

Report to Cabinet

3rd December 2014

Review of the Local Government Pension Scheme Discretions Policy

Report of the Head of People and Technology PAT/022

1. Purpose

- 1.1 The Local Government Pension Scheme (LGPS) is a statutory scheme which contains various regulations where discretions have to be exercised. The Council as the employer is required to formulate, publish and keep under review a Policy Statement on certain discretions. A new scheme, LGPS2014, was introduced in April 2014 and some new discretions were introduced as part of that change. This report sets out proposals in relation to the adoption of discretions set out in the Local Government Pension Scheme 2014 (LGPS) and seeks approval for the Council's Policy on the exercise of these discretions.

2. Recommendations

- 2.1 The Cabinet is requested to recommend to Full Council:

The adoption and approval of the LGPS Employer's Pensions Discretions Policy as set out in Appendix 2.

To delegate further reviews and approval of the Policy to the Head of People & Technology and the Head of Finance, Revenues & Benefits (Section 151 Officer) in consultation with the Cabinet Member for Customer and Corporate Services.

3. Reasons for the Recommendations

- 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 new 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. Background

- 4.1 The current CBC Pension Discretions Policy attached as Appendix 1 which was approved by the Council on 23 October 2013 (Minute 53 refers) sets out the Council's position on the main discretions which relate to early retirement on the grounds of redundancy, efficiency of the service, ill health and industrial injury and flexible retirement.
- 4.2 A new scheme entitled LGPS2014 was introduced on 1 April 2014 this year and whilst some of the existing discretions remain unchanged, the Local Government Pension Scheme Regulations 2013 (Section 60) require Employers to formulate, publish and keep under review a Policy Statement in relation to the exercise of a number of discretions. The Policy Statement should show the basis on which the Employer would make its decisions on the various discretions. WSCC as the administering authority have recommended adding detail on some existing discretions which were not referred to in the existing discretions document.

5. Description of Issue to be resolved

- 5.1 The new discretions in the 2014 scheme which the Council is recommended to adopt and approve are set out in the revised CBC LGPS Employer Discretions Policy at Appendix 2.

Those discretions are:

- Voluntary contribution to a Shared Cost Additional Pension
- Switching on the '85 year rule' for members who would otherwise be subject to it but who choose to voluntarily draw their benefits (other than on the grounds of flexible retirement) on or after 55 and before age 60.
- Waiving all or part of any actuarial reduction when a member chooses to take their benefits prior to their normal pension age.
- Allowing the payment of additional pension in certain circumstances.

6. Information & Analysis Supporting Recommendation

- 6.1 Shared additional pension contributions are already available for authorised absences such as maternity leave but it is not proposed to extend this to include other absences.
- 6.2 The scheme now allows for an employee to retire from the age of 55 without consent. However, the '85 year rule' protects some or all of an employee's benefits from the normal early payment reduction. To have rule of 85 protection an employee must have been a member of the LGPS on 30 September 2006. The rule is satisfied if their age at the date when they draw pension plus their scheme membership in whole years adds up to 85 years or more. The first discretion contained in the regulations allows employers to switch on the '85 year rule'. Entitlement to this benefit has been phased out and will not be applicable to employees reaching 60 after 31 March 2020. Switching on the '85 year rule' for members who choose to leave between the ages of 55 and 60 could be very expensive, as the Council has a significant number of long serving employees in this age group. If some of these employees choose to leave then it would not only be expensive for the Council but it could lead to a serious loss of knowledge and skill which may be hard to replace. If the Council decides to introduce the first discretion, the second discretion is for the Borough Council to waive the actual reduction on the pre April 2014 benefits on compassionate grounds (as defined in the regulations).

It is, therefore, only proposed to introduce and exercise these discretions in exceptional compassionate circumstances. This will maintain the current arrangements that were available under the previous discretions policy.

