circumstances beyond your control.

You can request an extension from the Head of People & Technology who will consider each request on a case by case basis. If the extension is approved they will forward your request together with their agreement to Payroll Section.

If I am in the reserve forces and on leave of absence, how will contributions be deducted from my reserve forces pay?

(Sums due in respect reserve forces leave - Regulation 45(2) of the Administration Regulations 2008)

Your membership of the LGPS continues throughout your reserve forces leave of absence. Contributions will still be paid on your reserve forces pay if it equals or exceeds your Crawley Borough Council pay. If your reserve service pay is less than your Council pay, you will not have to make contributions and your benefits will not be affected.

What happens if I have an industrial injury?

(Local Government (Discretionary Payments) (Injury Allowances) Regulations, Regulation 3 (Reduction in Remuneration) & 4 (Loss of employment through permanent incapacity) 2011)

(Need to create a local scheme and have link to this here)

If you have an industrial injury during the course of your work and suffer a (temporary) reduction in pay or loss of employment through permanent incapacity you may be entitled to receive an industrial injury allowance. Each case will be looked at on a case by case basis. You do not have to be a member of the LGPS to receive the allowance.

If you sustain a bodily injury during the course of your work which results in death the following payments will be made. If you are a member of the Local Government Pension Scheme, the LGPS ensures that your family is supported. It provides:

- a lump sum death grant of three years pay, no matter how long you have been a member of the LGPS, provided you are under 75 at the date of death. For part-time employees, it is three times your actual part-time pay;
- an ongoing pension for your husband, wife, civil partner or nominated co-habiting partner. This increases every year in line with the cost of living and is payable for the rest of their life; and
- children's pensions for your eligible children. These increase every year in line with the cost of living.

An amount of money or benefit may be payable to you under the Crawley Borough Council Personal Accident Insurance. Further information can be found in the Insurance Guide on the intranet.

In these circumstances there would be no payment from the industrial injury scheme.

Leaving your employment with Crawley Borough Council

Can I convert scheme AVC's into membership credit?

Regulation 66(9) (b) of the (Transitional Provisions) Regulations 1997 (schedule 1)

In certain circumstances you can use your AVC fund to buy membership in the pension scheme. An application should be made within 30 days of leaving. However the Head of People & Technology will consider an extension on a case by case basis if it is clear there was no fault on your part for not being able to meet the normal time period.

Can I request to take flexible retirement?

(Flexible retirement and waiving of any actuarial reduction -Regulation 18(1) & (3) of the Benefit Regulations and the Local Government Pension Scheme (Miscellaneous) Regulations 2012)

You can request to take flexible retirement. The Council will consider your request on a case by case basis. The Council has a flexible retirement policy to help you phase into your retirement. Flexible retirement lets you continue working on a reduced hours, or reduced grade basis and draw all of your accrued pension benefits subject to certain qualifying criteria.

To be eligible to make a request for Flexible Retirement under the LGPS regulations, you must:

- Be actively making contributions to the LGPS.
- Be aged 55 or over.
- Have 5 years or more pensionable service in the local government pension scheme and with Crawley Borough Council.
- Be taking at least a 20% reduction in your hours and/or your salary.

Flexible Retirement will have a cost attached to it and a business case must be made setting out the reason for supporting the flexible retirement

Further information can be found by following the link below.

Flexible retirement policy

(Add our flex retirement scheme)

Can I request to take early retirement?

(Consenting to the immediate payment of benefits between age 55 and 60 -Regulation B30 (2) of the Benefit Regulations 2007)

The Council **does not normally** approve the voluntary retirement of employees between the ages of 55, but before the age of 60.

However there may be exceptional compassionate grounds where this may be considered, and agreed to such as in cases where an individual has to provide long term care for a partner or other close relative with a terminal or debilitating illness.

Depending on your scheme membership at the time, you will **normally** suffer a reduction in the value of your pension and any lump sum. The reduction is based on the length of time (in years and days) that you retire early from the date your benefits are paid to age 65. This is known as an actuarial reduction.

Any requests will be considered by the Head of People & Technology, the Head of Finance, Revenues & Benefits and the relevant Director. Any decision made will be within the limits of the approved financial budget and financial procedure rules, in compliance with council policies and to no significant service implications.

Will my pension be reduced if I receive my pension benefits early on exceptional compassionate grounds?

(Choice of early payment of pension - Regulation B30 (5) of the Benefit Regulations 2007)

The Council does not normally agree to waive the costs of an employee's actuarial reduction, and your pension and lump sum will therefore be reduced as described above.

