

**TO: EMPLOYMENT COMMITTEE  
18 JUNE 2014**

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**ANNUAL PERFORMANCE REPORT ON RETIREMENTS AND REDUNDANCIES  
(Director of Corporate Services – Human Resources)**

**1 PURPOSE OF REPORT**

- 1.1 The Council produces an annual report to outline its current policy on severance issues and explain any potential for change, to show the capital costs and savings on early retirements/redundancies and to report on ill health retirements. The Council has been doing this since 1999 so, in line with established practice, this report summarises the Council's performance during the last financial year i.e. 1/4/13 to 31/3/14.

**2 RECOMMENDATION(S)**

- 2.1 **That the Committee note the changes to the Local Government Pension Scheme**
- 2.2 **That the Committee does not opt to enter into Shared cost Additional Pension Contributions (paragraph 5.2.2)**
- 2.3 **That the Committee does not overturn the current default position on the 85 year rule (paragraph 5.2.4)**
- 2.4 **That changes to employee contribution rates are made throughout the year rather than as at 1<sup>st</sup> April each year (paragraph 5.2.11)**
- 2.5 **That the Committee does not extend the 12 month standard period employees have to decide whether to keep current and past pensions separate (paragraph 5.2.15)**
- 2.6 **That regular lump sum payments are included in the calculation of Assumed Pensionable Pay (paragraph 5.2.17)**
- 2.7 **That the published discretions now include the Council's stance on additional payments after injury or accident (paragraph 5.2.20)**
- 2.8 **The Committee endorses the policy statements in Appendix A**
- 2.9 **The Committee endorses the policy statements in Appendix B**
- 2.10 **The Committee notes the Annual Review information on ill health retirements and redundancies**

**3 REASONS FOR RECOMMENDATION(S)**

- 3.1 To be consistent with the other discretions and maintain the Council's current cautious approach to pension discretions which is predicated on to not incurring excessive additional costs.

#### **4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 To exercise a more generous approach to the discretions described in paragraphs 5.2 to 7.2.26 but which carry a greater cost to the Council and/or the pension scheme.

#### **5 SUPPORTING INFORMATION**

##### **5.1 PENSION REFORM**

- 5.1.2 The reports to the Employment Committee in October 2012 and June 2013 described the changes to the Local Government Pension Scheme (LGPS) from April 2014.

These changes have now come into effect and were widely communicated to staff, an approach which included pension surgeries for staff which took place in May.

The new regulations have removed the eligibility for Councillors to enter the LGPS. Councillors currently in the scheme will be able to remain in the pension scheme until the next election at which time they will cease to be in the scheme. Councillors received individual communications from the Berkshire Pension Fund in April regarding this.

##### **5.2 EMPLOYER DISCRETIONS – STATEMENT OF POLICY**

- 5.2.1 The Council is required to publish a statement of the Pension discretions it is prepared to exercise. These discretions should be reviewed on a regular basis and updated as necessary. As the new pension regulations introduce a number of new factors, it is necessary to review the Council's policy statement to cover all necessary discretions. The full proposed discretions can be found in Appendix A. The approach adopted is that, as far as possible, the spirit in which existing discretions are used is applied to the new or amended discretions; i.e. a cautious approach to exercising any employer discretions.

##### Additional Pension Contributions

- 5.2.2 Regulation 16 is a new discretion which relates to Additional Pension Contributions (APCs) which an active member of the Scheme can elect to pay under certain circumstances.

There are options to buy extra pension or make up lost service which are entirely paid for by the employee. The only one for which a policy decision or discretion is needed is to determine whether or not the Council would ever enter into a shared cost arrangement with an employee to buy additional pension and therefore make an additional financial contribution to an individual's pension. It should be noted that employees already have the automatic right to make up lost pension due to unpaid leave of absence, child related leave and trade disputes.

- 5.2.3 As this discretion is similar to an existing Regulation relating to Additional Voluntary Contributions, it is suggested the Council adopt the same approach and resolve not to enter into a shared cost arrangement with an employee.