- 6.3 The previous rules allowed the Council to offer employees who were facing redundancy to opt to forgo an element of their redundancy pay in order for the Council to use this sum to purchase additional pension on their behalf. In order for us to offer this option in future we must have a discretion in our policy which allows us to offer the payment of additional pension. The amount of additional pension that the Council can purchase has increased from £5,000 to £6,500. It is proposed that the Council introduces this discretion in exceptional circumstances.
- 6.4 Awarding of additional pension will only be considered where employees facing redundancy choose to waive their entitlement or part of their entitlement to redundancy pay (over and above their entitlement to statutory redundancy pay) in order to purchase additional pension. The Council can choose to award additional pension up to the value of £6,500 in these circumstances. However these requests will only be considered in exceptional circumstances such as where there are significant compassionate grounds or where an individual is affected by changes in legislation or Guidance during their notice period or where there is no cost to the Council. A written business case, setting out any additional cost and the justification of the discretion will be required. The exercise of this discretion will be made by the Head of People and Technology with the agreement of the Head of Finance, Revenues & Benefits (Section 151 Officer) and the relevant Director, in consultation with the Leader of the Cabinet and the Cabinet Member for Customer and Corporate Services.
- 6.5 There were some discretions already in place prior to the introduction of LGPS 2014 which had not been set out in the existing policy document and have now been included to provide clarity. In particular the arrangements for appealing against pension decisions has now been set out within the policy document.

7. Implications

- 7.1 Unison have been consulted on the changes to the Discretions Policy. They would like to see an element of discretion being made available and recognise that there are existing discretions available for particular circumstances and that these will be considered in exceptional situations.
- 7.2 An Equality Impact Assessment has been carried out and no negative equality implications have been identified by the recommendations in this report. The Equality Impact Assessment is attached as appendix 3.
- 7.3 As the recommendation is to continue with existing discretions and not introduce any further discretions, there are no financial implications to consider.

7.4 Legal Implications

The Exercise of Discretion

It is important that any discretionary power is exercised correctly. In formulating and reviewing its policy, an employer is required by the regulations to:

- Have regard to the extent to which the exercise of its discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service (Regulation 60(5) of the LGPS Regulations 2013).
- An employer also needs to be aware of discrimination i.e. age related, and to be aware of the area demographics as an employer.
- Be satisfied that the policy is workable, affordable and reasonable having regard to foreseeable costs.
- Discretionary powers must also:
 - Not be used for an ulterior motive and be exercised reasonably
 - Be used taking account of all relevant factors
 - Only be used when there is a real and substantial future benefit to the employer in return for incurring the extra costs
 - Be duly recorded when used

7.5 It is important to note that nothing in the Discretions Policy shall fetter the Council's discretion to exercise its powers. Each application within the discretionary areas will be considered in line with the published policy, taking account of the financial impact on the Council and the pension scheme, the need to avoid unlawful discrimination and any exceptional circumstances that may exist.

7.6 It is recommended that policies are reviewed every 3 years or as and when circumstances dictate, particularly if there is a change in legislation, Guidance or if the Council's business need requires it. It is proposed that the Review of the Policy on discretions is delegated to the Head of People and Technology and the Head of Finance, Revenues & Benefits (Section 151 Officer) in consultation with the Cabinet Member for Customer and Corporate Services. However, any substantial changes arising out of a review will be referred to Council for approval.

8. Background Papers

8.1 West Sussex LGPS 2014

http://www.westsussex.gov.uk/your_council/pension_fund/membership_contributions_and/local_government_pension/wscce_employer_discretions.aspx

LGPS2014 discretion policies guidance

<http://www.lgpsregs.org/images/AdministrationGuides/DiscretionsPoliciesv1.4.pdf>

The Local Government Pension Scheme Regulations 2013

http://www.legislation.gov.uk/uksi/2013/2356/pdfs/uksi_20132356_en.pdf

The Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014

http://www.legislation.gov.uk/uksi/2014/525/pdfs/uksi_20140525_en.pdf

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Appendix 1

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)

Link to local industrial injury scheme

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.

Link to flexible retirement rules in the Management of Organisational Change Procedure

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.

Link to redundancy rules in the Management of Organisational Change Procedure

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 efficiency of the service rules in the Management of Organisational Change Procedure

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.

Appendix 2

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 and has been updated to reflect the new regulations from 1st April 2014.

Details on the scheme including the answers to frequently asked questions can be found on the LGPS 2014 website.

<http://lgps2014.org/content/frequently-asked-questions-0>

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 and minor changes will be made by the Head of People & Technology in consultation with the Head of Finance, Revenues & Benefits and the Cabinet Member for Customer & Corporate Services.

Joining Crawley Borough Council

How much will it cost?

(Determination of Pension Contributions - Regulation 9(2) & 9(3) & 9(4) & A55 (9) of the LGPS regulations 2013.