However, there may be exceptional compassionate grounds that may justify the Council waiving the actuarial reduction. Where this is the case, the grounds for doing so must be included in the business case for the early release of pension and is subject to the relevant approval processes.

If I am made redundant what payments will I be entitled to?

Regulation 5, 6 – Discretion under the local Government (Early Termination of Employment) (Discretionary Payments) (England & Wales) Regulations 2006

If you are made redundant aged 55 and over, you will be entitled to receive immediate payment of your LGPS retirement benefits. These benefits will be made without reduction. If you are aged under 55 when you are made redundant, you cannot receive the immediate payment of your LGPS benefits. They will instead be deferred and will be increased annually in line with the cost of living increase and will become payable from Local Government Pension scheme's normal retirement age (currently age 65).

Regardless of your age, the Council provides an enhanced redundancy payment, to compensate you for loss of earnings if you have two or more years' continuous service (as defined by the Redundancy Payments Modification Order).

Further information can be found by following the link below.

Redundancy Policy

(Need to create link to redundancy policy)

If my employment is terminated on the grounds of the efficiency of the service will I be entitled to compensation?

Regulation 6 – Discretion under the Local Government (Early Termination of Employment) (Discretionary Payments) (England and Wales) Regulations 2006

The Council may choose to make immediate payment of LGPS retirement benefits without reduction, to compensate an employee who is over 55, in the event that their employment is terminated on the grounds of the efficiency of the service. This is entirely at the Council's discretion and will be considered in the following circumstances:

- Where budget reductions are being considered but before proposals for redundancy are consulted on
- The volunteer is over the age of 55 and has been a member of the pension scheme for 2 years

- The retirement would allow a reorganisation of the service which would compensate for the cost of the retirement and provide a saving for the service.

Full details of the scheme can be found by following the link below.

Link to management of organisational change procedure section on efficiency of the service.

What happens if my lump sum compensation payment is incorrect?

(Power to enable employers to decide the steps taken to recover overpayments on lump sum compensation - Regulation 8 Early Terminations of Employment (Discretionary Compensation) Regulations 2006)

If the Council makes an over, or underpayment of your lump sum compensation, we will let you know. If an underpayment has been made, immediate steps will be taken to make the appropriate payment. The Council will also seek to recover any overpayment. In the case of an overpayment the Council will consider a reasonable time limit for the overpayment to be repaid.

How is final pay for fee earners calculated?

(Final pay period to be used where a member's pay consists of fees Regulation B11 (2) of the Benefit Regulations 2007)

In a few cases the calculation of final pay in the LGPS is based on fees (rather than standard rates of pay). This can apply to scheme members such as Returning Officers who oversee Council elections. The level of fees however can vary over a number of years, which can lead to an unfairly low level of pay if the fees in the final 3 years prior to leaving, or retirement, are lower than those received in previous years.

The Head of Finance, Revenues & Benefits will consider, on a case by case basis, final pay being calculated as the average of all such fees for any three consecutive years ending 31st March within the period of ten years ending with the last day you were an active member.

Adjustments to your pension following ill health

The LGPS has 3 tiers of ill-health provision.

- Tier 1 is where you are judged to be permanently incapable of carrying out your duties, or any comparable role, with no reasonable prospect of obtaining gainful employment before age 65.
- Tier 2 is where you are judged to be permanently incapable of carrying out your duties and "unlikely to be capable of gainful employment within 3 years of leaving," but capable of obtaining gainful employment elsewhere at some stage before normal retirement date.
- Tier 3 is where you are judged to be permanently incapable of carrying out your duties, but capable of performing work elsewhere within 3 years of leaving employment, or before age 65 if earlier.

The following discretions relate to the LGPS ill-health provisions

What happens if I am able to work again or the medical advisor deems me fit to work?

(Recovery of payments following date of discontinuance of third tier ill health pension Entitlement B20 (8) of the Benefits Regulations (Benefits, Membership & Contributions Regulations) 2007)

An award under tier 3 must be subject to review after 18 months and in any event cannot be paid for a period exceeding 3 years, (provided you are not in gainful employment, or considered capable of undertaking such employment).

You must inform the Council immediately if you obtain 'gainful employment' at any time between your tier 3 ill health pension award commencing and the expiry of the three years.

For the purposes of a tier 3 award, "gainful employment" is considered to be paid employment for at least 30 hours each week for a contract period of at least 12 months.

As part of a review of a tier 3 ill health award, the Council may cease payment of the award from the date you obtained gainful employment, or were considered by an independent medical adviser as capable of undertaking gainful employment. Any decision to cease payment will be made by the Head of People & Technology on the advice of the independent medical adviser.