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### Early Access to Pension

- 5.2.4 Schedule 2 is a new discretion. It relates to employees who leave Local Government service being able to access their pension from age 55 and whether they would retain the protection of the 85 year rule if applicable.
- 5.2.5 The 85 year rule applied to the old scheme and states that where an employee is aged 60 and they have at least 25 years Local Government pensionable service, then their pension benefits can be released without an actuarial reduction being applied. To qualify for full protection of the 85 year rule the employee must have been a member of the pension scheme prior to 1 October 2006 and their date of birth is before 1 April 1956.
- 5.2.6 Under the previous regulations, it was not possible for a Scheme member to voluntarily elect to draw their pension before the age of 60 – there was a requirement to have the employer's consent. With effect from 1 April 2014, however, any employee can voluntarily elect to retire from the age of 55 and draw their pension without the need for the Council's consent.
- 5.2.7 As the regulations currently state that where an employee retires between 55 and 60, the 85 year rule will not apply (resulting in a large actuarial reduction being applied), the new discretion allows for the Council to "switch on" the 85 year rule for employees who retire and are aged between 55 and 60, thereby agreeing to reduce or waive any actuarial reduction.
- 5.2.8 If the Council were to overturn the default position of the regulations and switch the 85 year rule on, there would be a capitalised cost generated in each case.
- 5.2.9 Under the previous regulations, the Council's position on authorising access to pension under the age of 60, and therefore paying a capitalised cost of releasing those benefits early, was that no such elections would be considered. Therefore it is suggested that the Council does not activate the new discretion and "switch on" the 85 year rule.
- 5.2.10 The Committee are aware that under separate Flexible Retirement rules, pension benefits can be granted early but each case is supported by a business case with financial and operational benefits detailed in full. The Committee had however agreed at this meeting on 19 June 2013 that requests for flexible retirement which carry no costs for the Council should be dealt with by officers and reported back to the Committee; the policy has been adjusted accordingly.

### Re-assessing Contribution Rates

- 5.2.11 Regulation 9 (1) & (3) relates to contribution rates which members of the Scheme are required to pay. The regulations currently state that each year at 1<sup>st</sup> April, the Council must assess the pensionable pay for each employee and apply the appropriate contribution rate.
- 5.2.12 The regulations have always allowed, the Council to apply a change in contribution band at any time during the year where the employee has a change in employment or a material change which affects their pensionable pay.

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### 5.2.13 The Council's current discretion policy states;

"The Council has resolved that where changes in pay have occurred as a result of a transfer to a new post, or where there has been a forced reduction in salary that the contribution rate will be reviewed.

In other cases the Council has resolved not to adopt this discretion."

### 5.2.14 It is beneficial for Payroll to deal with changes as and when they occur rather than make changes at year end and then have to recalculate back to the effective date of change. Therefore it is suggested that the approach is slightly amended so that the Council makes changes to employee contribution rates throughout the year from the effective date of any change in circumstances. This will ensure employees are paying the correct rate at the correct time through the year.

The suggested amended wording would be:

The Council has resolved to make changes to employee contribution rates throughout the year from the effective date of any change in employment or material change to the rate of pensionable pay received.

### Merging Older Pension Accounts with the Current Account

### 5.2.15 Regulation 22 relates to merging a deferred Local Government pension account with an active account. Under the previous regulations, if an employee had left employment and had a deferred pension, once they returned to active service provided it was within 12 months of re-joining, they could elect to have that membership aggregated together. Under the new regulations this situation is effectively reversed and their memberships will automatically be aggregated and they will have 12 months in which to elect to retain their deferred pension account but this can be extended should the Council choose to do so. However it is suggested that the current 12 month timeframe is still sufficient to allow the employee to elect not to aggregate membership.

### 5.2.16 The pension fund write to all affected employees at the time the pensions are aggregated, with full details of their right to keep the pots separate and the timescales involved.

