

## **Cambridge City Council Local Government Pension Scheme Employers Discretions**

### **Purpose**

To allow Cambridge City Council to comply with its duties within the Local Government Pension Scheme Regulations, by ensuring that the Council has a published Statement of Policy covering the certain discretionary powers available to the Council.

### **Regulations Covered**

The Councils Discretions policy addresses current employer discretions within the following regulations: (as at 01.10.08)

- The Local Government Pension Scheme (Administration) Regulations 2008
- The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended)
- The Local Government Pension Scheme (Transitional Provisions) Regulations 2008
- The Local Government Pension Scheme Regulations 1997 (as amended)
- The Local Government Pension Scheme (Transitional Provisions) Regulations 1997 (as amended)
- The Local Government Pension Scheme Regulations 1995 (as amended)
- The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)
- The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended)
- Discretions under the Local Authorities (Members' Allowances) (England) Regulations 2003 [SI 2003/1021]
- The Local Government (Discretionary Payments)(Injury Allowances) Regulations 2011

### **Monitoring & Review**

Council officers will review this statement every 3 years and / or in line with changes to the Local Government Pension Scheme (LGPS) as advised by the Local Government Pensions Committee (LGPC) and the Administering Authority (Cambridgeshire County Council). Any recommended changes will go before Members for approval.

The operation and effectiveness of this statement will be monitored by the Director of Resources and the Head of Human Resources, with a view to addressing any issues identified and agreeing improvements. The Trades Unions will be consulted about any proposals.

## Regulations Key

- Discretions from 1.4.08. in relation to post 31.3.08. active members (excluding councillor members) and post 31.3.08. leavers (excluding councillor members), being discretions under:
  - the Local Government Pension Scheme (Administration) Regulations 2008 [**prefix A**]
  - the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) [**prefix B**]
  - the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [**prefix T**]
  - the saved provision of the Local Government Pension Scheme Regulations 1997 (as amended) [**prefix L**]
- Discretions under the Local Government Pension Scheme Regulations 1997 (as amended) in relation to active councillor members and pre 1.4.08. scheme leavers [**Prefix C**]
- Discretions under the Local Government Pension Scheme (Transitional Provisions) Regulations 1997 (as amended) – revoked [**Prefix TR**]
- Discretions under the Local Government Pension Scheme Regulations 1995 (as amended) in relation to pre 1.4.98. scheme leavers [**Prefix D**]
- Discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended) [**Prefix E**]
- Discretions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended) [**Prefix ET**]
- Discretions under the Local Authorities (Members' Allowances) (England) Regulations 2003 [SI 2003/1021] [**Prefix SI**]
- \* These employer discretions are subject to a written policy under Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (“the Benefit Regulations”).

## 1) Membership, Aggregation &amp; Contribution Discretions

	Discretionary Power	Regulation	Cambridge City Council Discretion
1.	Determine rate of employees' contributions	B3 & T9	CCC has a position statement, which details how it will determine employee contribution rates; the statement has been approved by JTUG and communicated to employees. This will be reviewed on a regular basis and is published on the Councils Intranet.
2.	Specify in an employee's contract what other payments or benefits, other than those specified in B4(1)(a) and not otherwise precluded by B4(2) or (3), are to be pensionable	B4(1)(b)	CCC does not provide any payments or benefits deemed pensionable, outside those listed in B4(1)(a) which states " <i>all the salary, wages, fees and other payments paid to him for his own use in respect of his employment</i> " with the exception of Salary Sacrifice schemes. A document entitled what is pensionable pay is published on the Councils intranet.
3.	Whether to recover employee contributions that had been reduced or waived after 40 years pensionable local government service prior to the deletion of L15 by SI 2006/966	Reg 8 of SI 2006/966	CCC's previous discretion in relation to Reg 15 was to reduce an employee's contribution rate to 3% during the period in which they were unable to accrue additional pensionable service. In such cases CCC will not seek to recover reduced contributions.
4.	Employer may deduct contributions from an employee's pay or reserve forces pay	A45(1) & (2)	CCC will adopt this discretion and deduct contributions from employees pay and will deduct from reserve forces pay in accordance with the regulations on a case-by-case basis.
5.	Employer may deduct contributions from an councillor's pay or reserve forces pay	C89(1) & (2)	The Council should not agree to an entitlement to a pension for any (elected) member under its Allowances Scheme. (Meeting of the Council 4/12/03 Minute 03/62)
6.	Allow a councillor who has opted out more than once to rejoin	C7(9)(a)	The Council should not agree to an entitlement to a pension for any (elected) member under its Allowances Scheme. (Meeting of the Council 4/12/03 Minute 03/62)