You will pay between 5.5% and 12.5% of your actual pay which may include overtime. The rate you pay depends on the band you fall into. Assessment of pay bandings normally takes place each April.

You can find out how much you need to pay by using the LGPS contribution calculator by following the link below -

Contributions – how much will it cost?

http://www.westsussex.gov.uk/your_council/pension_fund/membership_contributions_and/local_government_pension/the_lgps/lgps_2014_contribution_calcula.aspx

When will my pension contributions be deducted?

(Deduction of contributions from a member's pay -Regulation 85 (1) of the LGPS regulations 2013)

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 20 (1) (a) & (b) of the LGPS regulations 2013)

Pension contributions must be paid on all the salary, wages, fees and other payments you receive as an LGPS member and any benefit specified in your contract of employment as being pensionable.

Any element of pay that is being paid to you and complies with the definitions as described in the LGPS 2013 Regulations listed above including non-contractual overtime will be regarded as pensionable. Certain payments such as travel and subsistence expenses and pay in lieu of notice 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.

What happens if my pay is reduced or I go on unpaid leave?

(Whether a lump sum payment made in the previous 12 months is determined as a 'regular lump sum' for purposes of Assumed Pensionable Pay – Regulation 21(5) of the LGPS regulations 2013)

If you have a period of reduced contractual pay or no pay due to sickness or injury or you have a period of relevant child related leave (e.g. maternity/paternity/adoption leave) or reserve forces service leave, the Council

needs to provide the pension fund with the 'assumed pensionable pay' you would have received during that time. We will calculate what your pay would have been for the period when you were on reduced contractual pay or no pay.

The assumed pensionable pay is calculated as the average of the pensionable pay you received for the 3 months before the pay period in which you went on to reduced pay or no pay.

If you received a lump sum payment which was pensionable within the 3 month period mentioned above, the Head of People & Technology will decide whether or not this should be included in the assessment of your assumed pensionable pay. Each case will be assessed on its merits to ensure that your assumed pensionable pay for the period concerned is not more than you would have received had you not had a period of absence.

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

(Extension of period for scheme member to elect to un-aggregate former deferred Benefits – Regulation 22 (7)(b) and 22 (8)(b) and of the LGPS regulations 2013)

If you have previous pension benefits (deferred benefits), when you re-join the LGPS you have 12 months from re-joining to ask to keep your deferred benefits separate, your benefits will be automatically joined with the benefits in your new pensions account (or, where the deferred benefits arose from the ending of another job in which you were working in addition to your current job, your pension benefits will automatically be joined with the pension account you're your on-going job).

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.

Further information regarding combining your LGPS benefits can be provided by the Capita Pensions Team.

Can I transfer my previous pension into the LGPS?

(Extension of period for a scheme member to elect to transfer previous pension rights- Regulation 100 (6) of the LGPS regulations 2013))

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 17 (1) of the LGPS regulations 2013*)

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

Does the Council have a shared cost Additional Pension Contribution (APC) arrangement?

(Establishment of a Shared Cost APC (SAPC) facility – Regulation 16(2)(e) & (4)(d) of the LGPS regulations 2013)

No, a shared cost APC scheme is where the Council contributes APC's as well as yourself, when you have chosen to pay additional monies to increase your pension benefits. The Council does not intend to exercise this discretion.

The LGPS operates an APC scheme where you can purchase extra pension for your retirement (but the Council will not share the cost of this). If you are in the main section of the scheme, you can pay more in contributions to purchase up to £6,500 of extra pension. Any extra pension you purchase is payable each year in retirement and is payable on top of your normal LGPS benefits.

Any extra regular contributions are taken from your pay, which you will receive tax relief on.

You can also pay APC's by a one off lump sum.

For more information regarding APC's including an online calculator please see the link below.

http://www.westsussex.gov.uk/your_council/pension_fund/membership_contributions_and/local_government_pension/lgps_2014/buying_extra_pension_or_lost_p.aspx

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.

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*)

<http://cbcstlstaqa.int.crawley.gov.uk/intranet/web/cnet068390>

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 receive a refund of my contributions?

(Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund – Regulation 92 of the LGPS Regulations 1997 and Regulation A49(1) & (2) of the Administration Regulations 2007)

If you are entitled under the scheme to receive a refund of contributions, this will be subject to deduction of fund tax and a contribution equivalent premium (CEP) which is the payment to reinstate you into the state scheme as if you had never paid into the LGPS.