Additionally if you are still receiving your tier 3 ill health pension after you have obtained gainful employment, or where a medical advisor has determined you as capable of undertaking gainful employment, the Council will seek to recover any overpayment made to you.

What if my condition has not improved or has deteriorated?

(Regulation 20(11) Subsequent determination on level of ill health benefit following review of third tier ill health award as to whether tier two ill health benefits should apply -B20 (11) of the Benefits Regulations (Benefits, Membership & Contributions Regulations) 2007)

If you are on a tier 3 ill health pension and your condition has not improved, or has deteriorated, the Council will decide whether there is an entitlement to ill health pension under the provision of tier 2. Any such decision to convert your tier three award to a tier two award can be taken at any time and must be no later than 3 years of the date that payment of benefits under tier 3 has stopped, or before you reach the age of 65. Any decision will be made by the Head of People & Technology on the advice of the independent medical adviser.

Loss of pension rights as a result of a fraudulent offence of grave misconduct

Is my pension benefit affected if I leave employment due to a fraudulent offence or grave misconduct?

(Payment of a refund of contributions in misconduct cases and Forfeiture of pension rights as a result of offences or misconduct -*Regulation A47 (2), A72 (1) (3), 73(1) (2), 74(2), A76 (2) (3) Administrations Regulations 2008*)

If you leave your employment with the Council due to a fraudulent offence, grave misconduct, negligence or any work related criminal offence that results in financial loss to the Council, It will, in exceptional circumstances, seek to reduce the value of your pension benefits commensurate with the offence.

There is no automatic entitlement to a refund on your pension contributions, if you leave your employment with less than 3 month's scheme membership, as a result of a fraudulent offence or grave misconduct and the Council would seek to withhold any such amount where considered appropriate.

Each case will be referred to the Head of Finance, Revenues and Benefits and Head of People & Technology for consideration.

Re-employment with Crawley Borough Council

Do I still receive my pension if I am re-employed by the Council?

(Reduction of annual compensation on re-employment "abatement"-Regulation 17 Early Terminations of Employment (Discretionary Compensation) Regulations 2000)

Your annual compensation may be adjusted or suspended throughout your re-employment with the Council. This is to make sure that you are not receiving any more than the value of pay you would have received when you left your former employment.

Will my added year's compensation be affected if I am re-employed by the Council?

(Reduction of added years due to re-employment -Regulation 19 Early Terminations of Employment (Discretionary Compensation) Regulations 2000)

When your re-employment ends, your compensatory added years will be adjusted in order that the value of any LGPS pension you are in receipt of, together with your annual compensation, does not exceed what you may have expected to receive as a benefit had you remained in continuous employment with the Council to age 65.

Following your death

Will my spouse receive annual compensation on re-marriage or cohabitation?

Suspension of spouse's compensation during a period of remarriage or Cohabitation. Regulation 21(5) & (7) Early Termination of Employment (Discretionary Compensation) Regulations 2000.

The Council will continue payment of a spouse's compensation to existing pensioners, as well as to new pensioners, who remarry or cohabit after 31st March 1998.

How will my children's compensation payment be paid?

(Payment and apportionment of children's compensation -Regulation 25(2) Early Termination of Employment (Discretionary Compensation) Regulations 2006.)

Eligible children's annual compensation payments will be paid on an equal share basis.

Will the extra contributions I was making between 1972 to 1988 count towards my widower's pension?

Women with membership before 6th April 1988. Regulation 9 LGPS (Transitional provisions) Regulations 1997.

Women who were making extra contributions to update their service from 1972 to 1988 for widower's pension purposes we will count this period in full without any further contributions. Women who marry after 31st March 1998 who have 1972-1988 service will also be allowed to count the relevant period in full for this purpose.

Industrial Injury Allowance Scheme

1. Aim

The aim of this scheme is to provide information to managers on the reporting of industrial injury related absence, and the mechanisms available to support employees in the event they that they are absent from work or suffer a reduction in earnings due to an industrial injury. It also includes information about the industrial injury allowance and when and how it may be paid.

2. Scope

This guidance applies to all employees of Crawley Borough Council on permanent, temporary and fixed term contracts.

3. Scheme Outline

The Industrial Injuries scheme, subject to qualifying criteria provides two separate elements:

- Entitlement to sick pay (injury scheme) that does not affect an employees' entitlement to ordinary sick pay; and, (see section 4)
- An industrial injury allowance - this is an allowance to compensate the employee for a reduction in wages, or loss of employment through permanent incapacity due to injury or disease. (see section 5)

The above elements are separate and qualification for one element does not automatically mean that an employee is entitled to another.

