

Report to Employment Panel

Meeting Date: 7 February 2022
 Portfolio: Finance, Governance and Resources
 Key Decision: No
 Policy and Budget Framework Yes
 Public / Private Public

Title: PENSION DISCRETIONS POLICY STATEMENT
 Report of: Deputy Chief Executive
 Report Number: RD 69/21

Purpose / Summary:

A regular review of Employer Pensions Discretions is a requirement under the Local Government Pension Scheme (Amendment) Regulations 2018. The Council’s current discretions are set out in Appendix A of this report. There is one material amendment suggested to Part B of the scheme (non-mandatory discretions), Shared Cost Additional Voluntary Contributions (SCAVCs) (Regulation 17 of the LGPS Regulations 2013). The rationale for the proposed amendment is set out in the report. The report also provides an update on the procurement and implementation of a SCAVC scheme.

Recommendations:

1. The Employment Panel is asked to note the outcome of the procurement review of the original proposal and support the implementation of a SCAVC scheme, facilitated by AVC Wise at the earliest opportunity.
2. That the Employment Panel approve the amendment to the Council’s Pension Discretion policy to support the above proposal, as set out in section 2.1 of this report and as highlighted in Appendix A, Part B section ‘Shared Cost Additional Voluntary Contributions (SCAVCs) (Regulation 17 of the LGPS Regulations 2013)’ and
3. The Employment Panel approves the review of the councils Pension Discretions under the Local Government Scheme (Amendment) Regulations 2018.

Tracking

Executive:	Not applicable
Scrutiny:	Not applicable
Council:	Not applicable

1. BACKGROUND

As highlighted in a previous report considered by the Employment Panel in February 2020 (Pensions and Pension Discretions, RD. 55/19) a shared cost additional voluntary contributions (SCAVC) scheme would allow employees and the Council to make savings on NIC contributions and potentially on the Apprenticeship Levy.

In February 2020, the Employment Panel resolved that the implementation of a shared salary sacrifice scheme with AVC Wise be noted.

Subsequent to the resolution of the Employment Panel in February 2020 concerns were raised in relation to the robustness of the procurement exercise which had been undertaken and implementation of the scheme was paused on advice of the Chief Finance Officer pending a review of the procurement process. In March 2020 the effects of the pandemic took hold along with changes of staffing in the HR and Payroll section which delayed consideration of this matter longer than anticipated. The recently appointed HR and Payroll Manager has considered the issues and addresses these in the report below.

2. PROPOSALS

2.1. The Employment Panel is asked to note the outcome of the procurement review of the original proposal and support the implementation of a SCAVC scheme, facilitated by AVC Wise at the earliest opportunity.

As a reminder the proposal as set out in the previous report (RD. 55/19) read; 'That the Council implement a shared cost salary sacrifice scheme for AVCs which would be facilitated by AVC Wise. This would be a 3-year contract. Many Local Authorities have already moved to AVC Wise, including the County Council who administer the scheme and the LGPS are supportive of AVC Wise. The scheme allows both employees and the Council to make savings on NIC contributions and potentially on the Apprenticeship Levy. The tax savings would continue for employees. Current level of employer NI is 13.8% and Apprenticeship Levy of 0.5% - total of 14.3%. The fee charged by AVC Wise is 4.5% giving the Council a nett saving of 9.8% - based on current contributions this would be a saving of around £4,600.'

Subsequent to the resolution of the Employment Panel in February 2020 concerns were raised in relation to the robustness of the procurement exercise which had been undertaken and implementation of the scheme was paused on advice of the Chief Finance Officer pending a review of the procurement process.

The recently appointed HR and Payroll Manager has reviewed the procurement arrangements relating to this matter and liaising with the Head of Financial Services has determined that the procurement arrangements for appointing AVC Wise, as the provider of this scheme is now satisfactory. On this basis it is requested that the scheme be approved for implementation at the earliest opportunity.