### Regular Payments and Assumed Pensionable Pay

### 5.2.17 Regulation 21(5) is a new regulation relating to Assumed Pensionable Pay.

Assumed Pensionable Pay replaces the term of "notional" pay in cases of reduced contractual pay or nil pay as a result of:

- sickness or injury
- child related leave
- reserve forces leave

The calculation looks at what the employee would have been paid had they not had their salary reduced and is used to determine what the employer's contribution rate should be during the period of reduced pay. It is also used by the Pension scheme when the employee returns from a period of no pay to calculate the cost of "buying back" to avoid a break in their pensionable service.

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- 5.2.18 The regulations allow the Council to determine whether or not to include any regular lump sum payment received by the employee whilst on sick leave/maternity leave etc. This is a payment where the Council determines there is a reasonable expectation that it would be received on a regular basis, for example an “acting up” allowance.
- 5.2.19 As regular lump sum payments are normally deemed to be pensionable, it is suggested that they be included in the calculation of assumed pensionable pay.

### Injury Allowance

- 5.2.20 The report to Employment Committee in June 2013, included details relating to a new discretionary injury allowance which was operated by employers rather than pension funds. The main purpose is to provide employers with the opportunity to award an employee an injury allowance where, in the course of carrying out their normal work, they sustain either an injury or contract a disease. There is a requirement for this policy to be published and reviewed regularly.
- 5.2.21 It was decided that the Council had already made provisions in relation to injury under its Personal Accident Insurance Policy which were sufficient to satisfy the requirements of the discretion.
- 5.2.22 The Personal Accident Insurance has since been cancelled therefore it is necessary to reconsider these discretions.
- 5.2.23 It is suggested that the current Delegated Authority in Standing Orders (Part 2 Section 6) which allows Directors in consultation with the Chief Officer: HR to extend occupational sick pay (which would include absence through injury) on a case by case base would be sufficient to cover this issue were it necessary.
- 5.2.24 In addition as there is no precedent for payments once the employee has left employment, therefore it is suggested that the Council does not exercise discretion in those cases.
- 5.2.25 The Council has Employer’s Liability Insurance which in the event of accident, an employee can lodge a claim with the Council’s insurers. However it does require the employee to prove the Council was negligent before a payment would be made.
- 5.2.26 The injury allowances and suggested policy to be adopted can be seen in Appendix B.

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### 5.3 ANNUAL REVIEW OF ILL HEALTH RETIREMENTS AND REDUNDANCIES

5.3.1 The following information captures statistics from the last year and compares them to previous periods to show any trends.

The numbers of Ill Health Retirements and Redundancies over the age of 55 over the last 3 years are as follows:

	2011/2012	2012/2013	2013/2014
Ill Health	7	2	5
Redundancy (Over 55)	31	6	11
Total	38	8	16

In all cases, the Employment Committee has received a detailed report on the business case to enact the redundancies & early retirements (including the savings accrued) and approved accordingly.

#### 5.3.2 Ill Health Retirements

5.3.3 The total number of employees leaving as the result of ill health retirements (IHR), including schools, has increased in 2013/2014, however it still remains at a low level. because of two key factors:

- early intervention and robust management by Occupational Health.
- the process to obtain retirement on medical grounds has become very stringent

#### 5.3.4 Impact of "Balancing the Budget" measures

5.3.5 The number of Early Retirements is recorded as a Best Value Performance Indicator (BV14) and measured as proportion of the Council's whole workforce in the LGPS. The figure relates to those retirements which have directly resulted from a redundancy and where the Council has had to pay for the early release of pension; employees who have simply decided to retire are not included in these figures.

5.3.6 The number of over 55 redundancies who had access to their pension, increased marginally in 2013/14 compared to the previous year. However the number remains relatively low.

The BVPI outturn figures can be seen below

	2011-12		2012-13		2013-2014	
	Outturn	No.	Outturn	No.	Outturn	No.
BV14 % Early Retirements	0.67	24	0.11	4	0.25	9

**6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

Borough Solicitor

6.1 Nothing to add to the report.

Borough Treasurer

6.2 Any costs associated with early retirements and redundancies are subject to the approval of the Employment Committee and met from the Structural Changes Reserve. The balance of the Reserve currently stands at £1.7 million.