This is due to you paying a lower rate of tax and National Insurance contributions whilst paying into the LGPS.

Can I convert scheme AVC's into membership credit?

(Regulation 15(1) (b) of the LGPS (Transitional Provisions and Savings) Regulations 2014 and Regulation 66(9) (b) of the (Transitional Provisions) Regulations 1997)

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?

(Whether all or some benefits can be paid if an employee reduces their hours or grade Regulation 30(6) of the LGPS Regulations 2013 and Regulation 11 (2) of the (Transitional Provisions and Savings) Regulations 2014 and Flexible retirement and waiving of any actuarial reduction – Regulation 30(8) of the LGPS Regulations 2013)

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.

<http://cbcstlstaga.int.crawley.gov.uk/intranet/web/cnet021105>

Can I retire early without my employers consent?

(Whether to 'switch on' the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 – Schedule 2, para 2(2) of the (Transitional Provisions and Savings) Regulations 2014) and Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits pre 1st April 2014 membership where the employer has 'switched-on' the 85 year rule – Schedule 2, para 2(3).

Yes. The scheme now allows you to retire from age 55 without the need for our consent. However if you retire between 55 and 60 and had protection under what is called the '85 year rule' (i.e if you add your age and length of service in whole years and this equates to 85 or more) you will lose your '85 year rule' protection and your benefits might therefore be subject to actuarial reduction as you will be receiving them earlier than you would have done. The regulations allow us as your employer to 'switch on' the 85 year rule. Your benefits may still be subject to an actuarial reduction, however it may be less than if the 85 year rule was not 'switched on'.

As the Council would have to meet the cost of 'switching on' the 85 year rule if you chose to retire between 55 and 60, it will only consider doing so if there are exceptional compassionate grounds for doing so.

If the Council chooses to switch on the 85 year rule in your case it then has the discretion on compassionate grounds to waive the pre 1st April 2014 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.

Access to Pension on Retirement

Will my pension be reduced if I receive my pension benefits early?

(Whether to waive, in whole or part, actuarial reduction on benefits which a member voluntarily draws before normal pension age-Regulation 30(8) of the LGPS Regulations 2013)

Yes, 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 you will be receiving your pension earlier than you would have done.

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.

Benefits reduction table

<http://www.lgps2014.org/content/when-can-i-take-it>

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 (State Retirement Age with a minimum of 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.

Link to redundancy rules in the Management of Organisational Change Procedure

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 efficiency of the service rules in the Management of Organisational Change Procedure

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 and regulation 3(6) 4(6)(c) 8(\$) 10(2)(a) and 17(2)(b) of the Transitional Provisions and Savings Regulations 2014.)

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.

If I have a drop in pay is my pension protected?

(Issue a certificate of protection of pension benefits where eligible non-councillor member fails to apply for one (drop in pay/restrictions occurring pre 1st April 2008 – Regulation 23(4) of the LGPS 1997 Regulations)

Your final year's pay when you leave the LGPS will still be used to work out your benefits built up before 1st April 2014. This means that any future pay increases will be included in the final pay used to work out these benefits.

The definition of final pay for benefits built up before April 2014 remains the same as it was before the Scheme changed. Your final pay is normally the pay in respect of your final year of scheme membership on which you paid contributions, or one of the previous 2 years if this is higher. This remains so from April 2014.

In addition, if your pay is reduced, or increases to your pay are restricted in your last 10 years of continuous employment with us, you continue to have the option to have all your pre April 2014 membership based on the average of any 3 consecutive years pay in the last 13 years (ending on 31 March).

If you have a certificate of protection which was issued by us for a reduction or restriction in pay beyond your control before 1 April 2008 and you leave the LGPS within 10 year of the reduction or restriction, then this protection continues to apply after April 2014 for benefits built up in the final salary scheme.

Can I receive additional pension?

(Whether to grant additional pension to an active member or within 6 month of ceasing to be an active member by reason of redundancy or business efficiency – Regulation 31 of the LGPS Regulations 2013)

Awarding additional pension will only be considered where employees facing redundancy choose to waive their entitlement or part of their entitlement to redundancy pay (over and above their entitlement to statutory redundancy pay) in order to purchase additional pension. The Council can choose to award you an additional pension up to the value of £6,500 in these circumstances. These requests will only be considered in exceptional circumstances such as where there are significant compassionate grounds or where an individual is affected by changes in legislation or Guidance during their notice period, or where there is no cost to the Council. A written business case setting out any additional cost and the justification of the discretion will be required.

