

**HR POLICY COMMITTEE**  
**Tuesday 21 January 2020**  
**2.00 pm Library Meeting Room, Taunton**  
**Library**



To: The members of the HR Policy Committee

Cllr M Chilcott (Chairman), Cllr A Groskop, Cllr P Ham, Cllr L Leyshon, Cllr L Redman and Cllr W Wallace

All Somerset County Council Members are invited to attend.

Issued By Scott Wooldridge, Strategic Manager - Governance and Democratic Services - 13 January 2020

For further information about the meeting, please contact Neil Milne on 01823 357628 or [nmilne@somerset.gov.uk](mailto:nmilne@somerset.gov.uk)

Guidance about procedures at the meeting follows the printed agenda and is available at [\(LINK\)](#)

This meeting will be open to the public and press, subject to the passing of any resolution under Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

This agenda and the attached reports and background papers are available on request prior to the meeting in large print, Braille, audio tape & disc and can be translated into different languages. They can also be accessed via the council's website on [www.somerset.gov.uk/agendasandpapers](http://www.somerset.gov.uk/agendasandpapers)

**Are you considering how your conversation today and the actions you propose to take contribute towards making Somerset Carbon Neutral by 2030?**



**RNID typetalk**

# AGENDA

Item HR Policy Committee - 2.00 pm Tuesday 21 January 2020

**\* Public Guidance notes contained in agenda annexe \***

1 **Apologies for Absence**

2 **Declarations of Interest**

Details of all Members' interests in District, Town and Parish Councils will be displayed in the meeting room. The Statutory Register of Member's Interests can be inspected via the Community Governance team.

3 **Minutes from the previous meeting - 21 January 2019** (Pages 5 - 8)

The Committee is asked to confirm the minutes are accurate.

4 **Public Question Time**

The Chairman will allow members of the public to present a petition on any matter within the Committee's remit. Questions or statements about any matter on the agenda for this meeting will be taken at the time when each matter is considered.

5 **Pay Policy Statement 2020-2021** (Pages 9 - 26)

To consider this report.

6 **Officer Appeals Policy** (Pages 27 - 40)

To consider this report.

7 **Pensions Discretions** (Pages 41 - 54)

To consider this report.

8 **Overview and Update**

To receive an update from the Director of HR & Organisational Development.

9 **Any other urgent items of business**

The Chairman may raise any items of urgent business.

## THE MEETING – GUIDANCE NOTES

### 1. Inspection of Papers

Any person wishing to inspect Minutes, reports, or the background papers for any item on the Agenda should contact the Committee Administrator for the meeting – Neil Milne on 01823 359045 or [ndmilne@somerset.gov.uk](mailto:ndmilne@somerset.gov.uk). They can also be accessed via the council's website on [www.somerset.gov.uk/agendasandpapers](http://www.somerset.gov.uk/agendasandpapers)

### 2. Notes of the Meeting

Details of the issues discussed and decisions taken at the meeting will be set out in the Minutes, which the Committee will be asked to approve as a correct record at its next meeting. In the meantime, details of the decisions taken can be obtained from Neil Milne 01823 359045 or [ndmilne@somerset.gov.uk](mailto:ndmilne@somerset.gov.uk)

### 3. Members' Code Of Conduct Requirements

When considering the declaration of interests and their actions as a councillor, Members are reminded of the requirements of the Members' Code of Conduct and the underpinning Principles of Public Life: HONESTY; INTEGRITY; SELFLESSNESS; OBJECTIVITY; ACCOUNTABILITY; OPENNESS; LEADERSHIP. The Code of Conduct can be viewed at:

<http://www.somerset.gov.uk/organisation/key-documents/the-councils-constitution/>

### 4. Public Question Time

Any person wishing to raise a matter under public question time must inform the Committee Administrator, **by 5.00pm on Wednesday 15 January 2020**.

At the Chair's invitation you may ask questions and/or make statements or comments or send in a written question about **any matter on the Committee's agenda**. You may also present a petition on any matter within the Committee's remit. **The length of public question time will be no more than 30 minutes in total.**

A slot for Public Question Time is set aside near the beginning of the meeting, after the minutes of the previous meeting have been signed. Please remember that you will be allowed to speak for a maximum of 3 minutes only.

You must direct your questions and comments through the Chair. You may not take direct part in the debate. The Chair will decide when public participation is to finish.

If there are many people present at the meeting for one particular item, the Chair may adjourn the meeting to allow views to be expressed more freely.

If an item on the agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group. An issue will not be deferred just because you cannot be present for the meeting.

**5. IMPORTANT NOTE FOR MEMBERS OF THE PUBLIC**

The Council in support of the principles of openness and transparency allows filming, recording and taking photographs at its meetings that are open to the public providing it is done in a non- disruptive manner.

Members of the public may use Facebook and Twitter or other forms of social media to report on proceedings and a designated area will be provided for anyone who wishes to film part or all of the proceedings. No filming or recording will take place when the press and public are excluded for that part of the meeting. As a matter of courtesy to the public, anyone wishing to film or record proceedings is asked to provide reasonable notice to the Committee Administrator so that the Chair of the meeting can inform those present.

We would ask that, as far as possible, members of the public aren't filmed unless they are playing an active role such as speaking within a meeting and there may be occasions when speaking members of the public request not to be filmed.

A copy of the Council's Recording of Meetings Protocol should be on display at the meeting for inspection, alternatively contact the Committee Administrator for the meeting in advance.

**6. Substitutions**

Committee members are able to appoint substitutes if they are unable to attend the meeting.

**7. Hearing Aid Loop System**

To assist hearing aid users, Rooms have infra-red audio transmission systems. These work in conjunction with a hearing aid in the T position.

**8 Emergency Evacuation Procedure**

In the event of the fire alarm sounding, members of the public are requested to leave the building via the signposted emergency exit and proceed to the collection area outside. Officers and Members will be on hand to assist.

## HR Policy Committee

Minutes of a meeting of the HR Policy Committee held on Monday 21 January 2019 at 14.00 in the meeting room, Taunton Library.

### Committee members present:

Cllr Chilcott (Chair)	Cllr W Wallace
Cllr C Lawrence (substituting for Cllr A Groskop)	Cllr L Leyshon
Cllr L Redman	

### Officers present:

Chris Squire -Director of Human Resources & Organisational Development  
Vicky Hayter – Strategic Manager HR Business Relations

### Apologies:

Cllr A Groskop  
Cllr P Ham

### Declarations of Interest – agenda item 2

Cllr W Wallace, Cllr C Lawrence and Cllr L Leyshon declared personal interests as they are in receipt of a Local Government pension.

### Minutes of the meeting held on 30 April 2018 – agenda item 3

The Committee agreed the minutes of the meeting held on 30 April 2018 were accurate and the Chair signed them.

### Public Question Time – agenda item 4

There were no members of the public present, and hence no questions asked, statements/comments made or petitions presented.

### Pay Policy Statement 2019/20 – agenda item 5

The Committee considered this report which set out that it was a statutory requirement for the Council's Pay Policy Statement to be reviewed annually. Members were informed that there were no significant changes to the Policy, but a typographical error to the years included in the recommendations was highlighted.

The Strategic Manager, HR Business Relations, Vicky Hayter further informed the Committee: the policy being considered today would be implemented from 1 April 2019; the increase in the living wage to £8.21 per hour; the Council's lowest pay point is £9.00 per hour; and the implementation of a new pay spine from April 2019, with discussions on-going regarding grade boundaries.

Members proceeded to ask a number of questions, points raised included: the 50p per hour increase for lower grades; the ratio of the Chief Executives Remuneration relative to other council employees, and how this compares with other Local Authorities; Social Worker salary's including a comparison with other neighbouring

authorities and any impacts on recruitment; and the number of staff paid at the lowest point on the Council's pay scale.

The Director of HR & OD and the Strategic Manager HR Business Relations responded to the points raised, highlighting: the ratio of the highest and lowest paid staff was broadly in line with other Local Authorities, but varied hugely from the private sector; Social Worker recruitment success and the limited impact of comparatively small salary variations; the importance of supporting and training Social Workers; the larger annual percentage salary increases for lower paid staff; and that very few staff were paid at the lowest point on the pay scale, and are generally employed in schools.

Following consideration of the officer report and appendices the Committee agreed:

- Agree to recommend the Council to approve the Pay Policy Statement for the Council for 2018-19 attached as Appendix A to this report to have effect from 1st April 2019.
- Note the changed to the National Living Wage rate from 1st April 2019.
- Note the impact of the New Pay Spine from April 2019
- Note the pay award that was agreed in January 2018 for posts graded 1-3 for 2019/20.

### **Pension Discretions Policy – agenda item 6**

The Committee considered this report which detailed the discretions employers have been given under the Local Government Pension Scheme. Officers provided an overview of the proposed changes and implications to aid the Committees understanding of this complex topic, highlighting that only minor amendments were proposed.

The Strategic Manager HR Business Relations, Vicky Hayter, further informed the Committee: regarding details of voluntary early retirement; that the average local authority pension is under £6000 per annum; that the average age of staff retirement has fallen; and that nationally it was proposed a cap would be applied limiting exit payments to a maximum of £95000, but this was pending government approval.

Members proceed to question officers regarding the points raised, with particular reference to how changes to teacher pensions would impact on the Council's finances.

Following consideration of the officer report the Committee agreed the recommendations:

- Minor amendments to the wording of SCC Pensions Discretion Policy are made to accurately reflect the wording of the LGPS Regulations as advised by Peninsula Pensions, relating to – Waiving of Actuarial Reduction where an active member chooses to voluntarily draw benefits on or after age 55 and before age 60 or normal retirement age. (Regulation B30 - 5)

- The policy decision for our pensions discretion under Regulation R31 – Power of employing authority to grant additional pension, is changed to allow only in exceptional circumstances, to accommodate any future unforeseen requests that may be affordable.

**Any other urgent items of business** – agenda item 7

The Committee questioned officers regarding: settlement status costs, noting that some councils were reimbursing these costs for their own employees; and sought clarification regarding the recruitment of a replacement post holder for the Interim Director of Finance.