Equalities Impact Assessment

6.3 No adverse equalities impact as; the policy is constructed on a fair and equitable basis and applies to all employees.

Strategic Risk Management Issues

6.4 Identified in the individual reports to the Employment Committee which recommend redundancies / early retirements.

Background Papers

None

Contact for further information

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## APPENDIX A – EMPLOYER DISCRETIONS

### PART A – Formulation of **COMPULSORY** policy in accordance with Regulation 60 of the Local Government Pension Scheme Regulations 2013

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#### Regulation 16 – Additional Pension Contributions

The Scheme employer may resolve to fund in whole or in part any arrangement entered into by an active scheme member to pay additional pension contributions by way of regular contributions in accordance with **Regulation 16(2)(e)**, or by way of a lump sum in accordance with **Regulation 16(4)(d)**.

The Scheme employer may enter into an APC contract with a Scheme member who is contributing to the MAIN section of the Scheme in order to purchase additional pension of not more than the additional pension limit (£6,500 from 1<sup>st</sup> April 2014 subject to annual increase in line with the Pensions (Increase) Act 1971).

The amount of additional contribution to be paid is determined by reference to actuarial guidance issued by the Secretary of State.

Consideration needs to be given to the circumstances under which the Scheme employer may wish to use their discretion to fund in whole or in part an employee's Additional Pension Contributions.

#### **Scheme Employer's policy concerning the whole or part funding of an active member's additional pension contributions**

**The Employing Authority has resolved not to adopt this discretion**

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#### Regulation 30(6) – Flexible Retirement

An active member who has attained the age of 55 or over and who with the agreement of their employer reduces their working hours or grade of employment may, with the further consent of their employer, elect to receive immediate payment of all or part of the retirement pension to which they would be entitled in respect of that employment as if that member were no longer an employee in local government service on the date of the reduction in hours or grade (*adjusted by the amount shown as appropriate in actuarial guidance issued by the Secretary of State – separate policy required under Regulation 30(8)*).

As part of the policy making decision the Scheme employer must consider whether, in addition to the benefits the member may have accrued prior to 1 April 2008 (which the member must draw), to permit the member to choose to draw all, part or none of the pension benefits they built up after 31 March 2008 and before 1 April 2014 and all, part or none of the pension benefits they built up after 1 April 2014.

Due consideration must be given to the financial implications of allowing an employee to draw all or part of their pension benefits earlier than their normal retirement age.

#### **Scheme Employer's policy concerning flexible retirement**

**The Employing Authority will consider requests for flexible retirement on a case by case basis. Approval will be sought through the Employment Committee where all costs and benefits will be explicit; requests which carry no costs to the Employing Authority will be dealt with by officers and reported back to the Committee.**

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### **Regulation 30(8) – Waiving of Actuarial Reduction**

Where a Scheme employer's policy under regulation 30(6) (flexible retirement) is to consent to the immediate release of benefits in respect of an active member who is aged 55 or over, those benefits must be adjusted by an amount shown as appropriate in actuarial guidance issued by the Secretary of State (commonly referred to as actuarial reduction or early payment reduction).

A Scheme employer (or former employer as the case may be) may agree to waive in whole or in part and at their own cost, any actuarial reduction that may be required by the Scheme Regulations.

Due consideration must be given to the financial implications of agreeing to waive in whole or in part any actuarial reduction.

### **Scheme Employer's policy concerning the waiving of actuarial reduction**

**The Employing Authority has resolved to examine such issues on a case by case basis.**

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### **Regulation 31 – Award of Additional Pension**

A Scheme employer may resolve to award

(a) an active member, or

(b) a member who was an active member but dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency,

additional annual pension of, in total (including any additional pension purchased by the Scheme employer under Regulation 16), not more than the additional pension limit (£6,500 from 1<sup>st</sup> April 2014 subject to annual increase in line with the Pensions (Increase) Act 1971).

Any additional pension awarded is payable from the same date as any pension payable under other provisions of the Scheme Regulations from the account to which the additional pension is attached.

