

Appendix 1

CHELTENHAM BOROUGH COUNCIL INJURY ALLOWANCE SCHEME

1 POLICY STATEMENT

- 1.1 Cheltenham Borough Council (“the Council”) recognises that it has a responsibility towards its employees and at its discretion may compensate employees who experience physical, mental or financial detriment as a direct consequence of their employment with the Council.
- 1.2 The Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 (and Local Government (Discretionary Payments) (Injury Allowances) Regulations 1996) scheme, gives local authorities limited power to establish a discretionary injury benefits scheme.
- 1.3 The Council will consider all the circumstances of each application and internal appeal and will determine each case on its own merits

2 PURPOSE

- 2.1 This policy and procedure provide a framework for considering claims or other considerations for payment of an allowance to employees who suffer a personal injury (physically or mentally) or contract a disease, in the actual discharge of their duties and as a consequence suffer a reduction in their salary, or the employee ceases to be employed in that employment as a result of an incapacity which is likely to be permanent and was caused by the injury or disease.
- 2.2 The Council will make the final decision whether an employee or other potential beneficiary is eligible to benefit from this scheme.

3 SCOPE

- 3.1 This scheme is applicable to all Council employees who are members of the LGPS pension scheme.

4 DEFINITIONS

- 4.1 An ‘eligible employee’ is defined as an employee who sustains an injury or contracts a disease solely, or predominantly, as a result of anything they were required to do in carrying out their work.
- 4.2 A ‘beneficiary’ is a person receiving an allowance under the terms of this Scheme and includes employees, former employees, spouses, civil partners, dependants or nominated co-habiting partners.

5 GENERAL INTERPRETATIONS

- 5.1 For the purposes of the Regulations, if a person:

- (a) sustains an injury while travelling by vehicle to or from his or her place of work with his or her employer's permission (whether express or implied) in connection with work related business; and
- (b) at the time of the injury the vehicle was being operated (otherwise than in the course of a public transport service) by or on behalf of, or under arrangements made by the person's employer, the person shall be treated as having sustained the injury in the course of carrying out his or her work.

6 PROCEDURE

- 6.1 The determination of an application for an allowance can only be made by an officer authorised by the Council to determine an application. Any determination will be made in consultation with Human Resources and One Legal.
- 6.2 Applications (including any review of the amount payable) made by those employees on NJC terms and conditions will be determined by a Director and any internal appeal will be determined by an Executive Director, Head of Paid Service, Monitoring Officer or Section 151 Officer.
- 6.3 Applications (including any review of the amount payable) made by those employees on JNC terms and conditions will be determined by an Executive Director and/or the Head of Paid Service, Monitoring Officer or Section 151 Officer
- 6.4 In the case of an internal appeal under the 2011 Regulations (or subsequent regulations) where there is no officer who is able to determine an internal appeal, the Appeals Committee determine the internal appeal.

7 REDUCTION IN REMUNERATION

- 7.1 If an employee sustains an injury or contracts a disease and suffers a reduction in his or her pay whilst remaining employed, they may be entitled to an allowance while the reduction in pay continues.
- 7.2 The Council will from time to time determine whether the person continues to be entitled to an allowance.
- 7.3 The allowance payable will be the difference between the employee's reduced pay and normal pay. National Insurance deductions to be made from the allowance but it will not be regarded as pensionable pay.

8 LOSS OF EMPLOYMENT

- 8.1 The Council may pay an allowance to an employee who ceases to be employed as a result of an incapacity which is likely to be permanent and caused by the injury or disease.
- 8.2 The Council may consider payment of an annual allowance not exceeding 85% of their annual salary, (at the point their employment ceased, plus any subsequent backdated pay award).

- 8.3 Where an employee's pay fluctuated, their annual pay will be determined by calculating an average over a representative period. Account will also be taken of the annual benefit in kind to be included in the calculation.
- 8.4 The Council will from time to time conduct a review and determine whether the person continues to be entitled to an allowance.

9 DEATH BENEFITS

- 9.1 If in the course of carrying out their work, an employee sustains an injury, or contracts a disease, and the employee dies, leaving a surviving:
 - a) spouse
 - b) civil partner
 - c) nominated cohabiting partner, or
 - d) dependant

such persons may be entitled to an annual allowance or lump sum paid by the Council.

10 CERTIFICATION OF INJURY OR DISEASE

- 10.1 Before making a determination for payment of an allowance, the Council will obtain a certificate from an Independent Registered Medical Practitioner ("IRMP") qualified in occupational health medicine, as to whether in his or her opinion the employee has for the purposes of the Regulations:
 - (a) sustained an injury or contracted a disease in the course of carrying out his or her work; or
 - (b) continues to suffer from the injury or disease; or
 - (c) ceases to be employed as a result of an incapacity which is likely to be permanent and was caused by the injury or disease; or continues to suffer from the injury or disease.

11 CONSIDERATIONS IN DETERMINING AMOUNTS OF BENEFITS

- 11.1 The Council will take into account, when determining any allowance, whether the employee or ex-employee has:
 - (a) any right to benefits under Part V of the Social Security Contributions and Benefits Act 1992;
 - (b) any other statutory right to benefit or compensation;
 - (c) any right to receive pension benefit (whether payable under an enactment or otherwise); or
 - (d) any damages recovered and any sum received by virtue of a contract of insurance
- 11.2 In determining the amount of an allowance or a lump sum, the Council will have due regard to all the circumstances of the case, including:
 - (a) the degree of injury sustained, or the severity of disease contracted as assessed by an IRMP for the purposes of the certificate
 - (b) any right to benefit under Part 5 (benefits for industrial injuries) of the Social Security Contributions and Benefits Act 1992
 - (c) any other statutory right to benefit or compensation;
 - (d) any right to receive pension benefit (whether payable under an enactment or otherwise); and
 - (e) any damages recovered and any sum received by virtue of a contract of insurance.

11.3 In the case of an allowance which is payable by virtue of a person having sustained an injury, no regard shall be had:

- (a) to any benefit payable periodically which the person was entitled to be paid before the injury was sustained;
- (b) to any right which accrued before that time; or
- (c) to any damages or sum received by virtue of such a right.

12 ALLOWANCES FOR PENSIONERS

- 12.1 Where a person ceases to be employed, an allowance may be payable under this scheme for such time as the Council determines, to raise his or her LGPS pension to the level it would otherwise have been if he or she had not received the injury.
- 12.2 An allowance may be payable if the individual is, immediately prior to ceasing employment with the Council, in receipt of an allowance (as a result of reduced pay or loss of employment with the Council) resulting from their injury.

13 REVIEW OF PAYMENTS MADE

- 13.1 The Council will, from time to time, conduct a review and determine whether the individual continues to be entitled to an allowance.
- 13.2 Any failure on the part of a beneficiary to either co-operate in the review or to provide full, honest and accurate information within a reasonable period to the satisfaction of the Council will result in an immediate suspension, reduction or forfeiture of allowance(s) under this Scheme.
- 13.3 This is at the absolute discretion of the Council.

14 RIGHT OF APPEAL

- 14.1 Any internal appeal for employees on NJC terms and conditions determined by an Executive Director, Head of Paid Service, Monitoring Officer or Section 151 Officer.
- 14.2 Any internal appeal for employees on JNC terms and conditions will be determined by an Executive Director and/or the Head of Paid Service, Monitoring Officer or Section 151 Officer
- 14.3 In the case of an internal appeal under the 2011 Regulations (or subsequent regulations) where there is no officer who is able to determine an internal appeal, the Appeals Committee determine the internal appeal.