

## **THE LOCAL GOVERNMENT (DISCRETIONARY PAYMENTS) (INJURY ALLOWANCES) REGULATIONS 2011 (THIS IS NOT A PENSION REGULATION POLICY)**

The above regulations came into force on 16 January 2012 and in accordance with Regulation 14 (policy statements) an LGPS employer **MUST** formulate, publish and keep under review the policy that it applies in exercise of its discretionary powers to make awards under these Regulations.

If the employer decides to change its policy, it must publish a statement of the amended policy and may not give effect to any policy change until one month after the date of publication.

In formulating and reviewing its policy the employer must:

- Have regard to the extent to which the exercise of its discretionary powers (in accordance with the policy), unless properly limited, could lead to a serious loss of confidence in the public service, and
- Be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

The employer is required to exercise its discretion where, in the course of carrying out their work, an employee sustains an injury or contracts a disease as a result of which the employee either:

- 1) Suffers a reduction in their remuneration;
- 2) Loses their employment through permanent incapacity; or
- 3) Dies.

In determining the amount of an allowance or lump sum, as the case may be, the relevant employer must have regard to all the circumstances of the case including:

- In the case of an allowance payable under regulations 3 or 4:
  - The degree of injury sustained or the severity of the disease contracted as assessed by an Independent Registered Medical Practitioner (IRMP) (from whom a certificate must be obtained under regulation 5);
  - Any right to benefit under Part 5 (benefits for industrial injuries) of the Social Security Contributions and Benefits Act 1992;
  - Any other statutory right to benefit or compensation;
  - Any right to receive pension benefit (whether payable under an enactment or otherwise); and
  - Any damages recovered from any sum received by virtue of a contract of insurance.
- In the case of an allowance or a lump sum which is payable by virtue of a person having sustained an injury, no regard shall be had:
  - To any benefit payable periodically which the person was entitled to be paid before the injury was sustained;
  - To any right which accrued before that time; or
  - To any damages or sum received by virtue of such a right.

Before making any determination under regulation 3 or 4 the relevant employer must obtain a certificate from an IRMP qualified in occupational health medicine as to whether in his or her opinion the employee has sustained an injury or contracted a disease in the course of carrying out their work and whether the employee continues to suffer from the injury or disease or, as the case may be, ceases to be employed as a result of incapacity which is likely to be permanent and was caused by the injury or disease.

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

---

**Regulation 3 - Reduction in remuneration**

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

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

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

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

INSERT YOUR EMPLOYER POLICY HERE

---

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

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

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

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

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

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

INSERT YOUR EMPLOYER POLICY HERE

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

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

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

INSERT YOUR EMPLOYER POLICY HERE

---

## **Regulation 7 – Death benefits**

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

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

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

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

INSERT YOUR EMPLOYER POLICY HERE

---

**EMPLOYER CONFIRMATION**

It is understood that the discretions contained within this statement of policy are applicable to all employees. The regulations allow for a revised statement to be issued at least one month in advance of the date that any new policy takes effect. The revised statement must be published in a place that is accessible to all of its employees.

The employer must:

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

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

Signed on behalf of the Scheme Employer: \_\_\_\_\_

Name in Block Capitals: \_\_\_\_\_

Position: \_\_\_\_\_

Scheme Employer's Name: \_\_\_\_\_

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