Strategic Human Resources

Early Retirement Policy and Procedure
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1. Policy Outline

1.1 What is the policy about?

The purpose of this document is to outline the Council’s policy on early retirement, with or without redundancy. The key objective is to manage in a business orientated way issues related to the rationalisation of services and staff reductions, and to minimise the extent to which the Council has to resort to compulsory redundancy.

1.2 Who does the policy apply to?

This policy covers all employees except for school-based employees where schools need to give consideration to their own procedures. Consideration by school governing bodies will be made in the context of the Council’s policy on the funding of severance cases in schools.

1.3 Confidentiality

All information will be handled sensitively and used only for its proper purpose.

Under the Data Protection Act 1998 individuals have the right to see their own personal data held subject to the rights of confidentiality of any third parties involved in that information.

1.4 Publicising/distribution of the policy

A copy of this policy is available from key personnel within the services and will be made available to employees on request. A copy can also be viewed via the Intranet.

New employees will be informed of the existence of this policy in recruitment and induction information.

1.5 Reviewing the policy

The Strategic Human Resources Policy Team will keep the operation of this policy under review and will make such changes to the policy as deemed appropriate following necessary consultation with the trade unions.

1.6 Equality and diversity

One of the primary values that underpins everything we do while working towards this statement is that we promote equality of opportunity. This applies both in the delivery of our services and in relation to our employment practices. We are committed to including equalities in everything we do. This includes the elimination of unlawful discrimination, promoting diversity as a positive force and valuing & celebrating our diverse workforce and community.

If necessary, an equality impact assessment will be carried out in the preparation of this policy and the assessment will be reviewed on an ongoing basis.
1.7 Alternative formats

Where any alternative format is required, any initial enquiry should be made through your line manager or by following the instructions below:

If you need this information summarised in another language or format such as Braille or talking tape, please call the number below.

+44 (0191) 383 4203

1.8 Further information

If you would like any further advice on this document you can contact the Strategic Human Resources Employee Relations Team on either 0191 383 4191 or 0191 383 3495 (Internal - Ext. 4191/3495).
2. Procedure

2.1 Powers

The Council will use where appropriate the powers available to it under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England & Wales) Regulations 2006 (known here as the Compensation Regulations) and the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007, the Local Government Pension Scheme (Administration) Regulations 2008 and the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 (all as amended) (known here collectively as the LGPS Regulations).

2.2 Coverage of the policy and procedure

This policy and procedure covers both types of early retirement proposal that the Council as an employer has to deal with. These are early retirement on the grounds of redundancy or efficiency, and those that are initiated by the employee.

2.3 Redundancy or efficiency grounds

Proposals involving voluntary redundancy will be made where this is the only reasonable alternative to compulsory redundancy, i.e. where attempts to find alternative employment of a similar and appropriate type have been exhausted. For proposals based on redundancy the Head of Strategic Human Resources would need to confirm that a post is redundant and that this post is deleted from the establishment of the service.

Redundancy for the purposes of the LGPS Regulations includes retirement in the interests of efficiency, and, where it is confirmed that these circumstances are met, accrued pension benefits under the LGPS Regulations are payable immediately.

In these circumstances, in order to provide sufficient encouragement for employees to volunteer for redundancy, the following benefits will be offered, with the essential proviso that each proposal results in clear and demonstrable savings to the Council after taking into account all the costs involved (in some circumstances, in order to achieve a saving, a lesser offer may be made):

- A voluntary redundancy payment calculated by reference to the redundancy payment matrix under the Employment Rights Act 1996. This provides for a payment based on up to 30 weeks statutory redundancy pay, and the Council will exercise its power to use actual pay in the calculation of weekly pay. The voluntary redundancy payment would be inclusive of the statutory redundancy sum that would otherwise have been paid in the event of a redundancy; and

- For those employees who are members of the LGPS, augmentation of service (added years) in accordance with the scale below based on the aggregate local government service of the employee.
## Early Retirement Policy and Procedure

### Strategic Human Resources

<table>
<thead>
<tr>
<th>Years of Local Government Service</th>
<th>Added Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - &lt;5</td>
<td>0</td>
</tr>
<tr>
<td>5 - &lt;10</td>
<td>1</td>
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<tr>
<td>10 - &lt;15</td>
<td>2</td>
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<tr>
<td>15 - &lt;20</td>
<td>3</td>
</tr>
<tr>
<td>20 - &lt;25</td>
<td>4</td>
</tr>
<tr>
<td>25 and over</td>
<td>5</td>
</tr>
</tbody>
</table>

- Normally in circumstances where sufficient volunteers for redundancy cannot be obtained following an offer of voluntary redundancy together with augmentation of pension under the Local Government Pension Scheme Regulations, or where such an offer is not likely to be effective or cannot be made, discretionary compensation for redundancy may be payable. The Council may exercise its discretion to pay compensation not exceeding a sum equivalent to 82.5 weeks actual pay.