2.2 The Employment Panel approve the amendment to the Council’s Pension Discretion policy to support the above proposal, as set out in section 2.1 of this report and as highlighted in Appendix A, Part B section ‘Shared Cost Additional Voluntary Contributions (SCAVCs) Regulation 17 of the LGPS Regulations 2013)’.

In order to support the adoption of the scheme the council’s Employer Discretions Policy statement requires amendment. The proposed amendment continues to reflect the intention that there be no additional cost to the council in entering into a shared AVC arrangement with any employee of the council.

The previous policy stated:

Carlisle City Council will not offer employees who contribute to the Local Government Pension Scheme. That is, Carlisle City Council will not contribute to any additional voluntary contribution contract on behalf of an employee but this does not prevent employees taking out an AVC arrangement and contributing in their own right.

It is proposed to amend the wording as follows;

Carlisle City Council will not offer employees who contribute to the Local Government Pension Scheme shared cost AVC arrangements except where the employee enters into a Shared Contribution AVC Salary Sacrifice arrangement with an approved, designated provider of salary sacrifice AVCs to the Council. In these circumstances both the employer and the employee would make savings. To clarify, Carlisle City Council will not incur any additional cost through any contribution to any additional voluntary contribution contract on behalf of the employee.

Where SCAVC Salary Sacrifice arrangements are made available by the council the contribution the employer makes to the SCAVC will be considered to be a pensionable emolument. This has the effect of ensuring no detrimental impact to the calculation of pension benefits as a result of joining a SCAVC Salary Sacrifice scheme.

2.3 The Employment Panel approves the annual review of the councils Pension Discretions under the Local Government Scheme (Amendment) Regulations 2018.

As a scheme employer of the Cumbria Local Government Pension Scheme (LGPS) the Council must formulate and update policies and discretions in relation to:

- the awarding of additional pension to members;
- the operation of early retirement and flexible retirement provisions;
- redundancy and compensatory payments, and
- the awarding of any discretionary payments.

In formulating these policies, employers must have regard to the extent to which the

exercise of functions could lead to a serious loss of confidence in the public sector and be satisfied that that policy is workable, affordable and reasonable having regard to the foreseeable costs.

A Scheme employer should always ensure that their discretionary policies are kept up to date. It is best practice to review these policies on an annual basis. The Council's existing policy was last reviewed and updated in February 2020. The reasons for the delay in the review are outlined further above in this report.

Once approved, the Statement of Policy must be issued to Cumbria County Council as administering authority of the Cumbria LGPS.

3. RISKS

3.1. Under:

- The 2014 Scheme Regulations – regulation 60 of the LGPS Regulations 2013 and paragraph 2(2) of Schedule 2 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014,
 - The 2008 Scheme Regulations – regulation 66 of the LGPS (Administration) Regulations, and
 - LGPS Regulations 1997 – regulation 106
- the Scheme employer must formulate, publish and keep under review a statement of their policy concerning all mandatory discretions under these regulations.

This review proposes to mitigate the risk of not meeting the requirements of the legislation outlined above.

4. CONSULTATION

None

5. CONCLUSION AND REASONS FOR RECOMMENDATIONS

5.1. The Employment Panel is asked to;

- note the outcome of the procurement review of the original proposal and support the implementation of a SCAVC scheme, facilitated by AVC Wise at the earliest opportunity.
- To approve the amendment to the Council's Pension Discretion policy to support the above proposal, as set out in section 2.1 of this report and as highlighted in Appendix A, Part B section 'Shared Cost Additional Voluntary Contributions (SCAVCs) (Regulation 17 of the LGPS Regulations 2013)' and
- To approve the review of the councils Pension Discretions under the Local Government Scheme (Amendment) Regulations 2018.

The reasons for the recommendation are to enable the implementation of an AVC scheme which will provide benefits to participating employees and providing savings to the council and further to undertake a regular review of LGPS employer discretions as required under legislation.

LGPS EMPLOYER DISCRETIONS: STATEMENT OF POLICY 2022/23

EMPLOYER NAME: Carlisle City Council

The employer stated above has prepared this written statement of policy in relation to its exercise of certain discretionary functions available under the above regulations.

