

## 1.0 INTRODUCTION

1.1 The Local Government Pension Scheme (LGPS) contains a number of provisions that can only be applied at the discretion of the employing authority i.e. North Lincolnshire Council. This policy sets out those discretionary elements that the council has chosen to adopt. For the avoidance of doubt, if an area of discretion is not explicitly mentioned below it will be deemed not to apply.

1.2 This policy will be effective from 1 January 2011 and covers the following areas:

- Compensation for termination of employment due to redundancy.
- Compensation for termination in the interest of the efficiency of the service.
- Flexible retirement.
- Other areas of discretion.

1.3 This policy is applicable to all employees other than those on teachers' terms and conditions of service\*.

*Note 1: \*Learning and Skills Council employees who transferred to Local Government from 1 April 2010 who were members of the Principal Civil Service Pension Scheme have special protections afforded them by the Pension Regulations and not all of the discretions listed in this document will apply.*

## 2.0 BACKGROUND

This policy complies with the following regulations:

- The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007.
- The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006.
- The Equality Act 2010

## 3.0 COMPENSATION FOR TERMINATION OF EMPLOYMENT DUE TO REDUNDANCY

3.1 Compensation for termination of employment due to redundancy is made up of one element:

(a) Redundancy Payment

## Redundancy Payment

- 3.1.1 To be eligible for a redundancy payment an employee must have two years qualifying service either with this authority or bodies named on the Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999 (the Modification Order). Other qualifying criteria are listed in the council's Redundancy policy A.8.
- 3.1.2 An employee is eligible for a redundancy payment regardless of their age. There is no upper or lower age limit.
- 3.1.3 The redundancy payment will be calculated using an employee's actual weekly pay and completed years of continuous local government service as defined in 3.1.2 above. These values will be applied to the statutory redundancy calculator. See appendix 1.
- 3.1.4 For employees holding two or more contracts concurrently, the period of continuous service shall be the length of the contract being terminated unless the termination related to the final contract of a number once held. In such cases all continuous local government service will be taken into account.

*Note 2: Actual Weekly Pay is defined as the amount of a week's pay an employee is entitled to under his/her contract of employment at the date s/he is given notice. This does not include additional payments such as overtime unless the overtime forms part of the contract.*

*Note 3: Reckonable service is service for which the employee has been a member of the LGPS. Reckonable service takes account of the hours worked both for part-time employees and those working term times. The reckonable service will also take into account any changes in hours of employment that the employee may have undertaken for the period of service with North Lincolnshire Council or predecessor authorities. Confirmation of this service can be obtained from the East Riding Pension Fund (ERPF).*

## 4.0 EARLY RETIREMENT IN THE INTERESTS OF THE EFFICIENCY OF THE SERVICE

- 4.1 Early retirement in the interests of the efficiency of the service for employees should be viewed in a different light to redundancy. It is an option available to the council in the following exceptional circumstances where an employee:
- (a) is on a protected grade and/or the replacement will be appointed on the actual lower grade;
  - (b) has failing health which is not severe enough to qualify for an ill-health retirement but which nevertheless reduces his/her efficiency;

- (c) is unable to cope with changes which, of necessity, occur in a dynamic organisation i.e. value for money initiatives, technological innovations, or service reorganisation;
- (d) is unable to implement changes to working methods and practices required by management without causing industrial relations problems.

4.2 If one of the situations outlined above applies and if termination of employment on the grounds of capability or conduct is not the correct solution, early retirement in the interests of the efficiency of the service may be considered.

4.3 In such cases employees who are 55 or over and members of the LGPS may be granted early access to their pension.

4.4 There are two alternatives available, both of which will be quoted on the statement of benefits provided by the ERPF. The first (normal efficiency retirement) will be for a non-actuarially reduced pension. The second (employer consent retirement) is a less expensive actuarially reduced pension. Normal efficiency retirement will cost more but is more beneficial to the employee. The employer consent retirement option may be viable if the anticipated savings do not allow the first option to be fully funded within the financial year in which the cost is incurred.

4.5 It is essential that both payroll and the ERPF are advised in writing which option is being applied. (Normal efficiency retirement or employer consent retirement).

