



Early Retirement



Please think before printing this document.

Where printing is necessary, please ensure that it is printed double sided and in greyscale.

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1 Introduction

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. Where schools are using these procedures, suitable advice should be sought from Human Resources, Operations Team

~~Certain conditions of service may include for additional or alternative rules in relation to disciplinary procedures and these should be considered where appropriate, for example, the conditions applying to Chief Officers.~~

The policy is recommended as good practice to all other groups associated with the council who have the discretion in their employment to adopt our policies. Apart from schools, this will include such groups as voluntary sector organisations.

1.3 Legislation

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~~2013 and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations ~~2008~~2014 (all as amended) (known here collectively as the LGPS Regulations).

2 Procedure

2.1 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.

2.2 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 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 if the individual is aged 55 or more and contributing to the Local Government Pension Scheme (LGPS) when they leave.

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,~~
- ~~The council will not normally agree to augmentation (the awarding of added years).~~
- Normally in circumstances where sufficient volunteers for redundancy cannot be obtained following an offer of voluntary redundancy, 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 52.5 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 1.75, and then applied to unrestricted actual weekly pay.

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 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).

2.3 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. 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.~~

~~Members of the LGPS can choose to retire and draw their pension from age 55. Employer's consent is not required. Pension benefits will be reduced to take account of being paid for longer. How much benefits are reduced depends on how early they are drawn. If an employee chooses to retire and draw a pension between age 55 and 59 the early retirement reductions that apply to benefits may be significantly larger than the reductions that would apply if the employee waited until age 60, particularly if the individual has significant membership of the LGPS before April 2014. For this reason it is important that employees obtain a benefit estimate before deciding to leave employment and draw a pension.~~

2.4 Reporting and decision making

In accordance with Audit Commission guidance, the Human Resources Committee determines each employer-initiated 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/will include:

- ~~Initial costs, i.e. the~~The cost of redundancy or of discretionary compensation in lieu of redundancy.

- ~~• Annual costs, i.e. the annualised costs, calculated actuarially, of early access to pension.~~
- The cost of early access to pension – this is the cost determined by the Pension Fund payable when an individual takes immediate payment of unreduced pension benefits before their Normal Pension Age (State Pension Age).

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 no more than ~~one year~~ two and a half years.

2.5 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.~~
- Applicants must have two years LGPS membership to have built up an entitlement to a pension, otherwise a refund of contributions or a transfer payment to another pension scheme is payable. (Note - only three months LGPS membership is required for entitlement to a pension if the individual started paying into the LGPS before April 2014. Also, if an individual already has another LGPS period of membership or, in some cases, has had a transfer in of pension benefits, entitlement to a pension may apply with less than two years LGPS membership).
- Applicants who are under 55 cannot have pension benefits released.

2.6 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.

2.7 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.

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 Compensation Regulations.

This policy document explains how the Council will exercise the discretions available to it under these regulations.

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 non-schools-based Council employees who are Local Government Pension Scheme LGPS members, or who ~~would be eligible to be~~ but for a relevant disqualification (as defined in the regulations), LGPS members, 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, 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 52.5 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 1.75, and then applied to actual weekly pay.

Discretionary compensation is inclusive of any statutory redundancy payment,

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 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.~~

3.7 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~~ determined in accordance with the Employment Rights Act 1996, taking into account the Redundancy Payments (Continuity of Employment in Local Government, etc.) Modification Order 1999.

4 Exercise of Employer Discretion under the ~~Local Government Pension Scheme~~ LGPS Regulations

4.1 ~~Regulation 12: Power of employing authority to increase total membership of active members and Regulation 1331: Power of employing authority to award additional pension~~

The Council will ~~not normally agree to increasing total membership of active members nor only~~ consider awarding additional pension where it is in the Council's financial interests to do so.

5 Further information

5.1 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.

5.2 Dealing with abuses of the policy

Employees who attempt to abuse this policy may face disciplinary action. The council takes false or misleading accusations very seriously which may result in further action taken through the disciplinary procedure. This will not include ill-founded allegations that were made in good faith.

5.3 Equality and diversity

The Council's vision is of an Altogether Better Durham comprising two key components of an Altogether Better Place which is Altogether Better for People. Within this vision are three key equality objectives, set out in the Single Equality Scheme, to provide high quality accessible services to all, be a diverse organisation and work with others to promote equality countywide. These objectives apply both in the delivery of services and in relation to Durham County Council employment practices. The Council is committed to including equalities in everything that it does. This includes the elimination of unlawful discrimination, promoting diversity as a positive force and valuing and celebrating a diverse workforce and community.

An equality impact assessment has been carried out in the preparation of this guidance document and the assessment will be reviewed on an on-going basis.

5.4 Publicising/distribution of the policy

A copy of this policy is available from the Human Resources Operations Team 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.

5.5 Reviewing the policy

The operation of this policy will be kept under review and such changes will be made to the policy as deemed appropriate following necessary consultation with the trade unions.

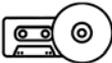
5.6 Contact details

If you would like any further advice or would like the document in an alternative format, please contact the Human Resources Operations Team using the contact details below.

Please ask us if you would like this document summarised in another language or format.

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