- The calculation of the number of weeks of actual pay in each case would be based on the redundancy payment matrix under the Employment Rights Act 1996 (also used in the calculation of voluntary redundancy payments as above). However, in the discretionary compensation calculation, the number of weeks derived from this table would be multiplied by 2.75, and then applied to unrestricted actual weekly pay.

- Discretionary compensation if awarded would be inclusive of any statutory or voluntary redundancy payment, and is only payable where there is no proposal to augment (award added years to supplement) pension under the LGPS.

If an employee under notice of redundancy receives an offer of employment in local government or a related employer starting work within 4 weeks of leaving Council employment they are not entitled to a redundancy payment or an award of added years under this Scheme. Related employers are as set out in the Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999 (as amended).

### 2.4 Applications initiated by the employee

A small number of early retirement requests arise on compassionate grounds or where an employee has other personal reasons to retire early. As the employees concerned initiate these, they usually do not involve efficiencies for the service and therefore normally do not involve savings. It is the Council’s policy that these applications are considered individually on merit.

Where there are no savings for the Council it is not possible to consider compensation payments or added years. There is often, however, depending on the circumstances of the applicant, a cost to the pension fund of allowing early release of pension, borne ultimately by the employer, and so each case needs to be carefully justified and considered.
Where pension benefits would potentially be reduced because the applicant is under age 65 and does not fully meet the age and service criteria required to be eligible for unreduced benefits under the LGPS Regulations, applications may be considered with the option of waiving on compassionate grounds the potential reduction, under the provisions of the LGPS Regulations, but this would add to the cost of the proposal.

Applications made by employees on compassionate grounds or otherwise must be backed by supporting evidence, including medical evidence where appropriate, and these will not proceed for decision until such evidence is made available.

2.5 Reporting and decision making

In accordance with Audit Commission guidance, the Early Retirement Sub-Committee of Human Resources Committee determines each application for early retirement, with or without redundancy. Each application is considered on its merits.

In cases involving redundancy and efficiency, proposals are unlikely to be agreed unless there are clear and demonstrable savings arising from service rationalisation and/or a reduction in the number of posts. There needs to be net savings from each proposal, after allowing for consequential costs and the costs of severance. The cost of severance may include:

- Initial costs, i.e. the cost of redundancy or of discretionary compensation in lieu of redundancy and added years.

- Annual costs, i.e. the annualised costs, calculated actuarially, of early access to pension and of added years.

In accordance with good practice, together with a statement of the annual costs and savings arising from a proposal, the estimated payback period will be reported in each case. This represents the predicted time it will take for net annual savings to repay the initial costs of termination, calculated in years. Each case should normally report a payback period of less than three years, except in exceptional circumstances where a payback period of up to five years may be allowed.

2.6 Eligibility

The following eligibility restrictions apply, based on existing legislation:

- Applicants must have two years continuous local government service before a redundancy payment or a related discretionary compensation payment can be made.

- An augmentation (added years) award cannot be made unless applicants are members of the LGPS.

- Applicants who are under 50 cannot have pension benefits released (but they can be awarded added years, which would be deferred along with accrued pension). Applicants who are under 55 can only have pension benefits released if the leaving date is before 1 April 2010 and they joined the LGPS before 1 April 2008.
2.7 Notice waiver

Where any early retirement is agreed in accordance with this Scheme, either on the basis of redundancy or efficiency, or where it is has been initiated by an employee, it is on condition that the employee so volunteering for early retirement will waive her/his rights to the notice period stated in her/his contract of employment, and agree to a termination date set by the Council.

2.8 Relevant definitions

- The definition of ‘weekly pay’ in the calculation of voluntary redundancy and discretionary compensation payments will be as laid down in the Employment Rights Act 1996, but with the modifications set out in the Compensation Regulations.

- The definition of ‘continuous local government service’ in the calculation of voluntary redundancy and discretionary compensation will be as laid down in the Redundancy Payments (Continuity of Employment in Local Government, etc) Modification Order 1999.

- The definition of ‘local government service’ in the calculation of augmentation of service (added years) will be service with all employers specified in the Redundancy Payments (Continuity of Employment in Local Government, etc) Modification Order 1999. Service will be aggregated and does not need to be continuous for this purpose.