Appendix A

7.	Allow a late application by a councillor member to pay optional contributions for a period of absence.	<b>C18(6) &amp; (7)</b>	The Council should not agree to an entitlement to a pension for any (elected) member under its Allowances Scheme. (Meeting of the Council 4/12/03 Minute 03/62)
8.	Councillor optants out and pre 1.4.08 employee optants out only to get benefits paid from Normal Retirement Date if employer agrees.	<b>C31(7A)*</b>	The Council should not agree to an entitlement to a pension for any (elected) member under its Allowances Scheme. (Meeting of the Council 4/12/03 Minute 03/62)  CCC will not pay until the pre 1.4.08 employee ceases the job they opted out from.
9.	Scheme of allowances made by a district council, county council or London borough council must specify which members will be eligible to join the LGPS and whether the basic and / or special responsibility allowances will be pensionable	<b>SI11</b>	The Council should not agree to an entitlement to a pension for any (elected) member under its Allowances Scheme. (Meeting of the Council 4/12/03 Minute 03/62)

## 2) Additional Membership Benefits; Augmentation &amp; Final Pay

	Discretion	Regulation	Cambridge City Council Discretion
10.	Whether to augment membership of an active member (by up to 10 years)	<b>B12*</b>	CCC does not augment membership of an active LGPS member in any circumstances.
11.	Whether to grant additional pension to a member (by up to £5,000 p.a.)	<b>B13*</b>	CCC does not grant additional pension to any active LGPS member.
12.	Agree with Administering Authority the method of paying for augmented membership granted under <b>B12</b> or additional pension granted under <b>B13</b>	<b>A40(2)&amp;(4)</b>	This discretion is not applicable as CCC will not augment membership or grant additional pension
13.	Agree with the Administering Authority whether to extend the one month period within which a lump sum payment by the employer under <b>A40(2)</b> has to be made (to pay for any augmented membership granted under <b>B12</b> or additional pension granted under <b>B13</b> )	<b>A40(9)(b)</b>	This discretion is not applicable as CCC will not augment membership or grant additional pension
14.	Whether, how much, and in what circumstances to contribute to a shared cost AVC scheme	<b>A25(3) &amp; B15(3)</b>	CCC will not introduce a shared cost AVC arrangement.
15.	Whether to allow a member to select <b>final pay period for fees*</b> to be any 3 consecutive years ending 31 <sup>st</sup> March in the 10 years prior to leaving. <i>This discretion specifically relates to variable time employees where pay includes fees e.g. Returning Officer.</i>	<b>B11(2)</b>	CCC will allow members to select final pay period for fees to be any 3 consecutive years ending 31 <sup>st</sup> March in the 10 years prior to leaving. Subject to the approval of the nominated person as defined in the Council's constitution.