## **5.0 FLEXIBLE RETIREMENT**

5.1 Flexible retirement will be considered for employees who are 55 or over and members of the LGPS. Each request will be considered on its merits on a case-by-case basis.

5.2 Employees will be able to draw all or part of their benefits if all of the following criteria are met:

- (a) The employee agrees to reduce their hours of work or grade.
- (b) The change is of demonstrable benefit to the service.
- (c) The change is cost neutral.

## **6.0 OTHER AREAS OF DISCRETION**

6.1 Contribution bands will be assessed at 1 April each year and include basic salary + contractual (permanent) allowances + temporary allowances as well as an estimate of variable pensionable items based on the payments received in the previous year. Reassessments will only take place during the year where an employee's

pensionable pay reduces. Appeals against the allocation of a particular band will be in writing to the Assistant Director Human Resources.

- 6.2 The council will not utilise the discretionary option of awarding employees an additional pension entitlement of up to £5,000 per annum.
- 6.3 The council will not provide shared cost additional voluntary contributions.
- 6.4 The council will not consent to the early retirement of employees who are 55 or over but under 60 except in cases of redundancy, in the efficiency of the service or through flexible retirement as described above.
- 6.5 All new starters who join the pension scheme will be given the opportunity to request the transfer of benefits that may have been accrued in another scheme. The employee will have one year to apply for such a transfer. Transfers after that time will only be approved in exceptional circumstances and not as part of an early retirement package.
- 6.6 Employees who leave with preserved benefits and subsequently return to the council will be able to aggregate their preserved and new benefits. Application must be submitted no later than one year after returning.
- 6.7 Employees who have previously opted to preserve benefits at a given point in time due to a change in pensionable pay will not be able to combine their preserved and current benefits beyond the time limits provided by the LGPS.

### 7.0 GOVERNANCE

- 7.1 Approval of redundancy and/or early retirement in the interests of the efficiency of the service and flexible retirement is delegated to the Service Director. The relevant Head of HR will prepare a report for consideration by the Service Director. The Assistant Director Human Resources must be consulted and the Finance/Resources Manager must agree the financial implications prior to a decision being taken.
- 7.2 Employees **must not** be advised that they can be released until formal approval is obtained.
- 7.3 In the case of early retirement in the interests of the efficiency of the service and flexible retirement there must be a tangible benefit to the authority.
- 7.4 Each Head of HR is responsible for compiling a written quarterly report with full costs for each Service for consideration by Service Management Teams and the appropriate Cabinet Member. Copies will be provided to the Assistant Director

Human Resources, who will prepare a council wide report for consideration by the Corporate Services Cabinet Member.

- 7.5 The associated pension strain costs incurred by any of the above are to be met by a single payment to the pension service in the financial year in which the cost is incurred by the employing service. The cost of any redundancy payment is also to be made by the service in the financial year in which the cost is incurred.
- 7.6 To support the decision as to whether an individual(s) can be released the Service Director must ensure that the pension strain and redundancy costs, where incurred are:-

7.6.1 Fully affordable from existing budgets within the current financial year to satisfy paragraph 7.5.

Note 4: A Service Director can use their discretion to balance payment of the costs across their whole service.

7.6.2 That in each of the following two financial years a permanent reduction of at least half the total strain plus redundancy costs incurred is made in the service budget.

Note 5: It is possible in the management of the process to wrap together more than one such cost, offsetting the higher strain with a lower strain cost but with the same overall reduction to be achieved within the second year.

Note 6: In the case of redundancy the post is to be deleted from the establishment.

- 7.7 Where compensation is paid in error including overpayment the authority will notify the individual concerned, giving notice in writing to either make a further payment to the individual or to arrange for the overpayment to be recovered. Any person receiving an overpayment must repay the sum within a specified period. This is in accordance with the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulation 2006.

## **8.0 FURTHER INFORMATION**

- 8.1 Further information and guidance in implementing this policy can be obtained from the Human Resource Service.
- 8.2 Reckonable service information is contained on the employee's annual benefit statement provided by the ERPF. HR can also obtain details of reckonable service from the ERPF.