The meeting closed at 14.33

Cllr Mandy Chilcott  
Chair, HR Policy Committee

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Somerset County Council  
 HR Policy Committee  
 – 21 January 2020

## **Pay Policy Statement – 2020/21**

Cabinet Member: Cllr Mandy Chilcott, Deputy Leader and Cabinet Member for Resources

Lead Officer: Chris Squire, HR&OD Director

Author: Vicky Hayter, Strategic Manager HR Business Relations

Contact Details: 01823 359858

<i>Please complete sign off boxes below prior to submission to Community Governance</i>			
	<b>Seen by:</b>	<b>Name</b>	<b>Date</b>
<b>Report Sign off</b>	Legal	Honor Clarke	08/01/20
	Corporate Finance	Sheila Collins	08/01/20
	Human Resources	Chris Squire	08/01/20
	Cabinet Member	Mandy Chilcott	
	Monitoring Officer	Scott Wooldridge	08/01/20
<b>Summary:</b>	<p>The Report sets out proposed amendments to the Pay Policy Statement (PPS) for 2020/21. The amendments are very minor and mainly relate to date changes.</p> <p>The report also sets out, for information, an update on the pay negotiations that commenced in July 2019 and were put on hold pending the outcome of the General Election.</p>		
<b>Recommendations:</b>	<p><b>The HR Policy Committee is asked to :</b></p> <ol style="list-style-type: none"> <li><b>1. Agree to recommend the Council to approve the Pay Policy Statement for the Council for 2020-21 attached as Appendix A to this report to have effect from 1<sup>st</sup> April 2020.</b></li> <li><b>2. Note the revised National Living Wage rate from 1<sup>st</sup> April 2020.</b></li> <li><b>3. Note the proposals from the staff side tabled on 24 July 2019</b></li> <li><b>4. Give consideration to the Grades 1-3 pay increase in relation to the national Green Book pay negotiations which are expected to resume early in 2020</b></li> </ol>		
<b>Reasons for Recommendations:</b>	<p>To ensure that the Council complies with the statutory requirement to publish a pay policy statement annually.</p> <p>Section 38 (1) of the Localism Act 2011 requires English and Welsh local authorities to produce a PPS for each financial year which must be approved formally by Full Council. Pay policy</p>		

	<p>statements can be amended 'in-year' should the need arise but only by Full Council.</p> <p>As from 1st April 2012, determination of any salary/cost of living progression for Chief Executive and SLT is undertaken by the HR Policy Committee, subject to an annual review.</p>
<b>Links to Priorities and Impact on Service Plans:</b>	<p>Appropriate pay provisions for staff are fundamental to the delivery of the Council's objectives and services as set out in the County Plan.</p>
<b>Financial, Legal and HR Implications:</b>	<p>The revised PPS meets the requirements of the Localism Act and related statutory guidance.</p> <p>Any financial consequences come from decisions taken by the Council in accordance with the PPS in place at the time.</p> <p>In terms of applying the requirements of the PPS to pay / grading / appointment and dismissal of staff, the Council will follow all statutory and collectively agreed requirements that apply to local authority employers.</p>
<b>Equalities Implications:</b>	<p>The Council's duty under Section 149 of the Equality Act 2010 is to have "due regard" to the matters set out in relation to equalities when considering and making decisions. There are no direct equality impacts associated with agreeing the PPS itself. There are also no direct impacts on sustainability, health and safety, community safety or privacy aspects as a result of the recommendations</p>
<b>Risk Assessment:</b>	<p>Failure to comply with Section 38 (1) of the Localism Act could lead to a legal challenge to the Council and therefore it is important that the PPS reflects the Act, other relevant legislation and statutory guidance. The Council is required to have regard to statutory guidance and either comply with it fully or put in place appropriate alternative provisions.</p> <p>If the Council fails to comply with the requirements of the PPS in respect of the appointment / dismissal of officers then it could be subject to legal challenge.</p>
<b>Scrutiny comments / recommendation (if any):</b>	<p>None</p>

## 1. Background

- 1.1. It is a statutory requirement to review the Pay Policy Statement (PPS) annually and present it to Full Council for consideration and approval. The PPS takes

effect from the beginning of the financial year. It will now go before Full Council on 19th February 2020 for approval and to have effect from 1<sup>st</sup> April 2020.

- 1.2.** There are no substantive changes to the PPS (Appendix 1). The amendments are minor and are explained in the Summary at the beginning of this paper.
- 1.3.** By way of an update on pay, it should be noted that the National Living Wage (NLW) rate with effect from 1 April 2020 will be £8.72. It will apply to those aged 25 and over.

The Unions made a pay claim which was put to the Employer's side on 24 July 2019. The key elements of the claim were:

- real living wage of £10 per hour on SCP1 and a 10% increase on all other NJC pay points
- One-day increase to the minimum paid annual leave (21 days plus 2 statutory days moving to 22 days plus 2 statutory days)
- 2-hour reduction in standard working week (37 hours down to 35)
- A comprehensive joint national review of the workplace causes of stress and mental health

The LGA undertook a series of regional briefings in September 2019. Most Councils were budgeting for 2% pay rises although there were a few that had budgeted up to 3%. Somerset has budgeted for 2.75% to match the Teachers pay rise agreed earlier in 2019. Concerns were expressed nationally about the affordability of more than 2%.

Anecdotal feedback from the LGA suggested that there was no appetite for a reduction in the working week.

Most Councils are not affected by the annual leave increase as they already offer a higher amount. However, Somerset still offers the 21 plus 2 statutory days for staff in grades 17-13 (those earning £21,166 or less). The cost of an additional day for this group of staff would be £131.5k for schools staff and notional for other services. This is because schools staff are paid on a multiplier so an additional day of leave will incur an additional day of cost per person. For staff who are not paid on a multiplier, the cost is notional based on productivity/outputs rather than actual cost.

The LGA advised that further discussion would be required with the Trade Unions regarding the review of workplace stress and mental health to better understand their expectations and assess the ability of the NJC to address these given all the work that has previously been undertaken on this subject by other agencies such as the Health & Safety Executive.

The meeting of the National Employers on 5 November 2019 determined that all pay negotiations would be put on hold pending an understanding of the

impact of the outcome of the General Election on 12 December 2019.

- 1.4. It is difficult to provide guidance for discussion about how to manage pay increases at Grades 1-3 at this stage.
- 1.5. It is suggested that a pay proposal for the Senior Leadership Team is considered in line with the timings for the Green Book pay award

## **2. Options Considered**

- 2.1. No alternative options were considered in relation to the PPS for 2020/21.
- 2.2. Given the fact that the national negotiations are on hold, it is not appropriate to consider options at this stage.

## **3. Consultations undertaken**

- 3.1. The NJC Pay negotiations were discussed at the Joint Negotiation Forum. However, until there is an offer on the table, consultation is not possible.
- 3.2. The National Living Wage is a legal requirement and has to be adhered to. Once this is known, assurances will be given that we meet the requirements or will adjust pay points to comply.

## **4. Implications**

- 4.1. The recommendations are intended to ensure that the Pay Policy Statement maintains an appropriate balance between rigorous governance of pay and reasonable flexibility for managers to manage.
- 4.2. The financial implications are as set out in principle in this report. Once more detail is known, this will be provided.

## **5. Background papers**

- 5.1 Appendix 1 - a draft copy of the Pay Policy Statement 2019/2020 with minor changes proposed.
- 5.2 Appendix 2 – Union pay claim

**Note:** For sight of individual background papers please contact the report author.

## **SOMERSET COUNTY COUNCIL PAY POLICY STATEMENT - 2020/21**

This document sets out Somerset County Council's Pay Policy Statement (PPS) for 2020/21 which is revised and published at least annually following approval at Full Council.

### **1. Background**

Section 38 (1) of the Localism Act 2011 requires English and Welsh local authorities to produce a PPS for each financial year.

The Act:

1. Requires the PPS to include the Council's policy on the following:
  - The remuneration of its chief officers
  - The remuneration of its lowest paid employees.
  - The relationship between the remuneration of its Chief Officers and other officers.
  - Other specific aspects of chief officer remuneration such as levels and elements of such remuneration, remuneration on recruitment, increases and additions to remuneration, termination payments and transparency.
2. Requires that the PPS:
  - Must be approved formally by Full Council.
  - Must be approved by the end of March every year for the following financial year.
  - Must be published on the local Council's website as soon as it is approved by the Council.
  - Must be complied with for all decisions on pay and reward for Chief Officers.
3. Makes provision for Full Council to make in year amendments to the PPS at any time and this function cannot be delegated.

### **2. Definitions**

The Act (Section 43) defines remuneration widely as:

- Pay.
- Charges.
- Fees.
- Allowances.
- Benefits in kind.
- Increases/enhancement of pension entitlement.
- Termination payments.

The Act (Section 43) defines Chief Officers as:

- The head of the paid service designated under section 4(1) of the Local

Government and Housing Act 1989;

- The monitoring officer designated under section 5(1) of that Act;
- A statutory chief officer mentioned in section 2(6) of that Act;
- A non-statutory chief officer mentioned in section 2(7) of that Act;
- A deputy chief officer mentioned in section 2(8) of that Act.

For the purposes of this statement all of the Council's senior officers on Grades 1 to 3 fit the above definition. These are collectively referred to as the Senior Leadership Team (SLT) throughout this Statement. In addition, the post of Monitoring Officer (Grade 5) and a number of posts at Grades 4 and 5 fall within the legal definition of 'deputy chief officer'.

### **3. Pay Data**

The Council complies with Data Protection Act obligations and will only publish information about an individual officer's pay where it is required to do so by law.

In accordance with the Accounts and Audit (England) Regulations 2011 and the Local Government Transparency Code 2015, the Council publishes pay information about individual posts for the Chief Executive and SLT on its website and in the Annual Statement of Accounts. The current list of posts and salaries is accessible via the following link.

<http://www.somerset.gov.uk/organisation/senior-salaries-and-pay-policy>

In relation to other senior officers of the Council, including the Monitoring Officer, pay information is published on the Council's website relating to:

- Salaries of £50,000 or more by reference to total numbers within bands (grouped in bands of £5,000);
- Details of remuneration and job titles of certain senior employees whose salary is at least £50,000 and a list of responsibilities (for example, the services and functions they are responsible for, budget held and number of staff) and details of bonuses and 'benefits in kind', for all employees whose salary exceeds £50,000.