4. Sick Pay (injury scheme)

Qualifying Criteria

In order to qualify for the scheme the employee must be absent from work as a direct result of a work related industrial injury or disease. The injury or disease must be as a direct result of the employee's work and is expected to be evidenced on an incident/accident report form.

It is the responsibility of line managers and employees to record all industrial injuries on this form, immediately after, or as soon as possible after the incident.

Where it is clearly evidenced that the injury or disease is as a result of a work related incident and that it is not due to negligence or misconduct on the part of the employee, then the HR team, in consultation with the Corporate Public & Safety Officer will approve the award of sick pay under the industrial injury scheme and should record the absence as an industrial injury.

Scheme Provisions

	FULL PAY
During 1st year	22 days
During 2nd year	44 days
During 3rd year	88 days
During 4th and 5th years	110 days
After 5th year	132 days

The manager can ask the Head of People & Technology to authorise an extension of industrial injury pay depending upon the circumstances of the case.

Absence as a result of an industrial injury or disease does not affect an employee's right to normal sick pay entitlement in any 12-month period.

However if an employee has exhausted their industrial injury absence entitlement, and remains absent from work as a result of the industrial injury or disease, there is no entitlement for a further period of paid absence.

Management of Sickness Absence

Employees absent from work as a result of an industrial injury or disease, should still have their absence managed through the absence management procedure. This will ensure that the Council is doing everything it can to support the employee through their absence and facilitate their return to work or in the event that the employee is unable to return to work, seek an alternative resolution.

Line managers should refer to the principles for managing long-term absence which are:

- Frequent contact, throughout the absence, and a
- Focus on return to work, as soon as the employee is able to return.

(For further information please refer to the Absence Management Procedure on the intranet).

5. Industrial Injuries Allowance

Qualifying Criteria

Employees who sustain an injury or contract a disease in the course of carrying out their work may be entitled to claim an allowance under the Industrial Injury Policy if they:

- suffer a reduction in remuneration whilst employed;
- leave the Council's employment through incapacity; and
- have an injury or disease that has occurred during the course of the employee carrying out his/her work (as certified by Occupational Health).

An employee may also be considered eligible to claim an allowance if the injury or disease is sustained whilst travelling on work related business (excluding travel on public transport).

Where an employee suffers from a pre-existing condition (injury or disease) there must be some new work related factor over and above the original problem for the condition to be deemed a work related injury or disease.

If an employee sustains an injury or disease mainly due to, or seriously aggravated by, their own negligence or misconduct, they may not be eligible for an allowance.

The payment of an industrial injuries allowance may only be considered when all other options to help cover some, or all of the loss of remuneration have been explored.

Options managers will be expected to explore will include:

- Reasonable adjustments
- Reskilling or retraining
- Extension to industrial injury sick pay
- Phased return to work
- Redeployment
- Ill health retirement

Scheme Provisions

Provisions for Reduction in pay

- If a reduction in pay has occurred due to the industrial injury/disease and the options in section 5 of this policy to cover the loss are not appropriate, the individual may claim for an injury allowance.

The amount of the allowance and the current pay must not exceed the pay that would have been received if the injury or disease had not occurred.

- The amount of any allowance is discretionary. It will be determined on a case by case basis and is at the sole discretion of the Council and subject to National Insurance contributions.

Provisions for loss of employment through permanent incapacity

If the industrial injury or disease results in permanent incapacity, which leads to a termination of employment, the individual may be entitled to an annual allowance (paid in monthly instalments).

The amount of the allowance is up to a maximum of 85% of the employee's annual remuneration prior to the industrial injury or disease.

The line manager will make a referral to Occupational Health. Occupational Health will assess the degree of disablement affecting the employee. This means that the extent of the injury or disease will be measured (as a percentage) against the job the individual was employed to do when the injury or disease occurred.

The degree of disablement percentage is attached as an appendix to this document.

The amount of any allowance is discretionary. It will be determined on a case by case basis and is at the sole discretion of the Council.