## 3) Extension of Standard Scheme Time Limits

	<u>Discretion</u>	<u>Regulation</u>	<u>Cambridge City Council Discretion</u>
16.	Whether to extend the 12 month option period for aggregation of deferred benefits	A16(4)(b)(ii)	<p>CCC will only extend the 12 months time limit for aggregation of LGPS membership where:</p> <p>a) The member is initially appointed on a fixed term contract for a period of a year or less and the contract is subsequently extended to a period of greater than one year. Such an active member may opt to aggregate LGPS benefits within 3 months of the notification of the contract extension or within 12 months of joining the LGPS with CCC, whichever is the later;</p> <p>b) CCC determines that the available evidence indicates the member made an election within 12 months of commencing membership of the LGPS with CCC, but the election was not received by the Pension Fund administering authority (e.g. the election form was lost in the post). Such a member may make a fresh election opt to aggregate LGPS benefits within 3 months of CCC making the aforesaid determination;</p> <p>c) CCC determines that the available evidence indicates the member had not been informed of the 12-month time limit due to maladministration. Such a member may opt to aggregate LGPS benefits within 12 months of CCC making the aforesaid determination;</p>
17.	Whether to allow a late application by member to pay optional contributions for a period of unpaid child related leave, strike, or unpaid leave of absence beyond 30 days	A22(2)	An extension of the time limit will only be granted where CCC have not provided notification to an employee of their right to pay. Where this is the case CCC will extend the time limit to 1 month from the date of the Councils notification informing the member of their right to pay.
18.	Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership	TSch1; & L66(8) & former L66(9)(b)	An extension of the time limit will only be granted where the member has not been notified of the potential additional service that may be purchased. Where this is the case CCC will extend the time limit to one month from the date of notification of the potential service credit.

Appendix A

19.	Whether to extend six-month period to lodge a stage one Internal Dispute Resolution Procedure (IDRP) appeal.	A58(7)(b)	Requests to extend the 6-month period will be considered on a case-by-case basis by the nominated person as defined in the Council's constitution.
20.	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	A83(8)	<p>CCC will only extend the 12 months period where:</p> <p>a) The member asked for transfer investigations to be commenced within 12 months of joining the LGPS but a service credit has not been offered to the member within 11 months of joining the LGPS. The time limit for such a member to make a formal election to transfer pension rights into the LGPS will be extended to one month beyond the date of the letter issued by the Pension Fund administering authority notifying the Scheme member of the service credit the transfer will buy in the LGPS;</p> <p>b) The member is initially appointed on a fixed term contract for a period of a year or less and the contract is subsequently extended to a period of greater than one year. Such a member may request transfer investigations to be commenced within 3 months of the notification of the contract extension or within 12 months of joining the LGPS, whichever is the later and may make a formal option for the transfer to proceed within one month of the date of the letter issued by the Pension Fund administering authority notifying the Scheme member of the service credit the transfer will buy in the LGPS or within 12 months of joining the LGPS, whichever is the later;</p> <p>c) CCC determines that the available evidence indicates the member made an election within 12 months of joining the LGPS, but the election was not received by the Pension Fund administering authority (e.g. the election form was lost in the post). Such a member may make a fresh election opt to aggregate LGPS benefits within 3 months of CCC making the aforesaid determination;</p> <p>d) CCC determines that the available evidence indicates the member had not been informed of the 12 month time limit due to maladministration. Such a member may opt to aggregate LGPS benefits within 12 months of CCC making the aforesaid determination.</p>

Appendix A

21.	Whether to extend 12 month period for aggregation of deferred benefits (where deferred councillor member wishes to aggregate with current councillor membership in the same Fund)	C32(8A)	The Council should not agree to an entitlement to a pension for any (elected) member under its Allowances Scheme. (Meeting of the Council 4/12/03 Minute 03/62)
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**4) Recovery and Forfeiture of contributions**  
**4a) Criminal Offences, Fraud and Misconduct**