#### 4. Principles

The key principles underpinning this pay policy statement are:

**Affordability** – ensuring remuneration policies represent value-for-money for the taxpayer

**Fairness** – ensuring remuneration policies are fair to all staff, ranging from the most senior post to the most junior post

**Meet legislative requirements** – ensuring remuneration policies comply with all legal obligations, such as the Equal Pay Act

**Market facing** – ensuring due regard is taken of the market, both nationally and locally in the South West, and that this policy is in-line with councils of a similar size and / or in a similar labour market.

**Tax Avoidance** – ensuring that all remuneration arrangements comply fully with HMRC regulations.

#### 5. Determination of Grade

The Council's Grading structure accords with the National Single Status and Green Book agreements. The Grading structure reflects the need to continue to modernise, facilitate new ways of working and ensure equal pay for work of equal value in a large and diverse organisation.

The grading structure treats all groups of staff the same. It uses two schemes to evaluate jobs, covering virtually all employees, except teachers and Soulbury staff, which are subject to national grading schemes.

The Hay Scheme is used for the more senior posts, including the Chief Executive, SLT officers, and Strategic and Service Managers.

The New Somerset Scheme, based on the Greater London Provincial Council scheme (formerly GLEA), is used for all other posts. Some posts cross between the borders of both schemes.

The lowest paid posts in the Council which include posts of Cleaner, Domestic Assistant, Distribution Assistant and General Kitchen Assistant, are paid on Grade 17 (national spinal point 6: £17364 as at 1<sup>st</sup> April 2019).

The relationship between pay at the lowest and highest levels is therefore controlled by job evaluation.

#### 6. Pay and Grading Structure

The Somerset Pay and Grading structure incorporates National Pay Points up to spinal column point 44 and locally determined pay points above. The current pay and grading structure can be accessed via the following link.

<http://extranet.somerset.gov.uk/EasysiteWeb/getresource.axd?AssetID=95547&type=full&servicetype=Attachment>

The Council operates a 17 grade pay structure. Each grade from 17 up to 9 contains a number of pay increments. On Grades 8 and upwards, there is a single pay point per grade.

The Council does not operate a performance-related pay scheme for any staff, but does have a performance related appraisal scheme, including behaviours and competency assessment. The Council does not pay a bonus to any Council employee and no additional payments are made for election duties.

NJC for Local Government Services (Green Book) pay, terms and conditions apply to posts on Grades 17 to 4 inclusive. Annual pay awards are determined by national agreement.

With the exception of the Monitoring Officer, posts on grades 17 to 4 are officer appointments.

Post holders on Grades 17 – 9 are, subject to satisfactory performance, eligible for annual incremental increases up the pay scale until they reach the top of their grade.

Post holders on Grades 4 – 8 (Strategic and Service Managers) have some localised terms and conditions. Each Grade (4 – 8) has a fixed, spot salary and there is no incremental progression.

## **7. Chief Executive and SLT Officers Pay**

The Chief Executive and other SLT Officers are paid on Grades 1 – 3. All SLT posts on Grades 1 to 3 and the Monitoring Officer are appointed by the Appointments Committee of the Council with the exception of the Chief Executive whose appointment has to be agreed by the Council.

Each of the Grades 1 – 3 has a spot salary and no incremental progression.

Annual Salaries for Chief Executive and SLT posts as at January 2020 range between £92,019 and £162,384, as follows:

Grade 1 Post:  
Chief Executive

The salary for Grade 1 Post is £162,384.

Grade 2 Posts:  
Director of Childrens Services (DCS)  
Director of Finance  
Director of Adult Social Services (DASS)  
Public Health Director  
Lead Commissioner Economic and Community Infrastructure

The salaries for Grade 2 Posts are within the range £108,255 to £140,720 .



**Grade 3 Posts:**

Director of Corporate Affairs

Economic and Community Infrastructure Operations Director

Economic and Community Infrastructure Commissioning Director

Adults and Health Operations Director

Deputy Director Children and Families

Director of Human Resources & Organisational Development

Managing Director – Somerset Waste Partnership

The salaries for Grade 3 posts are within the range £92,019 to £108,254.

The default position in the event of a vacancy in any of the above posts is that the salary paid to the person appointed to fill the vacancy will be at the lowest point in the range (which represents the 'spot' to be applied within the grade) unless otherwise agreed by the Chief Executive (or Full Council in the case of the post of Chief Executive) in accordance with the requirements of the PPS.

**8. Governance Arrangements (as detailed in the Constitution)**

All actions, responsibilities and delegations outlined below must be exercised in accordance with the requirements of this Statement.

**Appointments Panel**

An Appointments Panel of the Council reviews the terms and conditions of any SLT post that becomes vacant (and, in addition, the post of Monitoring Officer) and where appropriate makes recommendations to the Chief Executive for any changes; decides the appointments process or other course of action; and appoints the Appointments Committee to undertake the appointments process.

The Panel comprises of 3 elected members appointed in accordance with the Constitution and can convene virtually or meet as required. If a Panel decides that no changes to terms and conditions are necessary when it reviews a vacant post (and that the salary will be advertised at the bottom of the range [the 'spot' for the grade] for posts on grades 1 to 3) then the Panel has authority to progress the recruitment without the need to seek further approvals. If a Panel wishes to make changes to the terms and conditions of a vacant post (other than the post of Chief Executive) then these are subject to the approval of the Chief Executive having obtained the agreement of the Leader of the Council. This includes where a Panel wishes to advertise a salary for a post (other than the post of Chief Executive) above the 'spot' at the bottom of the range. This must be the subject of a Panel recommendation to the Chief Executive for decision. If the Panel's recommendations for changes to terms and conditions relate to the post of Chief Executive then Full Council must agree these changes.

Note: The Full Council approval of this Statement meets the provisions of the statutory guidance in relation to senior officer appointments which requires all

posts where the total remuneration package is in excess of £100,000 pa to be approved by Full Council.

### **Appointments Committee**

The Appointments Committee of the Council is responsible for all SLT appointments (and the appointment of the Monitoring Officer) with the exception of the appointment of a Chief Executive which is subject to the approval of Full Council on the recommendation of the Committee. The Committee comprises up to 5 elected members for each individual appointment process and the membership is politically proportioned according to the political membership of the Council. The detailed provisions for the Committee's membership are detailed in the Constitution. If the Committee during the course of an appointment process wishes to vary the terms and conditions or the salary already agreed for a specific post, then such a proposal is subject to the approval of the Chief Executive having obtained the agreement of the Leader of the Council. The exception to this is where the Committee's recommendations relate to the appointment of the Chief Executive where any changes must be agreed by Full Council.

### **HR Policy Committee**

The Committee comprises 6 elected members and the membership is politically proportioned according to the political membership of the Council. This Committee has responsibility for:

- deciding and implementing annual pay awards for the Chief Executive and SLT and, where it is agreed that an award is made, the revised scales will be included for information in the next annual review of the PPS on at least an annual basis the pay and grading structure of the Council (including Chief Officer grades and salaries) and making recommendations for any changes considered necessary to Full Council by way of a revised PPS.

In bringing forward recommendations on these issues, the Committee will take into account:

- the outcome of job evaluation,
- any data/advice/evidence or views collected from appropriate sources, including: the Council's HR function; National and/or Regional Employers' Organisations; independent external pay data
- the needs of the business to recruit and retain senior officers
- the requirements of the PPS and
- fluctuations in the local and national job market.

### **Special Members' Panel / Committee**

The Constitution includes provision for the appointment of a Special Members' Panel to consider (and determine where appropriate) the following issues in relation to SLT Officers and the Monitoring Officer:

- (a) Where the dismissal of an SLT Officer (other than the Chief Executive or the Section 151 Officer) is proposed on disciplinary grounds, Council will determine the dismissal on the recommendation of the Panel;
- (b) Where a proposal is made to dismiss an officer holding a statutory post of Chief Executive, Chief Finance Officer or Monitoring Officer, the Panel shall decide whether there is any justification to the proposed dismissal and therefore whether it needs to be investigated. If the decision is that an investigation is necessary, the Panel will appoint an investigator. If the investigation confirms a potential dismissal, the Panel will refer the matter to the Independent Persons' Panel for consideration and report to Council. If the investigation recommends disciplinary action, then the Special Members' Panel shall consider and decide whether disciplinary action is justified and if so agree any action to be taken.
- (c) The Panel has authority to meet as a Committee of the Council to determine any question of disciplinary action in relation to an SLT Officer or the Monitoring Officer.
- (d) Except as otherwise provided for in (a) to (b) above, the Panel has authority from the Council to meet as a Committee of the Council to deal with any question of dismissal of an SLT Officer on the grounds of redundancy (including voluntary), permanent ill-health or infirmity of mind or body. The exception to this is where a proposed financial settlement for an officer leaving the Council exceeds £100,000. In these circumstances Full Council must agree the settlement.

The Special Members' Panel shall comprise of 6 Members appointed by the Leader of the Council (or his/her nominated representative) and comprising:-

- (a) The Leader of the Council (or his/her nominated representative)
- (b) The Leader of the largest opposition group (or his/her nominated representative)
- (c) 4 other Members of the Council selected by the Leader of the Council in consultation with the other Group Leaders and in accordance with the rules of political proportionality.

*Note: The membership of the Panel will not include any Member previously involved in an individual Officer's case.*

### **Independent Persons' Panel**

Any proposal to dismiss a statutory post-holder holding the position of Chief Executive, the Chief Finance Officer or the Monitoring Officer must be determined by the Council on the recommendation of the Independent Persons' (IPs) Panel comprising a minimum of 3 IPs in accordance with the Local Authority (Standing Orders) (England) (Amendment) Regulations 2015. The IPs are selected from a joint Somerset Councils' Panel of IPs. The Panel is appointed by the Chief Executive (or the Director of HR where the Chief Executive is the subject of the proposed dismissal). The Panel shall be appointed a minimum of 20 days before the Council is due to meet to consider

the dismissal.

#### Note

This section summarises the detailed arrangements set out in Section 7 of Part 1 of the Constitution.