Any requests will be considered by the Head of People & Technology with the agreement of the Head of Finance, Revenues & Benefits (Section 151 Officer) and the relevant Director, in consultation with the Leader of the Cabinet and the Cabinet Member for Customer and Corporate Services.

Adjustments to your pension following ill health

If your employment is being terminated for reasons of ill health and you are in the pension scheme, we must decide whether or not you are entitled to an ill health retirement pension. To help us decide this we need to obtain a certificate from an independent registered medical practitioner who will assess whether 'as a result of ill health or infirmity of mind or body' you are permanently incapable of 'discharging efficiently the duties of the employment you were engaged in' and, if so, whether you are not 'as a result of ill health or infirmity of mind or

body' immediately capable of undertaking any 'gainful employment' (see definition below).

The LGPS has 3 tiers of ill-health provision.

- Tier 1: If you are unlikely to be capable of undertaking gainful employment before your normal pension age. (State Retirement Age with a minimum age of 65).
- Tier 2: If you are not entitled to Tier 1 benefits, are unlikely to be capable of undertaking any gainful employment within three years of leaving your employment but are likely to be able to undertake gainful employment before reaching normal pension age.
- Tier 3: If you are likely to be capable of undertaking gainful employment within 3 years of leaving their employment, or before normal pension age.

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?

(Determine whether a person in receipt of a Tier 3 ill health pension has stated gainful employment – Regulation 37(3) & (4) of the LGPS Regulations 2013 and Recovery of payments following commencement of gainful employment – Regulation 37(3) of the LGPS Regulations 2103)

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?

(Determine whether a person in receipt of Tier 3 ill health pension following review is unlikely to be capable of undertaking gainful employment before normal pension age because of ill health – Regulation 38(3) of the LGPS Regulations 2013)

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 your normal retirement age. Any decision will be made by the Head of People & Technology on the advice of the independent medical adviser.

Can I receive my pension benefit early?

(Determine whether a tier 3 member is permanently incapable of undertaking any gainful employment – V31(7) of the Benefits Regulations 2007 and Choice of payment of pension: pensioner member with deferred benefits B30A(3) of the Benefits Regulations 2007 and Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid under B30A – Regulation B30A (5) of the Benefit Regulations 2007)

This only applies if you stopped paying into the pension scheme on or after 1 April 2008 but before 1 April 2014.

If your tier 3 ill health pension has been stopped you can ask to receive payment of your benefits on or after age 55. As there is a cost associated with the early payment of your pension, the Council will not normally agree to the early payment of your pension, unless there is a significant compassionate grounds for doing so.

The Council may choose to waive, on compassionate grounds, the actuarial reduction applied to benefits payable where your tier 3 ill health pension was stopped, and you have applied for early access and your request has been approved.

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.

Early payment of Deferred Benefits

(Whether to grant pre 1st April 1998 leavers early payment of their deferred benefits on or after the age of 50 on compassionate grounds – Regulation D11(2)(C) of the LGPS Regulations 1995) and Regulation 31(2) of the LGPS Regulations 1997 and whether to grant application for early payment of deferred benefits Regulations 2007 and 30(8) of the LGPS Regulations 2013)

Pre 31st March 2014 leavers

The Council will not automatically agree to bring your deferred benefits into pay early, unless there are exceptional compassionate grounds for doing so.

Each case will be considered fairly by the Head of People & Technology based on the circumstances and merits of the case.

If the Council agrees to early payment of deferred benefits under the LGPS Regulations 1995 and 1997, you should note that this will only be from age 55 or date of application (if later than 55), as any payment before the minimum pension age of 55 is not authorised under the Finance Act 2006.

Post 31st March 2014 leavers

Your deferred benefits are normally payable from your normal retirement age which is linked to your state retirement age, with a minimum age of 65.

You can choose to take early payment of your deferred benefits from age 55 without your former employer's consent. However, you must be aware that your benefits will normally be reduced to take into account early payment.

The Council may choose to waive the actuarial reduction applied to your benefits on exceptional compassionate grounds. 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.

Can I receive my deferred pension early due to my poor health?