Calculation of Allowance

In determining the amount of any allowance to be paid, the manager, the relevant Head of Service in consultation with the Head of People & Technology will consider all the circumstances of the case including:

- The degree of disablement from the injury sustained, or the severity of the disease contracted, as assessed by Occupational Health;
- Any other payments (associated with the injury or disease) the individual is entitled to including:
 - Any right to benefit under Part 5 (Benefits for Industrial Injuries) of the Social Security Contributions and Benefits Act 1992 such as:
 - Industrial Injuries Disablement Benefit
 - Unemployment supplement
 - Hospital treatment increase
 - Reduced Earning Allowance
 - Incapacity benefit
 - Dependency increase
 - Severe disablement allowance
 - Disablement gratuity
- Any other statutory rights to benefit or compensation;
- Any right to receive pension benefit;
- Any sum paid by way of Local Government Pension Scheme (LGPS) ill-health benefit or a notional sum which would have been payable had the individual been in the LGPS;
- Any damages recovered and any sum received by virtue of a contract of insurance; and,
- Any contributory negligence by the employee.

(More information about Social Security benefits can be found on the Department for Work & Pensions website at www.dwp.gov.uk)

Other benefits or payments the individual was in receipt of **prior** to the injury cannot be taken into account.

Application Process

Each application for Industrial Injury Allowance will be considered on a case by case basis, and must be approved by the Director of Resources & Development.

The employee should first speak to their line manager. The line manager will refer each case to Occupational Health for an assessment.

The report from Occupational Health, plus other relevant evidence will be considered by the Head of Service in consultation with the HR team who will make a recommendation to the Head of Finance, Revenues & Benefits as to whether to support the payment of the allowance.

Once informed of the Head of Finance, Revenues & Benefits decision the HR team will notify the individual in writing that they are either:

- Entitled to an allowance, showing what the payment is and how it was calculated;
- Not entitled to an allowance, including the grounds for the decision and process for appeal to the Director of Development & Resources.

Any injury allowance will be paid for by the relevant service from their revenue budget, until such time as the service determines.

Adjustment to Allowances and Reviews.

The award of any allowance may be subject to adjustment.

In the event that civil action or insurance claims are outstanding, any allowance paid by the Council will be on an interim basis and equal to 50% of the full allowance. This will be reviewed by the Head of Finance, Revenues & Benefits and on settlement of the claim, and annually thereafter if appropriate. Where there is no outstanding settlement the full allowance will be payable.

It is not intended that outstanding civil actions or insurance claims should delay the payment of an allowance by the Council (unless settlement is imminent).

If an employee is paid an injury allowance by the Council and subsequently receives compensation for the industrial injury or disease from another source, the allowance will be adjusted and the employee will be required to pay back some, or all, of the allowance paid.

The employee is required to inform their manager when outstanding claims are settled.

If an individual is still receiving an injury allowance after 18 months of receiving their first payment a review will be undertaken by the Head of Finance, Revenues & Benefits to establish:

- The individual's degree of disablement (as assessed by Occupational Health);
- Any settlement of claims; and,
- Any entitlement to benefit payments (as listed in section 8 of this policy)

These will affect the amount of allowance received.

The decision to continue, amend or suspend payment will be made by the Head of Finance, Revenues & Benefits.

6. Death through Industrial Injury or Disease.

The manager must contact the Corporate & Public Safety service immediately if there is an accident at work which results in a fatality.

If a death in service occurs and the employee is a member of the Local Government Pension Scheme, the LGPS ensures that the employee's family is supported. It provides;

- a lump sum death grant of three years pay, no matter how long the employee has been a member of the LGPS, provided the employee is under 75 at the date of death. For part-time employees, it is three times actual part-time pay;
- an ongoing pension for the employee's husband, wife, civil partner or nominated co-habiting partner. This increases every year in line with the cost of living and is payable for the rest of their life; and
- children's pensions for the employee's eligible children. These increase every year in line with the cost of living.

If the employee sustains a bodily injury by accident, assault or unavoidable exposure to the elements as a result of which death occurs independently of any other cause within 24 months of sustaining that injury; an amount of money or benefit may be payable to the employee's estate, under the Council's Personal Accident Insurance. Further information can be provided by the Treasury Services Officer.

7. Liability

Payments made under this scheme are without prejudice to the Council's civil liability.

Table 1.0 Degree of Disablement

Disablement percentage	Threshold of percentage payable on salary*
**14-24%	20%
25-34%	30%
35-44%	40%
45-54%	50%
55-64%	60%
65-74%	70%
75-84%	80%
85 – 100%	85%

*Based on the employee's annual rate of remuneration at the time their employment ceased.

** An employee will not be entitled to an injury allowance if their disablement is assessed at less than 14%

The medical assessment takes account of all disabilities resulting from the industrial accident. Where the employee's disability also results from some other cause which arose before the accident, the degree of disablement which would in any event be present due to that other cause is not counted, but the interaction between the two causes is included in the assessment.