### **Chief Executive: Delegated Powers**

The Chief Executive has been designated by the Council as the Head of the Paid Service and is therefore responsible for the Council's Senior Leadership Team and supporting officer structures of the Council. Any changes proposed by the Chief Executive to the staffing structure shall be subject to consultation with the Cabinet before the changes are agreed by way of an Officer Decision taken by the Chief Executive. Full Council will be informed of changes agreed at the next available opportunity.

The Chief Executive has authority:

- To appoint and dismiss all employees except where this function is specifically delegated to Members.
- To approve changes to the terms and conditions of all SLT posts and the post of Monitoring Officer on the recommendation of the Appointments Panel or the Appointments Committee or on his / her own initiative and having obtained the agreement of the Leader of the Council. The exception to this authority is the post of Chief Executive. All decisions taken by the Chief Executive on such matters will be the subject of a formal Officer Decision which will be published on the Council's website as soon as it is confirmed.
- After having sought the agreement of the Leader, and after appropriate consultations, to agree:
  - (a) acting up arrangements into SLT positions (other than that of Chief Executive) to cover periods of temporary absence either planned or unplanned
  - (b) emergency cover arrangements for the statutory chief officer roles (other than that of Chief Executive) where these positions become vacant between Full Council meetings. Any such agreement will be subject to review and confirmation at the next available Full Council meeting
  - (c) the recruitment of interims at SLT level in accordance with the requirements of section 11 of this Statement.

**NB** Only Full Council may approve acting up or temporary cover arrangements for the role of Chief Executive.

Before making decisions in relation to the staffing structure or individual posts, the Chief Executive is required to consider:-

- the views of the relevant Cabinet Member, the Chairman of the HR Policy Committee and the Opposition Spokesperson, and, as appropriate:-

- the outcome of job evaluation,
- any data/advice/evidence or views collected from appropriate sources, including: the Council's HR function; National and/or Regional Employers' Organisations; independent external pay data
- the needs of the business to recruit and retain senior officers;
- the performance of individual SLT Officers
- the requirements of the PPS and
- fluctuations in the local and national job market.

The Chief Executive has authorised other officers to appoint and dismiss staff Grades 4 and below (with the exception of the Monitoring Officer), in line with normal Council appointments processes.

SLT Officers are subject to the same terms and conditions as other employees in respect of termination of employment. The only exception is that SLT Officers and the Monitoring Officer are subject to modified disciplinary procedures as outlined in this Statement and in the Council's Constitution.

#### **9. Chief Executive Remuneration relative to other Council employees**

The recommendation of the Hutton Report into "Fair Pay in the Public Sector", as recognised by the Government in the Local Government Transparency Code 2015, was that the Council should publish the pay ratio of the salary of the Chief Executive compared to the median average salary in the organisation.

As at 1st January 2020, the ratio of the pay of the Council's median earner (£24,799) to that of its Chief Executive (£162,384) was 1: 6.55.

## **10. Pay Policy upon Appointment to posts below SLT level**

### **Internally Appointed Candidates**

On promotion an officer must be appointed to the spot pay point or the minimum point on the scale, whichever is applicable. If there are special circumstances where it is considered that an increase in excess of the minimum is merited, then it will be necessary to consult the Director of HR and OD (or their nominated representative) and this must be done before any formal offer is made to the candidate.

### **Externally Appointed Candidates**

The starting salary of an externally appointed candidate would normally be the spot pay point or the minimum point on the scale, whichever is applicable. However, the Council could pay a point within the incremental scale if the candidate is already paid on a higher salary or where their experience is beneficial to the Council. Should there be any doubt about repercussions elsewhere, the Director of HR and OD (or their nominated representative) should be consulted.

### **Transferred Officers**

Where employees move between operational areas on the same grade with an incremental scale, no increment is payable at the time of transfer. The service is regarded as continuous for the purpose of annual incremental advancement. Therefore, where an officer's salary on 1 April following appointment, promotion or re-grading would be less than one spinal column point of their old salary the officer shall be entitled to their first increment on 1 April.

### **Promotion or Re-grading**

On promotion within the Council to a post on a grade with an incremental scale, and which carries a higher maximum salary than their previous grade, or on the re-grading of their existing post based on increased duties and responsibilities, the officer shall be paid a salary in accordance with the new grade which is at least one spinal column point in excess of the salary they would have received on the old grade on the day of appointment, promotion or re-grading.

## **11. Appointment of Agency Interims at SLT level**

Where the Council is unable to permanently recruit officers at the most senior level, there could be a requirement for that substantive post to be covered by an interim appointment. Interims will be supplied to the Council through a supplier to deliver the required cover.

The Council has various supplier options to supply interims in adherence with Procurement and Financial Regulations.

An interim's term of employment and contract is direct with the supplier and not the Council. The interim shall be solely responsible for complying with

legal requirements including the payment and accounting of taxes. In addition, the supplier should make the relevant declaration and checks in order to satisfy themselves that the interim abides by the relevant UK tax law.

Having obtained the agreement of the Leader of Council, the Chief Executive will approve the recruitment of interims at SLT level on a case by case basis and based on a business case presented by the Appointments Panel which takes into account:

- value-for-money for the taxpayer
- the evaluated grade of the post to be covered
- the public profile of the post
- risks to the Council
- the labour market, both nationally and locally in the South West, for interims providing cover for similar posts in councils of a similar size

Interims will be supplied to the Council in accordance with its Contract Standing Orders, relevant Procurement, Legal and Financial Regulations.

The Appointments Committee will interview candidates for interim appointments at SLT level to assess their suitability for the role and will confirm appointments.

SLT level interim appointments will be subject to formal review by the Chief Executive at the end of six months and at six monthly intervals thereafter to assess whether there is a requirement to retain their services. The original Appointments Committee will be consulted where the Chief Executive proposes to extend the engagement of an interim. The final decision on the extension of an interim rests with the Chief Executive.

### **Appointment of Agency Interims below SLT level**

All interim appointments below SLT level will be sourced by the relevant SLT Officer or the Chief Executive where an SLT Officer is unable to act.

If this interim is to be employed at a rate of over £500 per day:

- The appointment will be subject to a formal review process at the end of the first six months and six monthly thereafter; and
- Any decision to extend the engagement of such an interim will require the approval of the Chief Executive.

All other interim appointments will be subject to a formal review process at the end of the first six months and six monthly thereafter and the decision to extend the engagement of such appointments rests with the relevant SLT Officer.

## **12. Recruitment and Retention Allowances**

External recruitment and internal retention problems are tackled by temporarily increasing the total pay awarded to a post, when it can be shown that the pay on the evaluated grade is significantly lower than competitors'

rates of pay.

The payment of an allowance is temporary and will not be renewed if a review finds evidence that demonstrates the payment of the allowance is no longer justified.

An allowance forms part of an employee's pay (all the salary, wages, fees and other payments paid to them for their own use in respect of their employment) and as such is pensionable. An allowance is expressed as a cash lump sum, pro-rata to the contracted hours, and is not subject to annual cost of living/inflation pay awards.

Approval of recruitment and retention allowances in respect of:

- SLT posts and the Monitoring Officer post (with the exception of the post of Chief Executive) shall be determined by the Chief Executive following consultation with the Leader of Council and on the recommendation of the appropriate Appointments Panel in relation to new appointments
- The post of Chief Executive will be agreed by Full Council
- All other posts shall be determined by the Director of HR and OD or nominated officer, following a business case presented by the manager and having consulted with a group of senior managers.

### **13. Travel and Subsistence**

The Council's intention is that employees should not be financially disadvantaged in going about its business and that they are fairly compensated for expenditure incurred. However, managers and employees are expected to organise journeys in the most efficient and effective manner possible and, in submitting claims, to adopt a reasonable approach.

SLT Officers are subject to the same policies as all other staff. Expenses paid to SLT Officers are published in the Annual Statement of Accounts.

### **14. Reimbursement of Fees**

The Council will meet the cost of:-

- Practising Certificate required by Solicitors employed by the Council.
- Annual cost of membership of ARCUK required by practising Architects employed by the Council.

The Council will not pay fees and subscriptions payable by the Chief Executive and other Officers, to professional qualification bodies and local government-based societies and associations.

Fees and subscriptions payable by the Chief Executive and SLT Officers to associations that are inter-Council networking organisations (as distinct from



subscriptions to professional bodies) should be reimbursed subject to individual cases being approved by the Chief Executive and Director of HR and OD in consultation with the relevant Cabinet Member.

Where Committees consider that the Council may derive benefit by such officers attending meetings/working parties of local government-based societies/associations travelling and subsistence expenses incurred may be reimbursed subject to prior approval.

#### **15. Additional Payments**

Allowances are paid in line with NJC terms and conditions (Green Book), or by local agreements where relevant.

Any allowances paid to SLT Officers are disclosed in the Annual Statement of Accounts.

The Council has no policy for making benefits in kind.

#### **16. Salary Protection for Redeployed Employees at Risk of Redundancy**

This applies to all staff (excluding Officers on Grade 8 and above - please see below).

Protection will not apply to redeployed employees with less than two years local government service.

Salary protection arrangements will be for a period of three years during which annual cost of living pay increases and incremental progression will be awarded.

At the end of this period the substantive grade of the new post will be applicable.

It should be noted that salary protection is in place to ease the financial implications on those being redeployed and does not extend beyond salary.

As from 1st April 2014, Officers on Grades 8 and above receive one year's frozen pay protection.

## **17. Pension**

All employees are eligible to join the Local Government Pension Scheme (“LGPS”). The Redundancy & Efficiency Compensation Policies and Flexible Retirement Policy apply to all staff. The Council has determined and published policies around the discretions available under the LGPS. The Council makes no enhancements or increases to individual pension benefits.

The Council applies its discretion under the regulations of the LGPS to allow employees aged 55 and over who are members of the LGPS to request payment of early retirement benefits whilst remaining in the Council's employment on reduced hours/lower grade. This does not apply to employees who are receiving a redundancy payment and early pension benefits or who are taking early retirement in the interests of the efficiency of the service.

Re-engagement of employees who are in receipt of a Local Government Pension should be through Reed Recruitment.