(Decide whether a deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria – Regulation 31(4) of the Benefits Regulations 2007 and 38(3) of the LGPS Regulations 2013)

The Head of People & Technology will decide whether or not you can receive your deferred pension early. To help them make this decision they have to obtain a certificate from an independent registered medical practitioner to determine:

Pre 31st March 2014 leavers

- Whether you are suffering from a condition that renders you 'permanently incapable of discharging efficiently the duties of the relevant employment because of ill-health or infirmity of mind or body'.

And if so,

- Whether as a result of that condition you have 'a reduced likelihood of being capable of undertaking any gainful employment' before reaching normal retirement age, or for at least three years, whichever is the sooner.

Post 31st March 2014 leavers

- Whether you are suffering from a condition that renders you 'permanently incapable of discharging efficiently the duties of their former employment because of ill-health or infirmity of mind or body'.

And if so,

- Whether as a result of that condition you are 'unlikely to be capable of undertaking any gainful employment' before reaching normal pension age, or for at least three years, whichever is the sooner.

Internal Dispute Resolution Procedure (IDRP)

What do I do if I don't agree with a decision that has been made regarding my pension?

(Decide procedure to be followed by adjudicator when exercising stage one IDRP functions – Regulation 74(4) of the LGPS Regulations 2013) (Whether to extend six month period to lodge stage on IDRP appeal – Regulation 74(6) of the LGPS Regulations 2013)

If we have taken a decision in relation to your membership of the LGPS which you are not satisfied with you have the right to use the Internal Dispute Resolution Procedure (IDRP). Similarly, if you believe that we should have taken a decision in relation to your membership of the scheme and that our failure to do so means that you have been adversely affected, you have the right to use the IDRP.

The complaint procedure has two stages. Many complaints are resolved at the first stage. Any complaint you make is treated seriously and considered thoroughly and fairly. At any stage during the formal complaint procedure you can contact the Pensions Advisory Service (TPAS) for information and advice.

In the first instance you should raise any concern with the Payroll Manager who will endeavour to resolve the matter in an informal way. If you are not satisfied by the response that you have received from the Payroll Manager you should put your complaint in writing, within six months of the day you were told the decision you want to complain about, to the Head of People & Technology and he/she will respond formally to the complaint. He/she 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.

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 88(2), 111(2) & (5), 112(1), 113(2), 115(2) & (3) of the LGPS Regulations and Regulation A47(2), A72(1)(3), A73(1) (2), A74(2), A75(2) & (3) of the Administration Regulations 2008 and Regulation 19(2), 91(1), (4), (8), 92(1) & (2), 93(2), 95 of the LGPS 2013 Regulations)

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.

Appendix 3

EQUALITY IMPACT ASSESSMENT

Name of activity:	Review of Pensions Discretions and development of an Industrial Injury Scheme	Date Completed:	December Cabinet
Directorate / Division responsible for activity:	People & Technology	Lead Officer:	Lucasta Grayson
Existing Activity	<input type="checkbox"/>	New / Proposed Activity	<input type="checkbox"/>
		Changing / Updated Activity	<input checked="" type="checkbox"/>

What are the aims / main purposes of the activity? (Why is it needed? What are the main intended outcomes?)

The review is to ensure that the Council has a clear policy statement on all the relevant discretions within the various regulations governing the Local Government Pension Scheme and associated discretionary payments.

What are the main actions and processes involved?

Review of existing scheme and updating with new information in consultation with colleagues.

Who is intended to benefit & who are the main stakeholders? (e.g. tenants, residents, customers or staff. How will they benefit?)

Members	CMT	Managers and staff
Unions	WSCC	

Have you already consulted on / researched the activity? (What consultation has taken place & what were the key findings?

What evidence already exists? Are there any gaps that need further investigation? What still needs to be done?)

Yes, consulted with WSCC and took on board their discretions document. Consulted with HR and Payroll to ensure accuracy, consulted with Unison

Branch Secretary and will consult with CMT and Members at Cabinet and Council meetings.

