

NORTH LINCOLNSHIRE COUNCIL

CORPORATE SERVICES CABINET MEMBER

**THE LOCAL GOVERNMENT PENSION SCHEME
DISCRETIONARY OPTIONS AND COMPENSATION FOR TERMINATION OF
EMPLOYMENT**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To consider an immediate change to the pension augmentation multiplier.
- 1.2 To consider further changes to the policy, to be effective from 1 April 2010 to coincide with changes in pension regulations.

2 BACKGROUND INFORMATION

- 2.1 The council is beginning to look at ways to reduce employment costs in advance of what is expected to be a period of severe funding cuts expected in 2011. One potential area of saving is the payment of augmented pensionable service to employees who are made redundant. This is an entirely discretionary payment and one which many other local authorities no longer make use of.
- 2.2 In order to avoid potential claims of age discrimination the payment is calculated using the matrix shown at Appendix 1. It is not proposed to cease making such payments altogether but to reduce the costs by 25% by reducing the multiplier shown at the top of the page from 56 to 42.
- 2.3 It is proposed that the new rate be applied with effect from 1 January 2010 to all those who are newly advised that they are in a potential redundancy situation.
- 2.4 The option to reduce the multiplier further will remain open should the financial situation warrant a further reduction in cost.
- 2.5 The opportunity has also been taken to make a number of minor amendments to the policy to be effective from 1 April 2010. See Appendix 2.
- 2.6 The changes reflect the fact that from that date the earliest retirement age will increase from 50 to 55. The transitional arrangements that have been in place since April 2008 will also come to an end at the same time.

2.7 The calculation of redundancy payments to employees holding multiple contracts is clarified in paragraph 3.1.4 of Appendix 2. So is the need to recoup any costs associated with flexible retirement within one year (paragraph 7.6).

3 OPTIONS FOR CONSIDERATION

3.1 The options in regard to the augmented pension calculator are:

- a. To reduce the multiplier by 25% from 56 to 42.
- b. To leave the multiplier unchanged at 56.
- c. To make a smaller or larger reduction.
- d. To make a reduction at some time in the future.

The changes to retirement age in the policy reflect pension regulations and national advice on dealing with multiply contracts and there is therefore little or no discretion available.

The proposal to recoup the cost of flexible retirement within one year is discretionary and this period could be extended or reduced if required.

4. ANALYSIS OF OPTIONS

4.1 Pension augmentation has become more expensive but it remains a useful inducement to encourage employees to take voluntary redundancy should the need arise. There is no evidence that a 25% cut will impair this function but a larger reduction may do. If the reduction is made now managers and employees will become conditioned to it before having to make decisions. The provision is not contractual so further reductions can be made at any time in the future.

4.2 There is no discretion over the earliest retirement age of 55 effective from 1 April 2010.

4.3 Flexible retirement is a relatively new provision but can be very advantageous to employees and is growing in popularity. Generally speaking, there is no cost to the council if the employee is 60 or over but the younger an employee is the more expensive flexible retirement becomes. The need to control potential costs is therefore very important

5 RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 Financial

The recommended changes will reduce costs but these can only be calculated on a case-by-case basis. It is not possible to provide an accurate estimate of total savings at this time.

5.2 Staffing

There are no additional staffing implications.

5.3 Property

None

5.4 IT

None

6 OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 CRIME AND DISORDER, RISK AND OTHER)

- 6.1 The proposed changes reflect changes in pension regulations and the discretions available to the council are applied in such a way as to minimise the risk of allegations of discrimination.

7. OUTCOMES OF CONSULTATION

- 7.1 The trade unions have been consulted and have not objected to the proposed changes.

8. RECOMMENDATIONS

- 8.1 That the changes to Appendix 1 be approved with immediate effect.
- 8.2 That the revised policy at Appendix 2 be approved with effect from 1 April 2010.

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Background Papers used in the preparation of this report: None

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 April 2009 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.

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 Employment Equality (Age) Regulations 2006.

3.0 COMPENSATION FOR TERMINATION OF EMPLOYMENT DUE TO REDUNDANCY

- 3.1 Compensation for termination of employment due to redundancy is made up of two elements:
- (a) Redundancy Payment
 - (b) Discretionary Augmentation of Local Government Pension Scheme (LGPS) membership.

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 1: 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.

Augmentation of LGPS Membership

- 3.2.1 Augmentation of LGPS membership will only be made as part of the compensation package awarded to employees who are made redundant, voluntarily or otherwise, and who are members of the LGPS and who cooperate in attempts to find suitable alternative employment. Employees who reject the offer of suitable alternative employment without good reason will not be eligible for augmentation.
- 3.2.2 The award of augmented membership is subject to regulation 52 of the LGPS.
- 3.2.3 The total amount of augmented membership cannot exceed the shorter of:
- (a) 6 2/3 years, or;
 - (b) the period by which the member's total membership falls short of the total membership they would have had if they continued in the scheme until the age of 65, or;
 - (c) the period by which the member's total membership falls short of 40 years.