The Council may re-employ employees who have been made redundant whether through voluntary, compulsory or early retirement.

Managers who are employing an employee in this category should ensure that the usual selection processes are applied.

Employees should be advised that the combined pension and salary of their new post should not exceed the salary of their previous post. Otherwise their pension will be abated.

A number of employees have transferred to the Council under a specific staff transfer arrangement which allowed them to continue membership of the NHS pension scheme. The Council makes contributions on their behalf and complies with Pension Legislation in respect of the NHS scheme.

## **18. Settlement Agreements**

In exceptional circumstances to avoid or settle a claim or potential dispute, the Council may agree payment of a settlement sum on termination.

All cases must be supported by a business case and take account of all legal, financial, contractual and other responsibilities.

Aside from the provisions in section 8, all settlement payments on termination of the contract of a post require the approval of the relevant SLT Officer.

Somerset County Council  
 HR Policy Committee  
 – 21 January 2020

## Member Appeals Procedure Update

Cabinet Member: Cllr Mandy Chilcott, Deputy Leader and Cabinet Member for Resources

Lead Officer: Chris Squire, HR&OD Director

Author: Vicky Hayter, Strategic Manager HR Business Relations

Contact Details: 01823 359858

<i>Please complete sign off boxes below prior to submission to Community Governance</i>			
	<b>Seen by:</b>	<b>Name</b>	<b>Date</b>
<b>Report Sign off</b>	Legal	Honor Clarke	08/01/20
	Corporate Finance	Sheila Collins	08/01/20
	Human Resources	Chris Squire	08/01/20
	Cabinet Member	Mandy Chilcott	
	Monitoring Officer	Scott Wooldridge	08/01/20
<b>Summary:</b>	The Report sets out proposed amendments to the Member Appeals Procedure. The amendments are generally minor and mainly relate to clarity of responsibility. The only significant change relates to the re-ordering of the procedure from the management representative putting their response to the grounds first to the employee or their representative setting out their grounds for appeal first.		
<b>Recommendations:</b>	<b>The HR Policy Committee is asked to :</b> <b>1. Accept the amendments in their entirety</b>		
<b>Reasons for Recommendations:</b>	To ensure that the Council meets its legal obligations whilst providing a fair and equitable opportunity for an appellant to have their grounds for appeal heard by a panel of Councillors. Also, for the purposes of providing clarity on roles and responsibilities to parties to the process.		
<b>Links to Priorities and Impact on Service Plans:</b>	Appropriate procedures for staff are fundamental to the delivery of the Council's objectives and services as set out in the County Plan.		
<b>Financial, Legal and HR Implications:</b>	The revised Member Appeal Procedure meets the requirements of the Local Government Act 1972.  Any other consequences come from decisions taken by the Council in accordance with the Appeals process. This is likely to		

	be indirectly as a result of appeals being dismissed and action taken through external channels such as Employment Tribunal.
<b>Equalities Implications:</b>	The Council's duty under Section 149 of the Equality Act 2010 is to have "due regard" to the matters set out in relation to equalities when considering and making decisions. There are no direct equality impacts associated with agreeing the Appeals Policy itself. There are also no direct impacts on sustainability, health and safety, community safety or privacy aspects as a result of the recommendations
<b>Risk Assessment:</b>	Failure to comply with the Local Government Act could lead to a legal challenge to the Council and therefore it is important that the procedure reflects the Act, other relevant legislation and statutory guidance. The Council is required to have regard to statutory guidance and either comply with it fully or put in place appropriate alternative provisions.
<b>Scrutiny comments / recommendation (if any):</b>	None

## 1. Background

- 1.1. The Member Appeals Procedure has been in use for a number of years in its current form. Adaptations have been made over the years by agreement. The opportunity has been taken to update the procedure to reflect the current situation.
- 1.2. The changes reflect the duties carried out by the different parties involved. In particular, the move to ensure that the letter to the appellant setting out the outcome of the Hearing is clearer and that there is a note of the meeting.

## 2. Options Considered

- 2.1. No alternative options were considered in relation to the amendments to the Member Appeals Procedure.

## 3. Consultations undertaken

- 3.1. The proposed amendments will be shared with the Green Book Union meeting which will take place on 15 January 2020. It is not anticipated that there will be any objections to the changes.

## 4. Implications

- 4.1. The recommendations are intended to ensure that the Member Appeals

Procedure offers an equitable opportunity for an appellant to have their case heard by a more independent panel.

- 4.2. The procedure means that there is now a more robust set of papers in the form of an outcome letter and notes from the meeting. This ensures that the Appellant has a clearer understanding of the decision-making process.

## **5. Background papers**

- 5.1 Appendix 1 - a draft copy of the amended Member Appeals Procedure.

**Note:** For sight of individual background papers please contact the report author.

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## **PROCEDURE TO BE FOLLOWED AT A HEARING OF AN APPEAL REFERRED TO THE OFFICER APPEALS COMMITTEE**

### **1. GENERAL**

The Officer Appeals Committee of the Council hears appeals by employees against their dismissal or against action short of dismissal [see 1.3 below]. It is a formal Committee of the Council.

#### **1.1 Membership**

The full Committee comprises 6 members of which 3 are chosen to hear the appeal by the Monitoring Officer in consultation with the Director of HR & OD. Care must be taken to ensure that the Committee members chosen do not have a conflict of interests as a result of either

- having a close association to, or responsibility for, the Service in which the Appellant is employed; or
- a personal relationship with the Appellant.

#### **1.2 Administration**

Advice and assistance to the Committee will be provided as set out below.

- (a) The County Solicitor (or their nominated representative) will advise on procedural and legal issues. They will attend the hearing to give professional advice as required.
- (b) The Director of Human Resources (HR) & Organisational Development (OD) (or their nominated representative) will:
  - advise on management issues. This includes being present throughout an appeal hearing to advise unless the Appellant is an employee of the HR Service whereupon another Senior Leadership Team (SLT) Manager or their nominated representative may be asked to perform this role.
  - ensure that the papers in respect of the appeal are circulated to all relevant parties in advance of the meeting and in accordance with 2 below.
  - provide a note taker for the hearing.

- prepare the letter detailing the Committee's decision after the conclusion of the process and following consultation with the Committee's Chair and the County Solicitor (or their nominated representative).
  - prepare a set of public minutes setting out the Committee's decision for publication on the Council's website having obtained confirmation of their accuracy from the members of the Committee. As the public record of the outcome, the minutes will exclude exempt information.
  -
- (c) The Democratic Services Team will organise the appeal hearing in accordance with legal requirements.
- (d) On occasion it may be necessary for an additional adviser to be present from the respondent Department to advise on any professional/technical issues arising during the appeal.

### 1.3 Powers

The Committee has delegated authority from the Council in respect of appeals against dismissal and action short of dismissal to:-

- (a) uphold the appeal and reinstate the Appellant; or
- (b) dismiss the appeal and confirm the dismissal; or
- (c) impose one of the lesser sanctions outlined in the Council's Disciplinary Procedure, in preference to confirming the dismissal.

### 1.4 Methods of Operation

- (a) As a formal Council committee, the Committee's meetings are subject to the Local Government Act 1972 requirements and are public meetings unless the Committee members decide to exclude the press and public because of the likelihood of the release of exempt information as defined under the Act. In reality because of the nature of the Committee's business it is expected that the appeal documentation will contain exempt information as defined in the Act and will not therefore be published or made available to the public as part of the hearing process. This means that the Committee will agree that strict confidentiality is applied to the hearing, all documentation relating to the appeal, and the outcome of the process.
- (b) Care must be taken to ensure that the hearing takes place in accordance with the principles of natural justice.
- (c) Subject to (d) below, the Appellant may:



- arrange to be *represented*<sup>1</sup> or *supported*<sup>2</sup> by a union representative or work colleague of their choice at the hearing;
  - call witnesses and/or submit documents to be considered by the Committee.
- (d) The Appellant is required to give a minimum of 2 days notice in advance of the hearing to the Director of HR&OD (or their designated representative) of the name of any person(s) attending the hearing under the provisions of paragraph 1.4(c). Similarly, if the Appellant wishes to circulate any late papers relevant to their appeal (which were not previously available to be circulated as part of the papers for the meeting) for consideration by the Committee then these must be sent to the Director of HR&OD (or their designated representative) at least 2 days in advance of the hearing to allow time for all of those attending to be notified and for the papers to be circulated.

Note:

- (e) Statements made by a representative or a witness on behalf of the Appellant at a hearing must be relevant to the grounds of the appeal.
- (e) Similarly, if the Director of HR&OD (or their designated representative) wishes to have any late papers relevant to the appeal (and not available to be circulated as part of the papers for the meeting) considered by the Committee then these must be circulated to all of those attending at least 2 days in advance of the hearing.
- (f) Hearings are conducted as informally as possible within the guidelines set out later in Section 3.

## **2. ACTION PRIOR TO THE APPEAL**

2.1 A timeline for the consideration of an appeal is attached as Appendix A. This sets out the responsibilities of all involved for clarity. The process for lodging an appeal is set out in the Council's disciplinary procedure.

2.2 When an appeal is lodged the Director of HR&OD (or their designated representative) will notify Democratic Services who will make the arrangements for the appeal to be heard by the Committee.

2.3 Democratic Services will:

- Arrange for the appeal to be heard by the Committee, if possible within 28 days of it being lodged.

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<sup>1</sup> Under (c) the term 'represented' is defined as a person who present the Appellants case.

<sup>2</sup> The term 'supported' is defined as any person chosen by the Appellant to accompany them to the hearing but without playing an active part in the consideration of the appeal.

Note: To help ensure that appeals are heard in a timely manner, 6 meeting dates per annum are reserved in advance in members' and officers' diaries. Every effort will be made to have the hearing on one of these pre-arranged dates. This will ensure that the Appellant and all participants are given as much notice as possible of the date and time of the hearing. The legal requirement is that 8 days notice of the meeting must be given to the Committee members and to the public. Irrespective of the legal requirements for notice Democratic Services will ensure that all participants have at least 10 days notice of the meeting to allow them to take necessary steps to prepare for it.