	<u>Discretion</u>	<u>Regulation</u>	<u>Cambridge City Council Discretion</u>
22.	No right to return of contributions due to offence of a fraudulent character or grave misconduct unless employer directs a total or partial refund is to be made	A47(2)	Cambridge City Council will direct a refund of contributions less any debt owed to the Council by the member (see Reg A76 (2) and (3))
23.	No right to return of contributions due to offence of a fraudulent character or grave misconduct unless employer directs a total or partial refund is to be made (councillor leavers and pre 1.4.08 leavers)	C88(2)	The Council should not agree to an entitlement to a pension for any (elected) member under its Allowances Scheme. (Meeting of the Council 4/12/03 Minute 03/62)  Cambridge City Council will direct a refund of contributions less any debt owed to the Council by the member (see Reg C88 (2))
24.	Whether to apply to Secretary of State for a forfeiture certificate (where member is convicted of a relevant offence e.g. an offence in connection with his / her employment which was gravely injurious to the state or liable to lead to a serious loss of confidence in the public service.)	A72(1) & (6)	Where appropriate the Council will apply for a certificate.
25.	Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited	A72(3)	If a forfeiture certificate is issued by the Secretary of State it will be applied against the members pension rights (i.e. the rights should be forfeited)
26.	Forfeiture of pension rights on issue of Secretary of State's certificate (councillors and pre 1.4.08 leavers)	C111(2)&(5)	The Council should not agree to an entitlement to a pension for any (elected) member under its Allowances Scheme. (Meeting of the Council 4/12/03 Minute 03/62)  If a forfeiture certificate is issued by the Secretary of State it will be applied against the members pension rights (i.e. the rights should be forfeited)

Appendix A

27.	Where forfeiture certificate is issued, whether to direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits	<b>A73(1) &amp; (2)</b>	In line with decisions under Regulations <b>A72(1)</b> and <b>72(3)</b> there will be no need for the Council to decide whether or not to make interim payments.
28.	Where forfeiture certificate is issued, direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits (councillors and pre 1.4.08 leavers)	<b>C112(1)</b>	The Council should not agree to an entitlement to a pension for any (elected) member under its Allowances Scheme. (Meeting of the Council 4/12/03 Minute 03/62)  In line with decisions under Regulations <b>C112(2)</b> and (5) there will be no need for the Council to decide whether or not to make interim payments.
29.	Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights or AVCs/SCAVCs) where the obligation was incurred as a result of a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left employment	<b>A74(2)</b>	The Council will make the appropriate recovery and reduce the member's pensions rights accordingly where the member has not made good the debt.
30.	Recovery from Fund of monetary obligation owed by former employee or, if less, the value of the member's benefits (other than transferred in pension rights) (councillors and pre 1.4.08 leavers)	<b>C113(2)</b>	The Council should not agree to an entitlement to a pension for any (elected) member under its Allowances Scheme. (Meeting of the Council 4/12/03 Minute 03/62)  The Council will make the appropriate recovery and reduce the member's pensions rights accordingly where the member has not made good the debt.
31.	Whether to recover from Fund any financial loss caused by fraudulent offence or grave misconduct of employee (who has left because of that), or amount of refund if less	<b>A76(2) &amp; (3)</b>	The Council will make the appropriate recovery from the pension fund where the member has not made good the debt.

Appendix A

32.	Recovery from Fund of financial loss caused by employee, or amount of refund if less (councillors and pre 1.4.08 leavers)	C115(2)&(3)	<p>The Council should not agree to an entitlement to a pension for any (elected) member under its Allowances Scheme. (Meeting of the Council 4/12/03 Minute 03/62)</p> <p>The Council will make the appropriate recovery from the pension fund where the member has not made good the debt.</p>
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**4b) Contributions equivalent premiums**

33.	Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund	A49(1) & (2)	<p>The balance is recovered from the fund. In practice this is achieved by the administering authority paying the CEP out of the fund direct to the relevant government departments on behalf of the employer.</p>
34.	Contribution Equivalent Premium (CEP) in excess of the Certified Amount (CA) recovered from a refund of contributions can be recovered from the Pension Fund (councillor leavers and pre 1.4.08 leavers)	C92	<p>The balance is recovered from the fund. In practice this is achieved by the administering authority paying the CEP out of the fund direct to the relevant government departments on behalf of the employer</p> <p>The Council should not agree to an entitlement to a pension for any (elected) member under its Allowances Scheme. (Meeting of the Council 4/12/03 Minute 03/62)</p>

