

# Pension Discretions

## Frampton Cotterell Parish Council

How the Council exercises discretion under the Local Government New Look Pension Scheme (LGPS) 2007

### 1 Introduction

Employees of the Council are entitled to join the Local Government Pension Scheme. The LGPS is an excellent occupational pension scheme which is administered in our area by Bath & North East Somerset Council and is called the Avon Pension Fund. The Council encourages employees to take advantage of the opportunity to join the LGPS.

The general framework of the LGPS is determined nationally by the Department of Communities and Local Government and is set out in legislation. This covers all major aspects of the scheme such as

- Who can join;
- Contribution rates;
- Type and level of Benefits;
- When benefits are payable or can be claimed.
- What happens to a leaver's accrued benefits.

Within the legislation, there is provision in specific areas for the employer to exercise discretion over the entitlements of its current or past employees. The employer must publish a written statement of how it intends to exercise such powers.

This document summarises how Frampton Cotterell Parish Council has decided to exercise its discretionary powers and the Council's policies in relation to pension matters.

### 2 Inward Transfers of Pension Rights – Regulation 83(8):

If a scheme member wishes to transfer pension rights into the LGPS he/she must opt to do so within 12 months of joining the LGPS. Only in exceptional circumstances will a longer period be allowed so long as there is no known reason or prospect of the employee having access to their pension within the next 12 months.

### 3 Contribution Bands

Employees are to pay contributions according to the following table based on their whole-time equivalent pensionable pay (salary plus contractual payments) as follows.

| Band | Range (2008/09)             | Contribution Rate |
|------|-----------------------------|-------------------|
| 1    | £0 - £12,000                | 5.5%              |
| 2    | more than £12,000 – £14,000 | 5.8%              |
| 3    | more than £14,000 – £18,000 | 5.9%              |
| 4    | more than £18,000 – £30,000 | 6.5%              |
| 5    | more than £30,000 – £40,000 | 6.8%              |
| 6    | more than £40,000 – £75,000 | 7.2%              |
| 7    | more than £75,000           | 7.5%              |

These bands will be enhanced by the cost of living (Retail Price Index) each year. Employees will be reassessed at the 1 April annually to determine if any re-allocation to a new band is necessary.

For ease of administration and implementation and to ensure a fair and consistent transition to the new rates, Frampton Cotterell Parish Council, has determined the following arrangements will apply for 2009/10.

- a Existing Scheme members will be placed into one of the above bands on the basis of their actual pensionable pay as at 1 April 2008.
- b New joiners to the Scheme on or after 1 April 2008 will be placed into a band based on their known pensionable salary as at their date of joining the Scheme.
- c Scheme members, who have an increase in salary part way through the year as a result of a change in post or regrading that takes them into a higher band, will be moved into the higher band.
- d Scheme members, who have a decrease in salary that places them in a lower band, will be moved to the lower band. This will not apply to someone who has a reduction in salary through working fewer hours as their whole-time equivalent pay will not have changed.
- e In both c) and d) the changes will be effective from the date of the change in pensionable pay.
- f The contribution band for a part-time employee will be assessed with reference to their whole-time equivalent pay, normally based on a 37 hour week.

**4 Power of Employing Authority to Increase Total Membership of Active Members (Benefits Regulation 12)**

Frampton Cotterell Parish Council may increase (ie augment) total membership of an employee who is currently paying contributions to the scheme for example, to enhance the package for staff with scarce and/or key skills. Frampton Cotterell Parish Council has no intention of making a general use of this power but may wish to consider its use in exceptional cases in the future

**5 Power of Employing Authority to Award Additional Pension (Benefits Regulation 13)**

The Council may resolve to award a member additional pension of not more than £5,000 a year. With the exception of early retirements, which are explained below, the Council has no intention of making use of this power in the foreseeable future.

Members of the Avon Pension Fund may choose to enhance their pension benefits by purchasing additional pension up to a maximum of £5000 (in multiples of £250) by paying Additional Regular Contributions (ARCs). The Council already makes a significant contribution to the Avon Pension Fund for its employees as determined by an independent Actuary.

**6 To Grant Widower's Pensions for Service Between 1972 and 1988**

Previous Regulations did not allow married female employees to count their service between 1972 and 1988 for a widower's pension unless they paid for it by additional contributions or loss of lump sum. The Council could choose to use its discretion to effectively grant this entitlement to female employees with such service at no cost, thus bringing their position in line with married male employees.

**7 Early Retirement Discretions**

Normal retirement age under the LGPS is 65 years and benefits are paid automatically from this age. Individuals who choose to retire at any time from age 60 years may elect to receive their accrued pension benefits early. However, unless the member has protected benefits under the "rule of 85", their pension benefits will be actuarially reduced.

Persons under the age of 60 will only gain access to their pension benefits early under the following circumstances:

- Permanent ill-health (any age);
- Voluntary retirement with the approval of the Council (age 50 or over, age 55 from 1 April 2010 and new joiners from 1 April 2008);
- Compassionate Grounds (age 50 or over, age 55 from 1 April 2010 and new joiners from 1 April 2008);
- Redundancy (age 50 or over, age 55 from 1 April 2010 and new joiners from 1 April 2008);
- Retirement in the interests of efficiency (age 50 or over, age 55 from 1 April 2010 and new joiners from 1 April 2008)

A brief description of each of these routes is set out below, highlighting the discretions which the Council may exercise. These are complex situations and it is essential that any individual who may possibly be involved in one of them seeks early and detailed advice from the Parish Clerk and the Avon Pension Fund.