- Inform the Committee members and relevant officers of the date of the Committee meeting to hear the appeal except for the Appellant and his/her representative (where appropriate) – see 2.4 below.
- Ensure that Access to Information requirements are met in relation to the Committee's meeting including giving formal public notice of the meeting and publishing the agenda and papers that do not contain exempt information.  
Note: Hearings can take place at any time between 9am and 9pm on the date selected and all participants will be expected to ensure their attendance over this period.

#### 2.4 The Director of HR&OD will:

- Contact relevant officers to agree a timetable and confirm their availability to attend the appeal hearing, within the framework of this procedure (see Notes 1 and 2).
- Contact the Appellant (and their representative, where appropriate) to inform them of the date of the Committee meeting and ensure that they can attend (see Notes 1 and 2). This notification will be sent as soon as possible and at the same time as the Committee members are formally notified. The notification will be sent to the Appellant in writing, and by Recorded Post (see Note 3).
- Collate all documentation relevant to the appeal. The resulting pack of information relating to the appeal needs to be finalised at least 2 days prior to the circulation of the agenda, i.e. at least 10 days before the hearing, to allow circulation to all parties (see Note 4);
- Circulate the information relating to the appeal 8 days in advance of the Committee's meeting to coincide with the publication/circulation of the agenda for the Committee's meeting.

#### 2.5 Important notes for all parties to the appeal:

- Note 1. If either side want an extension of the 28 day deadline, then written permission must be obtained from the Director of HR &OD. Once a hearing

date has been notified to all parties an extension of the 28 day deadline will only be agreed if there are exceptional and extenuating circumstances. The final decision on the application of the 28 day deadline will be made by the Director of HR &OD having taken advice from officers.

- Note 2. In the event of difficulties over agreeing a date for the hearing, preference will be given to the Committee Members diaries even if it means an evening meeting; the remainder of the participants will be expected to attend at the time chosen. Notice will be taken of any special needs that the Appellant may have.
- Note 3. Appellants will be asked whether they will attend the hearing. Where the Appellant indicates that he/she will attend, and then fails to attend, the appeal will normally be heard in their absence unless the Committee is notified of extenuating circumstances and a postponement has been requested.
- Note 4. The Committee has discretion whether to accept any late papers received after agenda despatch.

### **3. THE HEARING FOR APPEALS AGAINST DISMISSALS AND ACTION SHORT OF DISMISSAL**

**3.1** The Committee will agree its own procedure but should as far as practicable observe the following:-

- (a) As the first item of business the members selected for the hearing shall appoint a Chair from within their membership for the duration of the consideration of the appeal.
- (b) Before considering the appeal, the Committee will be asked to agree the exempt information clause in accordance with the Local Government Access to Information Act 1985.
- (c) Before considering the appeal, the Chair will: introduce all those present; explain the purpose of the hearing; how it will be conducted; the role of the advisers; and the powers of the Committee. The Chair will also clarify the grounds of the appeal, as required.
- (d) The Appellant (or his/her representative) will then be asked to set out their grounds for the appeal in the presence of the Council's representative and call witnesses to give evidence, if appropriate.

(NB: Normally, witnesses are only required to be present whilst giving evidence, although the Committee may ask key witnesses such as the representative of the respondent Department to remain throughout the duration of the hearing).

- (e) The Council's representative will then be given the opportunity to ask questions of the Appellant and his/her witnesses.
- (f) The Committee members may ask questions of the Appellant and his/her witnesses.
- (g) The Appellant or his/her representative will then have the opportunity to ask any supplementary questions of witnesses.
- (h) The Council's representative will present the management case in the presence of the Appellant and his/her representative and may call appropriate witnesses to give evidence.
- (i) The Appellant (or his/her representative if the Appellant wishes) will be given the opportunity to ask questions of the Council's representative and any management witnesses.
- (j) The Committee members may ask questions of the Council's representative and the management witnesses.
- (k) The Council's representative will then have the opportunity to ask any supplementary questions of witnesses.
- (l) The Committee members, the Council's representative and the Appellant (or his/her representative) may then ask any further supplementary questions of the participants which are relevant to the hearing.
- (m) The Council's representative, followed by the Appellant (or his/her representative) will sum up their respective cases.

**Comment [TW1]:** Usually appeals procedure requires the appellant to go first. This approach allows the appellant to lead and frame the scope of the hearing rather than having to react to the management's case – this is a fairer approach given the relative power of the parties and the fact that the management representative ought to have conducted the disciplinary in such a way that they are able to respond to the appellant's grounds of appeal.

Once satisfied that the relevant issues have been fully explored the Chair will adjourn the meeting to allow the Committee, with the support and advice of the County Solicitor and the Director of HR & OD (or their nominated representatives), to reach their decision in private. The Committee may recall the Council's representative and/or the Appellant and their representative to clarify points of uncertainty on evidence already given. If recall is necessary, both parties will be asked to return, even if only one party is concerned with the point giving rise to doubt.

### 3.2 The Decision

- The Committee will examine all of the issues fully before reaching a decision.
- The Committee may not use new information coming to light during the Appeal process to justify a new reason for dismissal in substitution for the original one.
- Following the adjournment, the Chair will reconvene the hearing and inform both parties of the Committee's decision.

- The Committee's decision will be confirmed in writing to the Appellant by the County Solicitor within 10 working days of the hearing. The decision letter will represent the formal confidential record of the Committee's decision.
- The Committee's decision is final and therefore there is no further appeal process.

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Date	Action	To be taken by
-28 days	<ul style="list-style-type: none"> <li>Appellant gives formal notice of appeal with reasons to the Director of HR&amp;OD</li> </ul>	Appellant
-28 days	<ul style="list-style-type: none"> <li>Director of HR&amp;OD or nominated representative informs Democratic Services that an appeal has been lodged, provides details of Appellant's service area and acknowledges receipt of the appeal</li> <li>Monitoring Officer chooses 3 members to hear the appeal</li> </ul>	Director of HR&OD  Monitoring Officer
Between - 28 days and - 8 days	<ul style="list-style-type: none"> <li>Democratic Services arrange date of committee meeting, inform members and Director of HR&amp;OD and make all necessary meeting arrangements</li> <li>Director of HR&amp;OD to inform Appellant (and their representative) of the date of the hearing and the arrangements</li> <li>Director of HR&amp;OD to arrange for relevant officers to attend the hearing</li> </ul>	Democratic Services  Director of HR&OD  Director of HR&OD
- 10 days	<ul style="list-style-type: none"> <li>f HR&amp;OD team finalises appeal documents pack</li> </ul>	HR&OD
- 8 days	<ul style="list-style-type: none"> <li>Democratic Services publish the Committee agenda and non-exempt papers on the Council's website</li> <li>HR&amp;OD circulates papers for the appeal to all participants</li> <li>HR&amp;OD organises note taker for the hearing</li> </ul>	Democratic Services  HR&OD HR&OD
- 2 days	<ul style="list-style-type: none"> <li>Final date for Appellant to advise HR&amp;OD of the name of any supporter or representative attending the hearing with them and provide any late papers for consideration at the hearing</li> <li>HR&amp;OD to circulate any late papers for the hearing from the Appellant / management to all participants</li> </ul>	Appellant    HR&OD
Hearing day	<p>In attendance</p> <ul style="list-style-type: none"> <li>Committee members</li> </ul>	All to note

	<ul style="list-style-type: none"> <li>• Appellant</li> <li>• Appellant’s representative (optional)</li> <li>• Appellant’s support (optional)</li> <li>• Director of HR&amp;OD (or representative)</li> <li>• County Solicitor (or representative)</li> <li>• Witnesses</li> <li>• Notetaker</li> </ul>	
+ 10 working days	<ul style="list-style-type: none"> <li>• HR&amp;OD writes to Appellant to confirm the Committee’s decision as the formal confidential record</li> <li>• County Solicitor to prepare public minutes as the formal public record, seek agreement from the Committee members as to accuracy.</li> <li>• Committee Chair signs the minutes as a correct record</li> <li>• County Solicitor sends signed minutes to Democratic Services</li> <li>• Democratic Services publishes minutes on SCC’s website</li> </ul>	<p>HROD County Solicitor</p> <p>Committee Chair</p> <p>County Solicitor</p> <p>Democratic Services</p>

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Somerset County Council  
 HR Policy Committee – 20 January 2020

## Discretions Policy Update

Cabinet Member: Mandy Chilcott

Lead Officer: Chris Squire

Author: Cat Tyson

Contact Details: catyson@somerset.gov.uk

<i>Please complete sign off boxes below prior to submission to Democratic Services</i>			
<b>Report Sign off</b>	<b>Seen by:</b>	<b>Name</b>	<b>Date</b>
	Legal	Honor Clarke	
	Corporate Finance	Sheila Collins	
	Human Resources	Chris Squire	
	Senior Manager	Chris Squire / Vicky Hayter	
	Cabinet Member	Mandy Chilcott	
	Monitoring Officer	Scott Wooldridge	
<b>Summary:</b>	HR Policy Committee is asked to approve amendments to the SCC Pensions Discretions Policy.		
<b>Recommendations:</b>	<p><b>Adopt Flexible Retirement amendments/additions to both SCC Discretions Policy and Flexible Retirement Policy.</b></p> <p><b>Do not apply the 85-year rule discretion to deferred benefits and update Deferred Pensions Policy to reflect this.</b></p> <p><b>Include discretion on employee contribution bands.</b></p> <p><b>Review how /when to make future updates.</b></p>		
<b>Reasons for Recommendations:</b>	<p>All employers who participate in the Local Government Pension Scheme (LGPS) are required to formulate a discretions policy in accordance with Regulation 66 of The Local Government Pension Scheme (Administration) Regulations 2008, and Regulation 60 of the Local Government Pension Scheme Regulations 2013.</p> <p>The Policy must be published and kept under review and revised as necessary. A copy of the Discretions Policy must be sent to the Pension Fund Administrator (Peninsula Pensions) with any amendments sent to Peninsula Pensions within one month of the change.</p>		
<b>Links to Priorities and Impact on</b>	Given the Council's Financial Position we are likely to have increased requests under our Pensions Discretions.		