3. Statement of policy on discretions which may be granted under the Compensation Regulations 2006

3.1 Purpose

The above regulations require the Council to formulate, publish and keep under review the policy that it maintains in the exercise of its discretionary powers under paragraphs 5 and 6 of the Regulations.

This policy document explains how the Council will exercise the discretions available to it under these regulations effective from 1st October 2006.

The objective is to properly manage the severance arrangements for employees in circumstances where voluntary redundancy and early retirement in the interests of the efficiency of the service need to be considered.

In formulating the statement below, regard has been taken of the need to ensure that the policy is workable, affordable and reasonable.

3.2 Eligibility

All Council employees who are Local Government Pension Scheme members, or who would be but for a relevant disqualification (as defined in the regulations), and whose employment is
terminated by reason of redundancy, are eligible to be considered for benefits in accordance with the policy discretions set out below.

Where there are clearly demonstrable savings arising from an efficiency proposal that does not involve redundancy, employees may also be entitled to compensation in these circumstances, but each case would be considered on its merits.

3.3 Power to increase statutory redundancy payments

Entitlement to a redundancy payment under the Employment Rights Act 1996 is subject to a ceiling on the weekly pay element of the calculation. In cases of voluntary redundancy the County Council will exercise its discretion to base entitlement on actual salary.

In circumstances of voluntary redundancy, payment would normally be calculated on the basis of weekly pay; continuous local government service up to a maximum of 20 years; and a maximum of 30 weeks pay in accordance with the statutory redundancy pay table. The voluntary redundancy payment would be inclusive of the statutory redundancy sum that would otherwise have been paid in the event of a redundancy.

3.4 Discretionary compensation for redundancy

The Council will exercise its power to pay discretionary compensation for redundancy in appropriate cases. This will normally be in circumstances where sufficient volunteers for redundancy cannot be obtained following an offer of voluntary redundancy together with augmentation of pension under the Local Government Pension Scheme Regulations, or where such an offer is not likely to be effective or cannot be made.

In order to provide sufficient encouragement for volunteers for redundancy or where termination would be in the interests of the efficiency of the service, the Council may exercise its discretion to pay compensation not exceeding a sum equivalent to 82.5 weeks actual pay.

The calculation of the number of weeks actual pay in each case would be based on the statutory redundancy table (also used in the calculation of voluntary redundancy payments). However, in the discretionary compensation calculation, the number of weeks derived from the statutory redundancy table would be multiplied by 2.75, and then applied to actual weekly pay.

Discretionary compensation is inclusive of any statutory redundancy payment, and is only payable where there is no proposal to augment (award added years to supplement) pension under the Local Government Pension Scheme Regulations.

3.5 Notice waiver

Where any voluntary redundancy or discretionary compensation payment is agreed in accordance with this policy statement, it will be on condition that the employee volunteering for severance will waive rights to the notice period stated in the relevant contract of employment.
3.6 Determination of severance proposals

All proposals for severance arrangements involving County Council employees, where voluntary redundancy or discretionary compensation payments are being recommended, will be determined by the Council’s Early Retirement Sub-Committee of the Human Resources Committee.

3.7 Definition of ‘weekly pay’

The definition of ‘weekly pay’ in the calculation of voluntary redundancy and discretionary compensation payments will be as laid down in the Employment Rights Act 1996, but with the modifications set out in the Discretionary Compensation Regulations 2006 referred to in the title of this document.

3.8 Definition of ‘continuous local government service’

The definition of ‘continuous local government service’ in the calculation of voluntary redundancy and discretionary compensation will be as laid down in the Redundancy Payments (Continuity of Employment in Local Government, etc) Modification Order 1999.

4. Exercise of Employer Discretion under the Local Government Pension Scheme

4.1 Regulation 12: Power of employing authority to increase total membership of active members and Regulation 13: Power of employing authority to award additional pension

Decisions regarding the use of regulations 12 and 13 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) will be made on the merits of each case.

The Council will only consider increasing total membership (‘augmentation’) under regulation 12 either:

- As part of an exercise involving the potential voluntary redundancy of scheme members and/or
- On occasion where staff rationalisation is being carried out in the interests of the efficiency of a service the Council provides.

Augmentation will only be granted where the County Treasurer and the Director of Corporate Services deem it to be in the interests of the Council and there are sound financial reasons for doing so.

The Council will only consider awarding additional pension under regulation 13 where an individual voluntarily accepts a reduced redundancy payment and the cost of awarding the additional pension does not exceed the amount of the reduction.