In the case of a member falling within sub-paragraph (b) above, the resolution to award additional pension must be made within 6 months of the date that the member's employment ended.

### **Scheme Employer's policy concerning the award of additional pension**

**The Employing Authority resolves to use the scheme for awarding additional pension in cases of redundancy, efficiency of the service and severance, only in exceptional circumstances.**

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

**Schedule 2 – paragraphs 2 and 3**

Where a scheme member retires or leaves employment and elects to draw their benefits at or after the age of 55 and before the age of 60 those benefits will be actuarially reduced unless their Scheme employer agrees to meet the full or part cost of those reductions as a result of the member otherwise being protected under the 85 year rule as set out in previous Regulations.

So as to avoid the member suffering the full reduction to their benefits the Scheme employer can 'switch on' the 85 year rule protections thereby allowing the member to receive fully or partly unreduced benefits but subject to the Scheme employer paying a strain (capital) cost to the Pension Fund

**Scheme Employer's policy concerning the 'switching on of the 85 year rule**

**The Employing Authority resolves not to adopt this discretion.**

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**PART B – Formulation of RECOMMENDED policy in accordance with the**

**Local Government Pension Scheme Regulations 2013**

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**Regulation 9(1) & (3) – Contributions**

Where an active member changes employment or there is a material change which affects the member's pensionable pay during the course of a financial year, the Scheme employer may determine that a contribution rate from a different band (as set out in Regulation 9(2)) should be applied.

Where the Scheme employer makes such a determination it shall inform the member of the revised contribution rate and the date from which it is to be applied.

**Scheme Employer's policy concerning the re-determination of active members' contribution bandings at any date other than 1<sup>st</sup> April**

**The Employing Authority has resolved to make changes to employee contribution rates throughout the year from the effective date of any change in employment or material change to the rate of pensionable pay received.**

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### **Regulation 17(1) – Additional Voluntary Contributions**

An active member may enter into arrangements to pay additional voluntary contributions (AVCs) or to contribute to a shared cost additional voluntary contribution arrangement (SCAVCs) in respect of an employment. The arrangement must be a scheme established between the appropriate administering authority and a body approved for the purposes of the Finance Act 2004, registered in accordance with that Act and administered in accordance with the Pensions Act 2004.

The Scheme employer needs to determine whether or not it will make contributions to such an arrangement on behalf of its active members.

#### **Scheme Employer's policy concerning payment of Shared Cost Additional Voluntary Contributions**

**The Employing Authority has resolved not to adopt this discretion**

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### **Regulation 22 – Merging of Deferred Member Pension Accounts with Active Member Pension Accounts**

A deferred member's pension account is automatically aggregated with their active member's pension account unless the member elects within the first 12 months of the new active member's pension account being opened to retain their deferred member's pension account.

A Scheme employer can, at their discretion, extend the 12 month election period.

#### **Scheme Employer's policy concerning merging of Deferred Member Pension Accounts with Active Member Pension Accounts**

**The Employing Authority has resolved not to extend the 12 month election period**

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### **Regulation 100(6) – Inward Transfers of Pension Rights**

A request from an active member to transfer former pension rights from a previous arrangement into the Local Government Pension Scheme as a result of their employment with a Scheme employer must be made in writing to the administering authority and the Scheme employer before the expiry of the period of 12 months beginning with the date on which the employee first became an active member in an employment (or such longer period as the Scheme employer and administering authority may allow).

#### **Scheme Employer's policy concerning the extension of the 12 month transfer application period**

**The Employing Authority has resolved to examine such issues on a case by case basis**

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### **Regulation 21(5) – Assumed Pensionable Pay**

A Scheme employer needs to determine whether or not to include in the calculation of assumed pensionable pay, any 'regular lump sum payment' received by a Scheme member in the 12 months preceding the date that gave rise to the need for an assumed pensionable pay figure to be calculated.