#### 8 **Permanent Ill-health**

The Council would need to seek professional and independent occupational health advice. If the Occupational Health Doctor certifies that an employee is **“permanently incapable of discharging efficiently the duties of their relevant local authority employment because of ill-health or infirmity of mind or body and, if so, whether that condition is likely to prevent the employee from carrying out other gainful employment within a reasonable time of leaving local government employment or, as the case may be, before reaching normal retirement age (NRA, which is 65 years)”**, the employee will be entitled to the immediate payment of their accrued pension benefits, without abatement, together with additional benefits as laid down in the LGPS regulations. There are no specific age restrictions on an ill-health retirement, however members must have retired by the day before their 75<sup>th</sup> birthday.

#### 9 **Voluntary Early Retirement Between the Ages of 55 and 59 (Benefits Regulation 30)**

An employee aged 55 or over (50 until 31 March 2010, age 55 from 1 April 2010 and new joiners from 1 April 2008) but not yet 60, who wishes to voluntarily resign, may apply to the Council for approval to the early payment of accrued pension benefits. The Council has decided that such applications will only be accepted where it can be demonstrated as being in the Council's interests or where there are compassionate grounds for the early release of pension benefits.

If the Council agrees to permit early retirement with the immediate payment of pension benefits for reasons other than compassionate, an actuarial reduction will be applied to the person's accrued pension benefits. (For employees born before 1 April 1956, if the sum of their age and pensionable service is 85 or more, pension benefits are paid without an actuarial reduction for early payment, if they retire before 1 April 2016.)

If the Council agrees on compassionate grounds, the accrued pension entitlement is paid without an actuarial reduction for early payment, but with no augmentation or enhancement.

As a general rule, the Council will only agree to the early release of pension benefits on compassionate grounds if it can be demonstrated that the person is unable to continue working or resume employment due to circumstances outside of their control, for example to look after and care for a dependant spouse. Financial reasons alone will not normally be considered sufficient grounds for the early release of benefits.

10 **Redundancy**

If the Council terminates an employee by reason of redundancy, the employee, if aged 55 (50 until 31 March 2010, age 55 from 1 April 2010 and new joiners from 1 April 2008) or over, becomes automatically entitled to the immediate payment of accrued pension benefits without any reduction for early payment.

In addition, the Council has decided not to grant any additional pension (Benefits Regulation 13)

11 **Retirement in the Interests of Efficient Exercise of Local Authority Function (RIEELAF)**

If the Council terminates an employee by reason of RIEELAF, the employee, if aged 55 or over (50 until 31 March 2010, age 55 from 1 April 2010 and new joiners from 1 April 2008), becomes automatically entitled to the immediate payment of accrued pension benefits without any reduction for early payment.

The Council has the discretionary power to increase (ie augment) an employees total membership (Benefits\_Regulation 12); and/or to award up to £5000 additional pension (Benefits Regulation 13) in such cases. However, since such cases are likely to be infrequent, the Council has decided to consider the question having regard to the individual circumstances of any case which comes forward.

12 **Flexible Retirement (Benefits Regulation 18)**

An employee who is aged 55 or over (50 until 31 March 2010, age 55 from 1 April 2010 and new joiners from 1 April 2008), can request the Council to allow him/her to access pension benefits whilst still remaining employed by the Council.

This would only be in situations where the employee wishes to reduce hours and/or move to a lower graded post, and must be agreed by the Council.

Flexible Retirement is aiming to assist a more gradual move into retirement over a period of years, by allowing an employee to work fewer hours and/or in a less demanding job, whilst at the same time drawing their pension. This may be of benefit to the employee, and also the Council in terms of retaining the services of the employee.

The key factors in this scheme are:-

- a The acceptability to the employee of the level of pension he/she would receive.
- b The willingness of the Council to agree to the specific flexible retirement requested.

The Council's policy on Flexible Retirement is that an application will only be approved where:

- a There are no pension costs to the Council arising from the employee's flexible retirement. (Pension estimates for Flexible Retirement from Avon Pension Fund will reflect this policy).
- b The Flexible Retirement will provide benefits to the Council, for example financial savings or the facilitation of organisational or staffing changes and will not result in any detriment to the level of service.
- c IF the request is to work reduced hours, the Council's assessment must be that there would be no operational problems caused, or recruitment difficulty

anticipated, in making up the reduced hours.

- d IF the request is for a move to a lower graded post, this would be subject to an appropriate vacancy arising and the operation of the Council's normal recruitment procedures in filling the post.

Given the above policy, it is anticipated that in practice Flexible Retirement is likely to be more applicable to those employees aged 60 and where there is no "strain on the fund" pension costs to the Council.

**13 Forfeiture of Pension Rights after Conviction of Employment-Related Offences - Regulation 72, 73, 74 & 76 – Administration Regulations**

There are provisions whereby If a scheme member is convicted of, and ceases employment as a result of, 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, the employer can apply to the Secretary of State for the issue of a forfeiture certificate. If a certificate is issued the employer may direct that any of the person's rights be forfeited. The Council reserves the right to exercise this discretion in wholly exceptional circumstances.

**14 Ex-Employees**

Frampton Cotterell Parish Council ex-employees who have Deferred Benefits which are preserved benefits in the Avon Pension Fund, may apply to the Council for the early release of their benefits by reason of permanent ill-health or on compassionate grounds. Such applications are dealt with on the same basis as for current employees. However, in the case of permanent ill-health the pension scheme does not provide for benefits to be enhanced as it does for current employees.