PART A – Mandatory policy statements – Formulation of policy in accordance with:

Regulation 60 of the Local Government Pension Scheme (LGPS) Regulations 2013
Paragraph 2 (2) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014

Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008

Regulation 106 of the Local Government Pension Scheme Regulations 1997

PART A1 – Discretions from 1 April 2014 in relation to post 31 March 2014 active members and post 31 March 2014 leavers (excluding councillor members)

Power of Scheme employer to award additional pension (Regulation 31 of the LGPS Regulations 2013)

An employer can grant extra annual pension of up to a maximum £7,316 (2021/22 rate) to an active Scheme member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency. This maximum figure that can be initially awarded will be index linked and the level increased on the 1st April each year.

Employer's policy:

Extra annual pension will not normally be granted except where the employee elects to convert their discretionary payment under redundancy and early release in the interests of efficiency of the service to additional pension (additional pension by conversion). The discretionary payment will also be used to fund any additional actuarial strain liability. The cost of awarding additional pension will therefore be cost neutral to the authority under the Council's current Redundancy and Early Release Scheme Policy.

Additional pension will not be granted except as above.

Power of Scheme employer to contribute towards the cost of a member purchasing additional pension (Regulation 16 (2) (e) and 16 (4) (d) of the LGPS Regulations 2013)

Where an active Scheme member wishes to purchase extra annual pension of up to 7,316 (2021/22 rate) by making Additional Pension Contributions (APCs), the employer may voluntarily contribute towards the cost of purchasing that extra

pension via a Shared Cost Additional Pension Contribution. This maximum figure that can be initially purchased will be index linked and the level increased on the 1st April each year.

Employer's policy:

Carlisle City Council will not offer a shared cost APC arrangement for those members who purchase additional pension. That is, Carlisle City Council will not contribute to any additional pension contribution arrangement on behalf of an employee, but this does not prevent employees taking out an APC arrangement and contributing in their own right.

Flexible retirement

(Regulation 30 (6) and (8) of the LGPS Regulations 2013, Regulations 3 (5), 11(2), 11(3) and para.2 (1A) of sch 2 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 and regulation 18(3) of the LGPS (Benefits, Membership and Contributions) Regulations 2007)

The Local Government Pension Scheme allows scheme members who have attained the age of 55 to draw all or part of their retirement benefits under flexible retirement arrangements even though they have not retired providing that:

- the employer consents, and
- there has been a reduction in hours, or
- a reduction in grade.

Specifically, where the employer consents to flexible retirement then, in addition to the benefits the member has accrued prior to 1 April 2008 (which the member must draw), the employer can also allow the member to choose to draw all, part or none of the pension benefits they accrued after 31 March 2008.

However, benefits taken on flexible retirement will be subject to a potential actuarial reduction if they are being drawn earlier than the members' normal retiring age (flexible retirement provisions may be operated for members potentially up to a member's 75th birthday). The reductions applied will be in accordance with guidance issued by the government actuary. Employers can if they choose, waive in whole or in part, any reductions that might apply.

Employer's policy:

Members can elect to draw their pension from age 55 while remaining in employment, but only if at the same time:

- ~ the employee takes up a lower graded job, OR
- ~ there is a minimum 20% reduction in their working hours.

AND

- ~ Carlisle approves the flexible retirement and will normally only be agreed when it is in the organisation's best interests.

~ The employee's earnings, including pension payment are not more than their earnings before the flexible retirement took effect (excluding any cost of living awards).

Carlisle City Council will not normally waive any reduction in pension benefits arising as a result of the flexible retirement unless there is a strong business case for doing so.

Once Flexible Retirement has been agreed, Carlisle City Council will not normally allow the employee to work additional hours (on a permanent or temporary basis).

It should be noted that this facility does not replace the Early Retirement and Voluntary Redundancy Schemes. It is merely an additional provision.