Impact on people with a protected characteristic (What is the potential impact of the activity? Are the impacts high, medium or low?)		
Protected characteristics / groups	Is there an impact (Yes / No)	If Yes, what is it and identify whether it is positive or negative
Age (older / younger people, children)	Yes	<u>Positive Impact</u> Clarity over discretions will help managers and individuals make decisions on retirement options. <u>Negative Impact</u>
Disability (people with physical / sensory impairment or mental disability)	Yes	<u>Positive Impact</u> Allows discretion in cases of those caring for those with disabilities and long standing health issues. <u>Negative Impact</u>
Gender reassignment (the process of transitioning from one gender to another.)	No	<u>Positive Impact</u> <u>Negative Impact</u>
Marriage & civil partnership (Marriage is defined as a 'union between a man and a woman'. Civil partnerships are legally recognised for same-sex couples)	No	<u>Positive Impact</u> <u>Negative Impact</u>
Pregnancy & maternity (Pregnancy is the condition of	No	<u>Positive Impact</u>

being pregnant & maternity refers to the period after the birth)		<u>Negative Impact</u>
Race (ethnicity, colour, nationality or national origins & including gypsies, travellers, refugees & asylum seekers)	No	<u>Positive Impact</u> <u>Negative Impact</u>
Religion & belief (religious faith or other group with a recognised belief system)	No	<u>Positive Impact</u> <u>Negative Impact</u>
Sex (male / female)	No	<u>Positive Impact</u> <u>Negative Impact</u>
Sexual orientation (lesbian, gay, bisexual, heterosexual)	No	<u>Positive Impact</u> <u>Negative Impact</u>

Whilst Socio economic disadvantage that people may face is not a protected characteristic; the potential impact on this group should be also considered	No	<u>Positive Impact</u> <u>Negative Impact</u>
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What evidence has been used to assess the likely impacts? (e.g. demographic profiles, research reports, academic research, benchmarking reports, consultation activities, staff surveys, customer surveys, public surveys, complaints, grievances, disciplinary cases, employment tribunal cases, ombudsman cases, media reports)
Review of age and length of service of existing workforce

--

What resource implications are there to deliver actions from this EIA? (Quantify: people, time, budget, etc.)
--

n/a

Outcome following initial assessment

Does the activity have a positive impact on any of the protected groups or contribute to promoting equality, equal opportunities and improving relations within target groups?	Yes	<p>If yes, record the evidence below. If no STOP and re-examine the activity.</p> <p>Revised discretions are set out in a user friendly way and cover all the necessary areas of pension provision which staff need in order to understand the implications for them of redundancy or retirement on the grounds of capability or efficiency of the service or some other exceptional reason.</p>
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Does the activity have a negative impact on any of the protected groups, i.e. disadvantage them in any way.	No	If yes, identify necessary changes and record appropriate actions below. If no, record the evidence and assessment is complete.
--	----	---



Decision following initial assessment
--

Continue with existing or introduce new / planned activity	Yes	Amend activity based on identified actions	No
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Action Plan (Has the EIA identified any positive or negative impact on any of the protected groups which requires action? E.g. adjustments to the approach or documents, changes to terminology, broadening parameters of policy, etc. If so record any actions to be undertaken and monitored)
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Impact identified	Action required	Lead Officer	Deadline
	Discretions to be reviewed on a regular basis probably after a three year period.	Lucasta Grayson	December 2017

Monitoring & Review	
Date of last review or Impact Assessment:	N/A
Date of next 12 month review:	
Date of next 3 year Impact Assessment (from the date of this EIA):	December 2017

Date EIA completed:	24.9.14
Signed by Person Completing:	
Date Sent to HR and Equalities Team:	24.9.14
Approved by Director:	

NB – The original signed hard copy & an electronic copy should be kept within your Department for audit purposes. Send an electronic copy to the OD Officer in HR & Development. Also, please complete the summary document overleaf. This will be included on the Council's website.

The EIA Toolkit provides guidance on completing EIAs & HR&D can provide further advice.

Crawley Borough Council Equality Impact Assessment



Completed Equality Impact Assessment	Key findings	Future actions
<p>Directorate / Division: People & Technology</p> <p>Function or policy name: Review of Pensions Discretions and development of an Industrial Injury Scheme</p> <p>Officer completing assessment (Job title): Head of People & Technology</p> <p>Date of assessment: 2014</p>	<ul style="list-style-type: none"> • The Council will have a clear policy statement on all the relevant discretions within the various regulations governing the Local Government Pension Scheme and associated discretionary payments. • Will provide greater clarity over discretions which will help managers and individuals make decisions on payment options. 	<ul style="list-style-type: none"> • None.