## 5) Types of Retirement

### 5a) Early Payment, Flexible Retirement and Actuarial Reduction

	Discretion	Regulation	Cambridge City Council Discretion
35.	Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement)	B18(1)*	CCC has issued a Flexible Retirement Policy, which is available to all employees. The Flexible Retirement Policy is published on the Councils intranet. Where flexible retirement has been granted, employees are required to take all accrued benefits to date
36.	Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement	B18(3)*	CCC does not waive actuarial reduction on benefits paid upon flexible retirement. The Councils flexible retirement policy is published on the Councils intranet.
37.	Whether to grant application for early payment of benefits on or after age 55 and before age 60	B30(2)*	CCC will treat applications received for early payment of benefits on a case-by-case basis where there is an appropriate business case (Refer to redundancy & retirement approval process) or there are compelling compassionate reasons (refer to discretion 38)
38.	Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early	B30(5)*	CCC will consider each case on its own merits
39.	Grant application from a post 31.3.98 / pre 1.4.08 leaver or from a councillor for early payment of benefits on or after age 50/ 55 and before age 60	C31(2)*	The Council should not agree to an entitlement to a pension for any (elected) member under its Allowances Scheme. (Meeting of the Council 4/12/03 Minute 03/62) In relation to a post 31.3.98 / pre 1.4.08 leaver, CCC will consider each case on its own merits.

Appendix A

40.	Waive, on compassionate grounds, the actuarial reduction applied to benefits paid early for a post 31.3.98 / pre 1.4.08 leaver or a councillor leaver	<b>C31(5)*</b>	The Council should not agree to an entitlement to a pension for any (elected) member under its Allowances Scheme. (Meeting of the Council 4/12/03 Minute 03/62) In relation to a post 31.3.98 / pre 1.4.08 leaver, CCC will consider each case on its own merits.
41.	Grant application from a pre 1.4.98 leaver for early payment of deferred benefits on or after age 50 on compassionate grounds	<b>D11(2)(c)</b>	CCC will consider each case on its own merits.  Please note: If agreed the pension will be paid in full without actuarial reduction, the Council has no discretion on this aspect for pre 1.4.98 leavers.
42.	Decide, in the absence from a post 31.3.98 / pre 1.4.08 leaver of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership	<b>C34(1)(b)</b>	Where a member has not made an election within 3 months the Council will apply whichever is deemed the more beneficial provision.
43.	Decide, in the absence from a pre 1.4.98 leaver of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership	<b>D10</b>	Where a member has not made an election within 3 months the Council will apply whichever is deemed the more beneficial provision.

**5b) Ill Health**

	<b><u>Discretion</u></b>	<b><u>Regulation</u></b>	<b>Cambridge City Council Discretion</b>
44.	Decide which ill health tier leaver falls into	<b>B20</b>	Ill Health Retirement cases will be dealt with under LGPS Ill Health Retirement Procedures and we will have due regard to the opinion of the Independent Registered Medical Practitioner.
45.	Decide whether deferred beneficiary meets permanent ill health criteria	<b>B31</b>	Ill Health Retirement cases will be dealt with under LGPS Ill Health Retirement Procedures and we will have due regard to the opinion of the Independent Registered Medical Practitioner.

**5c) Redundancy**

	<b><u>Discretion</u></b>	<b><u>Regulation</u></b>	<b>Cambridge City Council Discretion</b>
46.	To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks pay limit.	<b>E5</b>	The CCC Organisational Change Policy states that redundancy payments will be based on a contractual weeks pay.
47.	To award lump sum compensation of up to 104 weeks pay in cases of redundancy, termination of employment on business efficiency grounds, or cessation of a joint appointment.	<b>E6</b>	CCC does not award any such compensation in cases of redundancy, termination of employment on business efficiency grounds, or cessation of a joint appointment.

**Formulating and publishing a policy under the Discretionary Compensation Regs 2006 (in relation to discretions 46 and 47)**

The employer must formulate, publish and keep under review a statement of their policy.

If the employer decides to amend the policy, no change can come into effect until one month has passed since the date the amended policy statement was published.