**Early retirement and waiving actuarial reductions
(Schedule 2 paragraphs 1(1) (c), 2(1), 2(2) and Regulation 3 (1) of the LGPS
(Transitional Provisions, Savings and Amendment) Regulations 2014,
Regulation 30(8) of the LGPS Regulations 2013 and regulation 30(5) and 30A
(5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007)**

If a member leaves a local government employment before he is entitled to the immediate payment of retirement benefits, then if he is aged 55 or more (or having attained age 55 and have previously been awarded deferred benefits after 01 April 2014) he may choose to receive payment of them immediately.

Any benefits payable may be reduced as appropriate in accordance with guidance issued by the Government Actuary.

A policy decision is required to be made in respect of each of the following discretions:

- (1) Where a member voluntarily draws benefits between the age of 55 and 60 who has then satisfied the 'Rule of 85' or will do so on or before their 60th birthday, the actuarial reductions will be calculated pretending that the member had instead satisfied the 'Rule of 85' on their 60th birthday. The employer has discretion to require the actual date upon which the member satisfied (or would have satisfied) the 'Rule of 85' to be used. This will have the effect of reducing the actuarial reduction. Should an employee exercise this discretion, the employer must pay to the fund a pension strain payment.
- (2) In addition, employers can, if they choose, waive in whole or in part any reductions that might apply and the employer must pay to the Pension Fund a sum representing the capital cost of waiving those reductions. Due to the complexity in the level of protected benefits that now apply to different members, establishing what level of benefits can be waived can be difficult. **Appendix 1** lists the options available to employers in terms of the level of reductions that can be waived and the grounds under which they may be waived.

Employer's policy:

The actual date to satisfy the 'Rule of 85' will not be required.

The waiving of any reduction and the cost of the reduction associated with the early payment of benefits, after age 55, will only normally be granted on compassionate grounds and where it can be demonstrated to be in the employer's interest. Appendix 1 will be used to support this decision.

PART A2 – Discretions in relation to scheme members who ceased active membership on or after 1 April 2008 and before 1 April 2014 (excluding councillor members)

Power of Scheme employer to award additional membership (Regulation 3 (10) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 and regulation 12 of the LGPS (Benefits, Membership and Contributions) Regulations 2007)

An employer can within 6 months of the date of termination grant extra membership in the pension scheme to a Scheme member whose employment was terminated before 1 April 2014 on the grounds of redundancy or business efficiency. Note that this is a time limited discretion which expires on 30 September 2014 for those whose employment is terminated on 31 March 2014.

Employer's policy:

No longer applicable

Early release of deferred benefits (Regulations 30(2), (5), 30A(3) and (5) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and reg.3 (5A) (c), para.1 (1) (aa) and para. 2 (1) of sch.2 of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014)

Prior to 14 May 2018, members who left the scheme between 1 April 2008 and 31 March 2014 with deferred benefits (or suspended tier 3 benefits) who make an application to release benefits on or after age 55 and before age 60 required the former employer's consent. From 14 May 2018, this is no longer the case.

A policy decision is required to be made in respect of each of the following discretions:

- (1) Where a member voluntarily draws benefits between the age of 55 and 60 who has then satisfied the 'Rule of 85' or will do so on or before their 60th birthday, the actuarial reductions will be calculated pretending that the member had instead satisfied the 'Rule of 85' on their 60th birthday. The employer has discretion to require the actual date upon which the member satisfied (or would have satisfied) the 'Rule of 85' to be used. This will have the effect of reducing the actuarial reduction. Should an employee exercise this discretion, the employer must pay to the fund a pension strain payment.

- (2) In addition, employers can, if they choose, waive on compassionate grounds all of the actuarial reduction. If an employer does so, it must pay to the Pension Fund a sum representing the capital cost of waiving those reductions.

Employer's policy:

The actual date to satisfy the 'Rule of 85' will not be required.

Early release of deferred benefits and any waive of actuarial reduction will be considered, on compassionate grounds, and will be assessed on an individual basis in accordance with Appendix 1.