<b>Service Plans:</b>	
<b>Financial, Legal and HR Implications:</b>	<p>Discretionary powers come with a cost attached (often referred to as 'strain') and policies must not lead to a loss of confidence in public services and therefore must be affordable.</p> <p>Policies should reflect pension membership, budgetary constraints and the nature of the Council's business.</p> <p>The Council has limited resources and needs to maintain a balanced budget. Any exercise of discretion must be contained within existing service budgets; therefore, discretions are only exercised in exceptional circumstances.</p> <p>Failure to publish Discretions Policy means we are not complying with LGPS regulations.</p> <p>"Fettering" - policies should not be unnecessarily restrictive as to prevent flexibility where a possibly unanticipated situation requires it.</p>
<b>Equalities Implications:</b>	<p>Policies should not be discriminatory in any way and decisions must be objectively justified.</p> <p>Consider age regulations.</p> <p>Any equalities impact will be considered as part of the exceptional circumstance on a case by case basis.</p>
<b>Risk Assessment:</b>	<p>There are risks associated around any maladministration of the LGPS if a member's complaint is successfully upheld by the Pensions Advisory Board/Ombudsman which can include financial compensation and fines.</p> <p>Consider reviewing how amendments are agreed.</p>
<b>Scrutiny comments / recommendation (if any):</b>	N/A

## 1. Background

- 1.1. Amendments to the Local Government Pension Scheme Regulations require that we update our Discretions Policy to include new mandatory discretions and following recommendation from our Pension Provider, Peninsula Pensions, to add some additional non mandatory discretions as outlined below 1.2. to 1.5.
- 1.2. **Flexible Retirement R30(6), pg 8** – While the Council already allows Flexible Retirement there is a new requirement to state whether the Council permit Flexible Retirement and if so to publish SCC's Flexible Retirement Policy as part of our Discretions Policy and to clarify the following:

- Minimum reduction in hours or grade required
- Whether the employee should commit to the reduction for a minimum period
- Whether the employee should commit to remaining in employment for a minimum period.

**1.3. 85-year rule TP1(1)(c), pg 5** – New requirement to state whether to switch on the 85-year rule for former (deferred) members who ceased active membership between 1 April 2008 and 31 March 2014 and choose to voluntarily draw their benefits on or after age 55 and before 60 as follows:

- Elect to voluntarily draw their suspended tier 3 ill health pension
- Elect to voluntarily draw any deferred benefits

**1.4. Extension of time limits R22 and R27, pg 6** – Whether to extend the 12-month time limit for a member to elect **not to** or **to** aggregate deferred benefits as outlined under Reg 22 and Reg 27 in the attached Discretions Policy.

**1.5. Determination of when to assess employee's contribution rates R9(1)&(3), pg 6** - this is an additional non mandatory discretion

**2. Options Considered – in each case the option is to either allow or not allow the discretion.**

**2.1. Flexible Retirement R30(6), pg 8**

We currently, and have for several years, allowed the Flexible Retirement Discretion. Employees aged 55 and over who are members of the LGPS may request payment of early retirement benefits whilst remaining in the Council's employment on reduced hours/lower grade. This is provided we agree to the member either reducing their hours or moving to a position on a lower grade based on a sound business case which is subject to the approval of the Senior Leadership Team Member and the Director of HR and OD. Each request is considered on its merits on a case-by-case basis.

Existing policy states 'Approval of any request will depend on the operational viability of the proposal set out in the business case. As a guide, where a business case for Flexible Working is minimal (e.g. less than 20%), either in terms of reduced hours or lower grade it may be more difficult to justify.'

The policy does not specifically state a period for which the reduction must apply or that the employee should commit to remaining in employment for a minimum period.

In allowing the Flexible Retirement discretion we must state the minimum requirements in our Discretions Policy. It is therefore recommended that we state the following in both the Flexible Working Policy and the Discretions Policy:

Minimum reduction in hours or grade required – **20% or 1 full grade below existing and reduction of hours equivalent to 20% reduction**

Minimum period of reduction – **Permanent**

Minimum period to remain in employment – **1 year**

We will apply the exceptional circumstances clause including where there is a clear business case to manage any exceptions to these rules.

In addition, in allowing the Flexible Retirement Discretion the Regulations require we make a statement about whether we will allow the employee to choose what proportion (all, part or none) of their post 1 April 2008 benefits to draw. If we allow this discretion any employee flexibly retiring does not have to draw on all the benefits, they have built up at the point of flexible retirement so. If the member elects to only take part of the benefits on flexible retirement, so allowing this discretion could reduce any strain costs incurred. However, as it is the members decision how much to draw down by allowing this discretion, we could risk incurring higher strain costs. It would seem prudent to apply this discretion only in exceptional circumstances or where there is a clear business benefit to the Council and that in most circumstances' employees will be expected to draw down all their benefits and bear any reduction to their pension.

- 2.2. 85-year rule TP1(1)(c), pg 5** - A member with a deferred benefit who left the scheme voluntarily between 1 April 2008 – 31 March 2014 or who ceased active membership following the suspension of their Tier 3 ill health retirement and who has subsequently become a deferred pensioner may now claim their benefits from age 55 without their employers' consent. However, these benefits will be reduced for early payment.

Where a member has reached the 85-year rule at the point of retirement, an employer can consent to switching on the 85-year rule. Any strain to the Fund will be payable immediately by the Scheme employer.

Members in this situation are ex-employees and there is no budget to offset costs. The burden of strain costs is usually met by the employing Service, in these instances the Service may no longer exist or have sufficient budget to offset costs. There would not be a clear business case or any benefit to the Council therefore it would not be considered financially prudent to switch on the 85-year rule in these circumstances.

The Council also must consider applying this discretion to existing employees and does so in exceptional circumstances which should safeguard the Council against any claims of fettering.

- 2.3. Extension of time limits to or not to aggregate deferred benefits R22 and R27, pg 6**

Members are given a 12 month time limit to consider whether they wish to or not to aggregate certain pension benefits.

There are circumstances where it would be reasonable to accept a late election to retain separate benefits or to aggregate benefits providing the available evidence indicates any of the following:

- 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)

- the member had not been informed of the 12-month time limit due to maladministration
- the member was not practically possible (due to a life changing event) within the 12-month time limit
- the member has final salary membership and was not informed that the implications of aggregating their benefits would cause a detriment to their pension benefits.

In the interest of fairness, it is recommended that the Council apply this discretion only in exceptional circumstances as outlined above.

#### **2.4. Non-mandatory discretions – determination of how an employee’s contribution band will be initially determined and thereafter reviewed R9(1)&(3), pg 6**

An additional statement is recommended in the Discretions Policy to explain how and when the Council determine the rate of employees’ contribution.

In addition to a review each April, the Council must state when they will review an employees allocated pension contribution band following a material change that affects the member’s pensionable pay in the course of a Scheme year (1 April to 31 March), for example, due to promotion.

SAP automatically recalculates the pension contribution % if there is a contractual change and will recalculate each month if it is backdated. If temporary pensionable allowances are paid they will be considered in the month of payment and the band changed if necessary.

It is recommended that this is stated in the Discretions Policy.

### **3. Consultations undertaken**

- 3.1.** The suggested changes to the Discretion Policy have been sent to the Green Book Trade Union representatives in advance of the meeting on 15 January 2020. Any comments will be detailed at the Committee
- 3.2.** Consulted with Peninsula Pensions via telephone.
- 3.3.** Consulted with Strategic Manager - Pension Fund & Service Management, in December 2019.

### **4. Implications**

- 4.1. Financial** – Allowing early access to pension benefits or enhancing pension benefits incurs a cost to the Employer or the LGPS Scheme or both. The Discretions Policy aims to safeguard the Council from significant and material cost and to consider and assess requests on a case by case basis with consideration

given to the members circumstances, the impact on existing and future budgets, workforce planning and employee relations.

**Legal** - LGPS regulations require that the Employer is required to have a written and published policy where a discretion has been deemed mandatory.

The Discretion Policy safeguards the Council from claims of fettering decisions

**Communication** – Failure to publish Discretions Policy or make amendments in a timely manner could be considered as fettering or maladministration. There may be a need to review how future amendments are agreed to mitigate against this.

## **5. Background papers**

**5.1.** Appendix A – Discretion Policy Document

**5.2.** HR Policy Committee Reports dated September 2014, March 2016, November 2017 and September 2018.

**Note:** For sight of individual background papers please contact the report author.

## Employer Pensions Discretions Policy

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**The LGPS Regulations 2013**  
**and**  
**The LGPS Regulations 2014**  
(Transitional Provisions and Savings)  
**and**  
**The LGPS Regulations 2008**  
(Benefits, Membership and Contributions)  
**(as at 14<sup>th</sup> May 2018)**



**Employer name: Somerset County Council**

**Policy effective from: 20 February 2020**

These policies may be subject to review from time to time. Affected employees will be notified of any subsequent change to this Policy Statement.

**Print name of authorised officer: Vicky Hayter**

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**Job title: Strategic Manager, HR Business Relations**

**Date:**

\_\_\_\_\_

**Signature of authorised officer:**

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## Mandatory LGPS 2013 & 2014 discretions

### Power of employing authority to grant additional pension Regulation R31

An employer can choose to grant extra annual pension\* (at full cost to themselves) to:

- a) an active member; or
- b) to a member, within 6 months of leaving, whose employment was terminated on the grounds of redundancy or business efficiency

*\*(Current maximum additional pension allowed is £6,822 (figure at 1 April 2018))*

### Please state your decision below:

The Council will not normally exercise this discretion on the grounds of cost, except in the most exceptional of circumstances where there is clear merit and where the cost to the Council is not considered to be significant or material.

### Shared Cost Additional Pension Scheme Regulation R16(2)(e) and R16(4)(d)

Where an active member wishes to purchase extra annual pension by making additional pension contributions (APCs)\*, an employer can choose to voluntarily contribute towards the cost of purchasing that extra pension through a Shared Cost Additional Pension Contribution (SCAPC)

*\*(Current maximum additional pension allowed is £6,822 (figure at 1 April 2018))*

**NOTE:** this discretion does not relate to cases where a member has a period of authorised unpaid leave of absence and elects within 30 days of return to work (or such a longer period as the Scheme employer may allow) to pay a SCAPC to cover the amount of pension 'lost' during that period of absence. That is because, in those cases, the Scheme employer must contribute 2/3rds of the cost to a SCAPC; there is no discretion [regulation 15(5) of the LGPS Regulations 2013].