In formulating and reviewing its policy an employer is required by the Regulations to:

- have regard to the extent to which the exercise of their discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service, and

be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

## 6) Apportioning Compensatory Added Years

	<u>Discretion</u>	<u>Regulation</u>	<b>Cambridge City Council Discretion</b>
48.	How to apportion any surviving spouse's or civil partner's annual compensatory added years payment where the deceased person is survived by more than one spouse / civil partner.	ET21(4)	The Council will apportion any surviving spouse's or civil partner's annual compensatory added years where the deceased person is survived by more than one spouse or civil partner in such proportions as, at its sole discretion, it sees fit (based on the merits of the individual cases). Where no representation is received payments will normally be apportioned equally.
49.	How to decide to whom any children's annual compensatory added years payments are to be paid where children's pensions are not payable under the LGPS (because the employee had not joined the LGPS) and, in such a case, how the annual added years will be apportioned amongst the eligible children	ET25(2)	This discretion is not applicable because CCC did not award Compensatory Added Years to non LGPS members
50.	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 disapplied i.e. whether the spouse's or civil partner's annual compensatory added years payments should continue to be paid	ET21(7)	If the spouse or civil partner of a person who ceased employment before 1 April 1998 remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal annual compensation suspension rules will be disapplied i.e. the spouse's or civil partner's annual compensatory added years will continue to be paid
51.	Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partners annual CAY payment, the normal	ET21(7)	If the spouse or civil partner of a person who ceased employment before 1 April 1998 remarries or cohabits after 1 April 1998 with another person who is also entitled to a spouse's or civil partners annual CAY payment, the normal annual compensation suspension rules will be disapplied i.e. the spouse's or civil partner's annual compensatory added years will continue to be paid to both of them.

Appendix A

	<p>rule requiring one of them to forego payment whilst the period of marriage, civil partnership or co-habitation lasts, should be disapplied i.e. whether the spouses' or civil partners' annual CAY payments should continue to be paid to both of them.</p>		
<p>52.</p>	<p>If, under the preceding decision, 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</p>	<p><b>ET21(5)</b></p>	<p>Due to the decision in discretion ET21(7) this discretion is not applicable.</p>
<p>53.</p>	<p>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</p>	<p><b>ET17</b></p>	<p>CCC will, during any period of re-employment in local government (see note below), abate a person's annual compensatory added years payment by the 'excess' if the aggregate of:</p> <ul style="list-style-type: none"> <li>- the annual compensation (including any pension increases), and</li> <li>- the annual pension from the LGPS (including any pension increases), and</li> <li>- the annual rate of pay from the new employment</li> </ul> <p>exceeds the pay the person would have received from the employment in respect of which the compensatory added years were granted, based on the annual rate of pay at the date of ceasing the former employment as increased by the relevant cost of living increases (i.e. as increased by the rate at which an "official pension" is increased under the Pensions (Increase) Act 1971).</p>
<p>54.</p>	<p>How to reduce the member's annual compensatory added years payment following the cessation of a period of re-employment in local government</p>	<p><b>ET19</b></p>	<p>CCC will reduce a person's annual compensatory added years payment following the cessation of a period of re-employment in local government (see note below) to the extent necessary to secure that if:</p> <ul style="list-style-type: none"> <li>- the period of compensatory added years granted in respect of the former employment,</li> </ul>



Appendix A

plus

- the period of membership the person has accrued in the LGPS (or would have accrued had he / she joined the scheme) during the period of re-employment in local government, counted at its part-time length, if the person was part-time,

exceeds

- the period of membership the person would have accrued during the period from the cessation of the former employment until age 65 on the assumption that he / she had continued in that former employment to age 65 (again counted at its part-time length if the person was part-time at the date of cessation of the former employment),

then

- the annual pension and lump sum from the first job combined with the annual pension and automatic lump sum (if any) from the second job (based on the assumption that the employee joined the LGPS at the first opportunity), plus the annual compensation and lump sum compensation, shall not in aggregate exceed the pension and lump sum the person would have achieved if he / she had remained in the first job through to age 65.

Where there is an excess, the annual compensation must be reduced by the excess pension, and if the annual compensation is not reduced to nil, the amount of the remaining (reduced) basic annual compensation (excluding cost of living increases) must then be suspended until the excess lump sum (if any) is recovered.