PART A3 – Discretions in relation to scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008 and active councillor members and councillor members who ceased active membership on or after 1 April 1998

Early release of deferred benefits with employer consent (Regulations 31(2) and (5) of the LGPS Regulations 1997 and reg.3 (5A) (b), para.1 (f) and para.2 (1) of sch.2 of the LGPS (transitional Provisions, Savings and Amendment) Regulations 2014)

A policy decision concerning early release of benefits needs to be made in relation to active members who have left the scheme between 1 April 1998 and 31 March 2008 with deferred benefits and councillor members who left after 1 April 1998 who make an application to release benefits on or after age 50* and before age 55.

Prior to 14 May 2018, members who left the scheme between 1 April 1998 and 31 March 2008 with deferred benefits (and councillor members) who make an application to release benefits on or after age 55 and before age 60 required the former employer's consent. From 14 May 2018, this is no longer the case.

A policy decision is required to be made in respect of each of the following discretions:

- (1) Where a member voluntarily draws benefits between the age of 55 and 60 who has then satisfied the 'Rule of 85' or will do so on or before their 60th birthday, the actuarial reductions will be calculated pretending that the member had instead satisfied the 'Rule of 85' on their 60th birthday. The employer has discretion to require the actual date upon which the member satisfied (or would have satisfied) the 'Rule of 85' to be used. This will have the effect of reducing the actuarial reduction. Should an employee exercise this discretion, the employer must pay to the fund a pension strain payment.
- (2) In addition, employers can, if they choose, waive on compassionate grounds all of the actuarial reduction. If an employer does so, it must pay to the Pension Fund a sum representing the capital cost of waiving those reductions.

*It should be noted that benefits paid on or after age 50 and before age 55 would be subject to an unauthorised payments charge under the Finance Act 2004 and, where

applicable, an unauthorised payments surcharge under that Act, and a Scheme sanction charge on any benefits built up after 5 April 2006.

Employer's policy:

The actual date to satisfy the 'Rule of 85' will not be required

Early release of deferred benefits and any waive of actuarial reduction will be considered, on compassionate grounds, and will be assessed on an individual basis in accordance with Appendix 1.

**PART A4 – Discretions in relation to scheme members who ceased active membership before 1 April 1998
(Regulation D11(2) (c) of the LGPS Regulations 1995)**

A policy decision concerning early release of benefits needs to be made in relation to active members who have left the scheme before 1 April 1998 who make an application on compassionate grounds to release benefits on or after age 50* and before age 60. Under these rules the sole discretion for an employing authority is that they may determine on compassionate grounds that benefits are to become payable on an unreduced basis.

*It should be noted that benefits paid on or after age 50 and before age 55 would be subject to an unauthorised payments charge under the Finance Act 2004 and, where applicable, an unauthorised payments surcharge under that Act, a Scheme sanction charge will not be payable.

Employer's policy:

Consideration, on compassionate grounds, will be assessed on an individual basis.

PART B – Formulation of policy in accordance with further discretions under the Local Government Pension Scheme Regulations 2013

There are a number of other discretions which Scheme employers may exercise under the LGPS Regulations 2013. There is, however, no requirement to have a written policy in respect of these. However, the following areas of discretion would be useful for scheme members, in order for them to establish the clear policy intention that the employers hold in these particular areas.

**Shared Cost Additional Voluntary Contributions (SCAVCs)
(Regulation 17 of the LGPS Regulations 2013)**

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

An employer can, at its discretion, contribute to the AVC scheme and where they do the AVC scheme is known as a shared cost additional voluntary contributions arrangement (SCAVC). An employer should establish whether, how much and in

what circumstances to either continue with an existing SCAVC or enter into a new SCAVC.

Employer's policy:

Carlisle City Council will not offer employees who contribute to the Local Government Pension Scheme shared cost AVC arrangements except where the employee enters into a SCAVC Salary Sacrifice arrangement with an approved, designated provider of salary sacrifice AVCs to the Council. In these circumstances both the employer and the employee would make savings. To clarify, Carlisle City Council will not incur any additional cost through any contribution to any additional voluntary contribution contract on behalf of the employee.