### Please state your decision below:

The Council will apply this discretion only in certain circumstances.

The Council will only apply this discretion in accordance with its published guidance on salary sacrifice Shared Cost Additional Voluntary Contributions with effect from 1<sup>st</sup> February 2018.

Where the employee has elected to pay contributions for a period of unpaid or child related leave within 30 days of receipt of written communication of this option or within 30 days of returning to work whichever is the later, the payment has to be made via an SCAPC. In these circumstances the Council is required to make employer contributions as required by the regulations.

In exceptional cases where there is a clear business case the Council may award additional pension for an active member. This includes but is not limited to, employees under notice of redundancy in accordance with the Redundancy & Early Retirement Discretionary Compensation Policy where the employee has agreed to give up part of their compensation to buy the additional pension.\*



## Flexible Retirement

### Regulation R30 (6) and TP11 (2)

Under the regulations, once an employee reaches age 55, they may remain in employment and draw their retirement benefits.

However, there are certain conditions that must be met:

- a) The employer must agree to the release of the pension.
- b) The employee must reduce either their hours, and/or their grade. *(The specific reduction required is not set out in the regulations, but instead must be determined by the employer, whom must specify the requirements within their flexible retirement policy).*

In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights).

**If flexible retirement is permitted, employers will need to publish a Flexible Retirement Policy and send Peninsula Pensions a copy. This can be done on the final section of this template.**

## Please state your decision below:

The Council will apply this discretion but only in accordance with its Flexible Retirement Policy.

## Waiving of actuarial reduction

### Regulation R30(8), TP3(1), TP Sch2, Para2(1), B30(5) and B30 (A) (5)

Employers have the power to waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to members' benefits paid on the grounds of flexible retirement.

## Please state your decision below:

Flexible -The Council will apply this discretion only in exceptional circumstances.

Where pension benefits are reduced in accordance with actuarial tables the Council will use its discretion to waive the actuarial reduction in accordance with the Council's Flexible Retirement Policy on the following grounds only:

- Compassionate reasons
- Member has protected rights
- Exceptional cases where the Council is satisfied there is a clear

Employers may also waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to members' benefits for deferred members and suspended tier 3 ill health pensioners who elect to draw benefits on or after age 60 and before normal pension age.

Employers also have the power to waive, in whole or in part, the actuarial reduction applied to active members' benefits when a member chooses to voluntarily draw benefits on or after age 55 before age 60 and on or after age 60 and before Normal Pension Age (NPA).

business case.

Deferred/Suspended Tier 3 – The Council will apply this discretion only in exceptional cases in accordance with the Council's Deferred Pension Policy & Ill Health Retirement Policy

Active members – The Council will apply this discretion only in exceptional circumstances.

The Council may, in exceptional circumstances, waive all or part of the reduction, where it is satisfied there is a clear business case and on compassionate grounds.

**Power of employing authority to 'switch on' the 85-year rule (excludes flexible retirement) upon the voluntary early payment of benefits.**

**TP1(1)(c) Sch2**

The 85-year rule does not (other than on flexible retirement) automatically fully apply to members who would otherwise be subject to it and who choose to voluntarily draw their benefits on or after age 55 and before age 60.

An employer can therefore choose whether to switch on the 85-year rule for members:

- 1) who voluntarily draw their benefits on or after age 55 and before age 60 and,
- 2) former members who ceased active membership between 1<sup>st</sup> April 2008 and 31<sup>st</sup> March 2014 and choose to voluntarily draw their suspended tier 3 ill health pension (on or after 14 May 2018) on or after age 55 and before age 60 and,
- 3) former members who ceased active membership between 1<sup>st</sup> April 1998 and 31<sup>st</sup> March 2014) and elect for voluntary early payment of any deferred benefits

**Please state your decision below:**

1) The Council will apply this discretion only in exceptional circumstances. The Council will apply this discretion in accordance with its policy on Premature Retirement under 85 year rule.

2) The Council will not apply this discretion.

3) The Council will not apply this discretion.

## Recommended LGPS 2013 & 2014 discretions

**Regulation R17(1) and TP15(1)(d) and A25(3) and definition of SCAVC in R Sch 1**

**Please state your decision below:**

**Shared Cost Additional Voluntary Contribution Arrangement (SCAVC)**

An employer can choose to pay for or contribute towards a member's Additional Voluntary Contribution through a shared cost arrangement (SCAVC). An employer will also need to 1<sup>st</sup> February 2018 decide how much, and in what circumstances to contribute to a SCAVC arrangement.

The Council will apply this discretion only in certain circumstances.  
The Council will apply this discretion in accordance with its published guidance on salary sacrifice Shared Cost Additional Voluntary Contributions.

**Non-mandatory policies but recommended by Peninsula Pensions:**

**Please state your decision below:**

**Reg 16(16)** - An employer can extend the 30-day deadline for a member to elect for a SCAPC upon return from a period of absence from work with permission with no pensionable pay (otherwise than because of illness or injury, relevant child-related leave or reserve forces service leave).

The Council will apply this discretion only in certain circumstances. See R16 above. Applying this discretion in these circumstances allows the Council to extend the time limit in cases where there is a delay in the process of advising payroll.

**Reg 22(7) and (8)** - Whether to extend the 12-month time limit for a member to elect not to aggregate post 31<sup>st</sup> March 2014 (or combinations of pre-April 2014 and post March 2014) deferred benefits.

The Council will apply this discretion only in exceptional circumstances where there is evidence of maladministration or evidence of a life changing event.

**Reg 27 of the LGPS (Amendment) Regs 2018** - Whether to extend the 12-month option period for a member to elect to aggregate pre-1st April 2014 deferred benefits.

The Council will apply this discretion only in exceptional circumstances where there is evidence of maladministration or evidence of a life changing event.

**R100(6)** - Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS

The Council will apply this discretion only in exceptional circumstances where there is evidence of maladministration or evidence of a life changing event.

**R9(1) & R9(3)** - Determine rate of employees' contributions and when the contribution rate will be assessed

SAP automatically recalculates the pension contribution % if there is a contractual change and will recalculate each month if it is backdated. If temporary pensionable allowances are paid they will be considered in the month of payment and the band changed if necessary. Please note for example, 5 months of additional hours all paid in one month may change the band whereas if they were paid over 5 months they may not have done so.

## Pre LGPS 2014 discretions

To cover scheme members who ceased active membership on or after 1 April 2008 and before 1 April 2014 (no need to complete if not applicable).

Reg 30(5) , TP2(1) Sch2, Reg 30A(5) TP2(1) Sch 2	Policy decision
<p><b>Early payment of benefits</b></p> <p>Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to deferred benefits which are paid before age 65</p> <p>Whether, on compassionate grounds, to waive any actuarial reduction that would normally be applied to any suspended tier 3 ill health pension benefits which are brought back into payment before age 65</p>	<p>The Council will apply this discretion only in exceptional circumstances. The Council will apply this discretion only where there are compassionate grounds in accordance with the Council's Deferred Pension Policy.</p> <p>The Council will apply this discretion only in exceptional circumstances.</p>

To cover scheme members who ceased active membership between 1 April 1998 and 31 March 2008 (no need to complete if not applicable).

Regulation 31(2), 31(5), 31(7A) of the LGPS Regulations 1997 and paragraph 2(1) of Schedule 2 to the LGPS (TP) Regs 2014	Policy decision
<p><b>Early payment of benefits</b></p> <p>Employers can allow the early payment of deferred benefits to former members of the LGPS between the ages of 50 and 55.</p> <p>Employers can also choose, on compassionate grounds, to waive any actuarial reduction that would normally be applied to benefits which are paid before age 65</p> <p><b><u>Regulation D11(2)(c) of the LGPS Regulations 1995</u></b></p> <p><b>In relation to members who ceased active membership before 1 April 1998:</b></p> <p>Whether to grant applications for the early payment of deferred pension benefits on or after age 50 and before NRD on compassionate grounds.</p>	<p>The Council will apply this discretion only in exceptional circumstances. The Council will apply this discretion only where there is no cost to the Somerset Fund and where the ex employee is willing to suffer an actuarial reduction in accordance with the Council's Deferred Pension Policy.</p> <p>The Council will apply this discretion only in exceptional circumstances and only where there are compassionate grounds in accordance with the Council's Deferred Pension Policy.</p> <p>The Council will apply this discretion only in exceptional circumstances and only where there are compassionate grounds in accordance with the Council's Deferred Pension Policy.</p>

## Flexible Retirement Additional Policy

### Flexible Retirement (Regulation R30(6) and TP11(2)) This must be completed if you allow flexible retirement

You will need to consider; -

1. The minimum reduction in hours or grade required.
2. Whether the employee should commit to a reduction in hours or grade for a minimum period.
3. Whether the employee should commit to remaining in employment with the employer for a minimum period

You should also state; -

1. Whether, in addition to the benefits the member has accrued prior to 1<sup>st</sup> April 2008 (which the member must draw) to permit the member to choose to draw;
  - All, part, or none of the benefits they accrued after 31<sup>st</sup> March 2008 and before 1<sup>st</sup> April 2014 and/or,
  - All, part, or none of the benefits accrued after 31<sup>st</sup> March 2014, and,
  - Whether to waive, in whole, or in part, any actuarial reduction which would normally be applied to the benefits for Flexible retirement taken before normal retirement age.

### Please state your decision below:

1. A minimum 20% reduction in hours or 1 grade below existing and reduction of hours equivalent to 20%
2. New arrangements must be permanent
3. A minimum of 1 year

In exceptional cases, where there are compassionate grounds or a clear business case the minimums may be less.

The Council will apply this discretion only in exceptional circumstances where there are compassionate grounds or a clear business case. In most instances employees will be required to draw **All** accrued benefits.

The Council will apply this discretion only in exceptional circumstances.  
The Council will apply this discretion in accordance with the Council's Flexible Retirement Policy on the following grounds:

- Compassionate reasons
- Member has protected rights
- The Council is satisfied there is a clear business case.