In calculating whether or not, in aggregate, the annual pension and lump sum from the first job, plus the annual pension and lump sum (if any) from the second job (based on the assumption that the employee joined the LGPS at the first opportunity), plus the annual compensation and lump sum compensation, exceeds the pension and lump sum the person would have achieved if he / she had remained in the first job through to age 65 it will be necessary to compare:

a) the actual LGPS pre 1 April 2009 1/80th pension and 3/80ths lump sum, plus the actual LGPS post 31 March 2008 1/60th pension (ignoring any commutation for a lump sum), plus the actual 1/80th annual compensation and 3/80ths lump sum compensation, with

b) the 1/80th LGPS pension and 3/80ths lump sum the member would have achieved in their

Appendix A

first job to 31 March 2008, plus the 1/60th LGPS pension the member would have achieved in their first job (ignoring any potential commutation for a lump sum), if the member had stayed in the first job through to age 65.

In determining the benefits the employee could have achieved had he / she remained in the first employment through to age 65 it will be necessary to determine the pensionable pay to be used in the calculation. For this purpose, the pensionable pay figure used in the calculation of the pension benefits in the first job will be used as brought up to date, at the date of cessation of the period or re-employment, by increasing it in line with the rate at which an "official pension" would have been increased under the Pensions (Increase) Act 1971.

If a person has been awarded more than one previous period of compensatory added years, e.g. as a result of being made redundant more than once, the abatement/clawback provisions are modified. In such a case, the rules under the former Local Government (Discretionary Payments) Regulations 1996 will be applied where a person ceases a period of re-employment in local government and has previously been granted more than one period of compensatory added years, but using the pay in the first job as increased in line with cost of living increases (i.e. ignoring regulations 18(5)(a)(ii), 18(6) and 18(7) of the Local Government (Discretionary Payments) Regulations 1996).

**Note:** 'local government' means employment with an employer who offers membership of the LGPS to its employees, regardless of whether or not the employee chooses to join the LGPS (except where the employer is an Admitted Body). Technically, an employee of an Admitted Body (i.e. a body that has applied to the administering authority to allow its employees to join the LGPS and has entered into a formal admission agreement) is only employed in 'local government' if he / she is a member of the LGPS.

Formulating and publishing a policy under the Discretionary Compensation Regs 2000 (in relation to discretions 48 to 54)

The employer must formulate, publish and keep under review a statement of their policy.

If the employer decides to amend the policy, a new written statement must be published within a month of when the employer decided on the amendment(s). No change can come into effect until one month has passed since the date the amended policy statement was published.

In formulating and reviewing its policy an employer is required by the Regulations to:

- have regard to the extent to which the exercise of their discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service, and
- be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

## **Injury Allowances**

Cambridge City Council will not make any awards under the Local Government (Discretionary Payments)(Injury Allowances) Regulations 2011 as

CCC holds Employers Liability Insurance

CCC has provision for NJC employees under the National Agreement on pay and conditions of service (Green Book)

## **GENERAL**

### **Consultation**

The discretionary policies contained in this Statement of Policy, and any awards under the Statement of Policy, are to be determined at the sole discretion of Cambridge City Council (CCC). When CCC intends to consider a change or changes to the Statement of Policy it will give notice to the recognised Trade Unions but is not required to consult with them.

A copy of CCC's Statement of Policy will be sent to the Pension Fund administering authority.

## **Effective date of change**

Any change to the discretions exercised under the LGPS Regulations can take immediate effect from the date CCC agrees the change. A copy of the revised policy must be sent to the Pension Fund administering authority within one month of the date of any change.

Any change to the discretions exercised under the Discretionary Compensation Regulations cannot take effect until one month after the date CCC publishes a statement of its amended policy.

It should be noted that:

This Statement of Policy will confer no contractual rights;

- Subject to the section above (“effective date of change”) CCC retains the right to change the policy at any time without prior notice or consultation (although CCC will endeavour to discuss proposed changes with the recognised Trades Unions)
- Only the policy which is current at the time a relevant event occurs to an employee will be the one applied to that employee.