Where SCAVC Salary Sacrifice arrangements are made available by the council the contribution the employer makes to the SCAVC will be considered to be a pensionable emolument. This has the effect of ensuring no detrimental impact to the calculation of pension benefits as a result of joining a SCAVC Salary Sacrifice scheme

**Late transfer requests
(Regulation 100(6) and 22(7) and (8) of the LGPS Regulations 2013) and reg.10
(6) of the LGPS (Transitional Provisions, Savings and Amendment)
Regulations 2014**

The Local Government Pension Scheme Regulations allow for the acceptance of transfer value payments into the fund (subject to the Pension Fund administering authorities approval) to enable members to transfer pension rights accrued prior to joining the scheme into the LGPS, and thereby count additional pension. This election should be made within 12 months of first joining the LGPS in the employment.

The discretion allowed under regulation 100(6) relates to the acceptance of transfers relating to non LGPS membership, where the member makes a request after the expiry of the first 12 months of joining the LGPS.

In most situations, previous LGPS rights are automatically aggregated unless an election to keep those accrued benefits separate is received. Regulations 22 (7) and (8) allow an employer to extend the 12 month time limit within which a Scheme member who has a deferred LGPS benefit in England or Wales following the cessation of employment (or cessation of a concurrent employment) to elect not to have the deferred benefits aggregated with their new LGPS employment (or on-going concurrent LGPS employment) if the member has not made an election to retain separate benefits within 12 months of commencing membership of the LGPS in the new employment (or within 12 months of ceasing the concurrent membership).

Regulation 10 (6) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 allows a member to elect to aggregate a deferred benefit in respect of membership which ceased before 1 April 2014. Under this provision, the member would be awarded additional CARE benefits under the 2014 Scheme. The member must make the elections to do so within 12 months of joining the 2014 Scheme (or such longer time as the employer may allow).

Employer's policy:

A member must elect within 12 months of employment to amalgamate any previous service. This time limit will only be extended in exceptional circumstances.

**Contributions payable by active members
(Regulation 9 and 10 of the LGPS Regulations 2013)**

An active member shall make contributions to the Scheme at the relevant contribution rate, from his pensionable pay, in each employment in which he is an active member. The contribution rate to be applied to his pensionable pay in any financial year is the rate determined by the employer with reference to the tiered contribution pay bands stated in the regulations.

Where there is a material change to a member's pensionable pay in the course of a financial year, the employer may re-determine the contribution rate to be applied.

Employer's policy:

Contributions will be calculated, at the date of change, based upon the member's pensionable pay in line with the regulations.

**Assumed Pensionable Pay
(Regulation 21(4), (5), (5A) and (5B) of the LGPS Regulations 2013)**

Employers have the following 2 discretions:

(1) Whether or not, when calculating assumed pensionable pay when a member:

- is on reduced contractual pay or no pay on due to sickness or injury, or
- is absent during ordinary maternity, paternity or adoption leave or during paid additional maternity, paternity or adoption leave, or
- is absent on reserve forces service leave, or
- retires with a Tier 1 or Tier 2 ill health pension, or
- dies in service

to include in the calculation the amount of any 'regular lump sum payment' received by the member in the 12 months preceding the date the absence began or the ill health retirement or death occurred. A 'regular lump sum payment' is a payment for which the member's employer determines there is a reasonable expectation that such a payment would be paid on a regular basis.

(2) Where the pensionable pay received in the relevant 3-month period or, as the case may be, 12-week period, was, in the opinion of the employer, materially lower than the level of pensionable pay that the member normally receives, the employer has discretion to replace the actual pensionable pay received with a higher level of pensionable pay to reflect the level of pensionable pay that the member would normally have received. An employer must have regard to the level of pensionable pay received in the previous 12 months

when working out what level of pensionable pay the member normally receives.

Employer's policy:

Assumed Pensionable Pay will be calculated in accordance with regulation 21 of the LGPS Regulations 2013.