### **Scheme Employer's policy concerning inclusion of 'regular lump sum payments' in assumed pensionable pay calculations**

**The Employing Authority has resolved that "Regular lump sum payments" will always be included in the calculation of assumed pensionable pay**

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### **Regulation 74 – Applications for Adjudication of Disagreements** *(see guidance note 9 in employer's guide)*

Each Scheme employer must appoint a person ("the adjudicator") to consider applications from any person whose rights or liabilities under the Scheme are affected by:

- (a) a decision under regulation 72 (first instance decisions); or
- (b) any other act or omission by a Scheme employer or administering authority,

and to make a decision on such applications.

Responsibility for determinations under this first stage of the Internal Disputes Resolution Procedure (IDRP) rests with "the adjudicator" as named below by the Scheme employer:

Name: Tony Madden  
Job Title: Chief Officer: HR  
Full Address: Easthampstead House, Town Square, Bracknell  
Post Code: RG12 1AQ  
Tel No: 01344 352062

Adjudicator's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Or alternatively:

Name: Alan Nash  
Job Title: Borough Treasurer  
Full Address: Easthampstead House, Town Square, Bracknell  
Post Code: RG12 1AQ  
Tel No: 01344 355605

Adjudicator's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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## APPENDIX B – EMPLOYER DISCRETIONS: INJURY ALLOWANCE

### Formulation of COMPULSORY policy in accordance with Regulation 14 of the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011

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#### **Regulation 3 - Reduction in remuneration**

Whilst an employee is receiving reduced pay as a direct result of an injury or disease contracted in the course of carrying out their employment, a relevant employer may consider paying the employee an allowance while the reduction in pay continues.

The relevant employer shall from time to time determine whether the employee should be entitled to continue to receive the allowance.

Any allowance payable must be paid directly by the relevant employer and, when added to the value of the reduced pay being received by the employee, must not be of a value that means the employee receives total pay in excess of the pay that they would normally expect to have received but for their injury or disease.

#### **Employer's policy concerning the award of an allowance due to reduction in remuneration**

**The Employing Authority has resolved to examine such issues on a case by case basis in line with its existing Standing Orders.**

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#### **Regulation 4 – Loss of employment through permanent incapacity**

Where an employee ceases employment due to permanent incapacity as a direct result of injury or disease contracted in the course of carrying out their employment, a relevant employer may consider paying the employee an allowance not exceeding 85 per cent of the employee's annual rate of remuneration at the point the employment ceased.

The relevant employer shall from time to time determine whether the employee should be entitled to continue to receive the allowance.

Any allowance payable must be paid directly by the relevant employer and, where the employee was receiving no pay or reduced pay at the time the employment ended because of absence, the employer must assess the remuneration on the basis of the pay the employee would have received but for being absent.

The relevant employer may suspend or discontinue the allowance if the (former) employee secures gainful employment (paid employment for not less than 30 hours in each week for a period of not less than 12 months).

#### **Employer's policy concerning the award of an allowance due to loss of employment**

**The Employing Authority resolves not to adopt this discretion.**

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### **Regulation 6 – Allowances for pensioners**

Where an employee ceases to be employed in a relevant employment and immediately before so ceasing was entitled to an allowance under regulation 3, and regulation 4 does not apply, but they become entitled to a retirement pension under the Local Government Pension Scheme Regulations, the relevant employer may pay an allowance of an amount not exceeding the annual rate by which the retirement pension may fall short due to their remuneration having been reduced as a result of their injury or disease.

#### **Employer’s policy concerning the award of an allowance to a pensioner member**

**The Employing Authority resolves not to adopt this discretion.**

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### **Regulation 7 – Death benefits**

Where an employee dies as a direct result of injury or disease contracted in the course of carrying out their employment, a relevant employer may consider paying an annual allowance or a lump sum to a surviving spouse, civil partner, nominated co-habiting partner, or dependant (as defined in paragraphs 4 and 5 of regulation 7)

The annual allowance or lump sum is to be paid directly by the employer and is to be of such an amount as the employer may determine from time to time.

An allowance to a dependant (“an eligible child”) shall continue for such period as the employer may determine.

#### **Employer’s policy concerning the award of an allowance or lump sum following death**

**The Employing Authority resolves not to adopt this discretion.**

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