**Shared-cost APCs to buy back lost pension
(Regulation 16 (16) of the LGPS Regulations 2013)**

Members on the following types of leave which are not covered by APP are able to enter into an APC contract to buy back the lost CARE pension. If they make the election within 30 days of return, the employer must fund two-thirds of the cost. The employer has discretions to extend the 30-day deadline.

- Additional maternity leave during which no pensionable pay is received
- Additional adoption leave during which no pensionable pay is received
- Shared parental leave during which no pensionable pay is received
- Authorised unpaid leave (excluding strike leave)

If the individual leave period lasted longer than 36 months, the employer is only required to share the cost in relation to the first 36 months of leave.

Employer's policy:

A member must elect within 30 days of return to enter into an APC contract. This time limit will only be extended in exceptional circumstances.

PART C – Mandatory policy statement* – Formulation of policy in accordance with:

Regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006
Regulation 26 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000
Regulation 14 of the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011

*The mandatory requirements for a written policy under these regulations do not extend to employers whose employees are members of the LGPS by virtue of an admission agreement however as the provisions still apply it would be deemed appropriate for a policy statement to be in place

PART C1 – Discretions in relation to the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006

Redundancy and Compensation Payments

(Regulation 5 and 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006)

These regulations provide a discretionary power to award a one-off lump sum payment of up to 2 years pay (104 weeks), inclusive of any redundancy payment made. This applies to any member who terminates their employment on the grounds of redundancy, efficiency or in the case of a joint appointment (not job shares) where termination arises because the other holder of the joint appointment has left it.

The provisions apply to all employees who are eligible for participation in the LG Pension Scheme, whether or not they are current members of the scheme.

There is also a discretionary power to waive the weekly pay ceiling placed on statutory redundancy payments and to calculate, instead, on pay up to the actual week's pay.

Employer's policy:

Calculation of a redundancy payment will be based on the employee's contractual weekly earnings, and not the statutory redundancy payment ceiling.

Redundancy:

Carlisle City Council will make a discretionary redundancy payment of 1.5 times the statutory entitlement in addition to the statutory requirement (giving a payment of 2.5 times statutory entitlement) (based on the employee's actual pay as above).

Early retirement in the Interest of the Efficiency of the Service:

Where an employee is granted early retirement in the interest of the efficiency of the service Carlisle City Council will not normally make any discretionary compensatory payment; however, where it decides to do so, this will be 1.5 times the statutory number of weeks that they would have received if they had been made redundant. Based on actual pay.

Members leaving Carlisle City Council through redundancy or early release in the interests of efficiency of the service may elect to convert discretionary payments received to additional pension.

Where at the sole discretion of Carlisle City Council an employee is made redundant or granted early retirement in the interests of the efficiency of the service, the award should depend on there being a clear value for money case. The Council will take into account the full effects of the strain on the pension fund from the early payment of benefits as well as any additional costs.

PART C2 – Discretions in relation to the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000

**Redundancy and Compensatory Added Years payments
(Regulation 17,19,21 and 25 of the Local Government (Early Termination of
Employment) (Discretionary Compensation) (England and Wales) Regulations
2000)**

Prior to the 2006 discretionary regulations employers could award employees additional service following a redundancy or efficiency retirement where that employee was over age 50. Although this facility is no longer available to current active employees, there are still discretionary decisions to be made in respect of employees who are already in receipt of additional service. These include:

- How to apportion any surviving spouse's or civil partners annual compensatory added years payment where the deceased person is survived by more than one spouse or civil partner.
- How the annual added years will be apportioned amongst any eligible children.
- Whether, in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal pension suspension rules should be ignored i.e. whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid or if the authority's policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual compensatory added years payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation.
- Whether and to what extent to reduce or suspend the member's annual compensatory added years payment during any period of re-employment in local government and how to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment in local government.

Employer's policy:

The Council will apportion any surviving spouse's annual compensatory added years where the deceased is survived by more than one spouse or civil partner in such proportions as, at its sole discretion, it sees fit (based upon the merits of the individual cases).

The Council will apportion any eligible children's payments equally.

The Council will continue to pay the Compensatory Added Years payment in cases of remarriage or a new civic partnership. The Council does not apply the normal suspension rules, so this element is not applicable.

The Council will fully suspend any Compensatory Added Years payment during any period of re-employment in Local Government.

PART C3 – Discretions in relation to the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011

**Injury Allowance payments
(Regulations 3 to 7 of the Local Government (Discretionary Compensation)
(Injury Allowances) Regulations 2011)**

Under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 Scheme employers must formulate, publish and keep under review a policy on:

a) whether or not to make an injury award to those who sustain an injury or contract a disease as a result of anything they were required to do in performing the duties of their job and in consequence of which they:

- suffer a reduction remuneration, or
- cease to be employed as a result of an incapacity which is likely to be permanent and which was caused by the injury or disease, or
- die leaving a surviving spouse, civil partner or dependant, and

b) if the Scheme employer has a policy to make such payments, how it will determine the amount of injury allowance to be paid

Employer's policy:

The Council has not adopted a discretionary injury allowance scheme.
--

Declaration

It is understood that the above discretions are applicable to all eligible members of the Scheme. In respect of the mandatory policy requirements, a written statement should be published indicating the policy which is being applied by that employer in the exercise of its functions. A copy of the scheme employer's policy decisions should be sent to Your Pension Service within one month of the date the policy is revised.

Any change to the discretions exercised under the LGPS Regulations can take immediate effect from the date the Scheme employer agrees the change.

Any change to the discretions exercised under the Discretionary Compensation Regulations 2000, the Discretionary Compensation Regulations 2006 or the Injury Allowances Regulations 2011 cannot take effect until one month after the date the Scheme employer publishes a statement of its amended policy.

The policies made above:

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

Signed on behalf of the Employing Authority:

Name in Block Capitals:

Position:

Employing Authority: CARLISLE CITY COUNCIL

Date:

Signed on behalf of the Employing Authority:

Name in Block Capitals:

Position:

Employing Authority: CARLISLE CITY COUNCIL

Date:

Appendix 1 – if voluntarily retiring

If there is an actuarial reduction regarding the particular tranche of membership, the employer has the right to –

	Group 1	Group 2	Group 3	Group 4
Part A	Waive all or none on compassionate grounds.	Waive all or none on compassionate grounds	Waive all or none on compassionate grounds.	Waive all or none on compassionate grounds.
Part B1	Waive all or none on compassionate grounds.	Waive all or none on compassionate grounds.	Waive all or none on compassionate grounds.	Waive all or none on this on compassionate grounds.
Part B2	Waive all or none on compassionate grounds.	Waive all or none on compassionate grounds.	Waive all, some or none on any grounds.	Waive all, some or none on any grounds.
Part C	Waive all, some or none on any grounds.	Waive all or none on compassionate grounds.	Waive all, some or none on any grounds.	Waive all, some or none on any grounds.
Part D1	Waive all, some or none on any grounds.	Waive all, some or none on any grounds.	Waive all, some or none on any grounds.	Waive all, some or none on any grounds.

Part A = membership to 31 March 2008

Part B1= membership 1 April 2008 to 31 March 2014

Part B2 = membership 1 April 2014 to 31 March 2016

Part C = membership 1 April 2016 to 31 March 2020

Part D1 = membership 1 April 2020 onwards

Group 1 member = a member who was an active member prior to 1 October 2006 and who was born on 31 March 1956 or earlier

Group 2 member = a member who was an active member prior to 1 October 2006, was born between 1 April 1956 and 31 March 1960 inclusive, and who would reach their CRA by 31 March 2020

Group 3 member = a member who was an active member prior to 1 October 2006 and who is not a Group 1 or Group 2 member

Group 4 member = a member who was not a member prior to 1 October 2006.

If member retires on flexible retirement, the employer may waive all, some or none of any reduction on any grounds.