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3.2.4 The length of service to be taken into account when calculating augmentation is limited to the number of completed years of continuous reckonable service accrued whilst working for North Lincolnshire Council or its predecessor authorities (Boothferry Borough Council, Glanford Borough Council, Humberside County Council, Scunthorpe Borough Council) at the date of leaving, subject to the provisions of paragraph 3.1.4. Above. Bought in service or service accrued with another employer will not be counted.

3.2.5 The payment of augmented service will be pro-rata for part time employees and/or those working term time only by use of continuous reckonable service.

Note 2: 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).

3.2.6 The discretionary award of augmentation of pensionable service will be calculated by applying the age and continuous reckonable service of the employee at the date of leaving to the table at Appendix 2. The award of augmented service is subject to a cap of 40 years of all reckonable service, including bought in service.

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.

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- 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. Augmentation will not be applied in such circumstances.
- 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 two-year time limit.
- 4.5 It is essential that both payroll and the ERPF are advised in writing which option is being applied.

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 Service 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.

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- 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 1 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 Service 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 Service Director Human Resources, who will prepare a council wide report for consideration by the Corporate Services Cabinet Member.
- 7.5 The council will make any augmented lump sum payment direct to the employees who are eligible to access their pensions. The cost of augmented service is paid to the pension fund. The cost can be met by a single payment or it can be spread over 3 annual instalments by the employing service.
- 7.6 For early retirement due to redundancy or in the interest of the efficiency of the service, the cost must be recouped within two years. For flexible retirement all costs must be recouped within one year.

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- 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.

To apply the calculator take the employee's age and read across the table to the correct completed number of years of consecutive reckonable service. Multiply the number in the box by 42 to give the number of added days of service.

Age	Completed Years of Continuous Service with North Lincolnshire Council																		
	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
18	1	1.5	2																
19	1	1.5	2	2.5															
20	1	1.5	2	2.5	3														
21	1	1.5	2	2.5	3	3.5													
22	1	1.5	2	2.5	3	3.5	4												
23	1.5	2	2.5	3	3.5	4	4.5	5											
24	2	2.5	3	3.5	4	4.5	5	5.5	6										
25	2	3	3.5	4	4.5	5	5.5	6	6.6	7									
26	2	3	4	4.5	5	5.5	6	6.5	7	7.5	8								
27	2	3	4	5	5.5	6	6.5	7	7.5	8	8.5	9							
28	2	3	4	5	6	6.5	7	7.5	8	8.5	9	9.5	10						
29	2	3	4	5	6	7	7.5	8	8.5	9	9.5	10	10.5	11					
30	2	3	4	5	6	7	8	8.5	9	9.5	10	10.5	11	11.5	12				
31	2	3	4	5	6	7	8	9	9.5	10	10.5	11	11.5	12	12.5	13			
32	2	3	4	5	6	7	8	9	10	10.5	11	11.5	12	12.5	13	13.5	14		
33	2	3	4	5	6	7	8	9	10	11	11.5	12	12.5	13	13.5	14	14.5	15	
34	2	3	4	5	6	7	8	9	10	11	12	12.5	13	13.5	14	14.5	15	15.5	16
35	2	3	4	5	6	7	8	9	10	11	12	13	13.5	14	14.5	15	15.5	16	16.5
36	2	3	4	5	6	7	8	9	10	11	12	13	14	14.5	15	15.5	16	16.5	17
37	2	3	4	5	6	7	8	9	10	11	12	13	14	15	15.5	16	16.5	17	17.5
38	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	16.5	17	17.5	18
39	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	17.5	18	18.5
40	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	18.5	19
41	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	19.5
42	2.5	3.5	4.5	5.5	6.5	7.5	8.5	9.5	10.5	11.5	12.5	13.5	14.5	15.5	16.6	17.5	18.5	19.5	20.5
43	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
44	3	4.5	5.5	6.5	7.5	8.5	9.5	10.5	11.5	12.5	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	21.5
45	3	4.5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
46	3	4.5	6	7.5	8.5	9.5	10.5	11.5	12.5	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	21.5	22.5
47	3	4.5	6	7.5	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
48	3	4.5	6	7.5	9	10.5	11.5	12.5	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	21.5	22.5	23.5
49	3	4.5	6	7.5	9	10.5	12	13	14	15	16	17	18	19	20	21	22	23	24
50	3	4.5	6	7.5	9	10.5	12	13.5	14.5	15.5	16.6	17.5	18.5	19.5	20.5	21.5	22.5	23.5	24.4
51	3	4.5	6	7.5	9	10.5	12	13.5	15	16	17	18	19	20	21	22	23	24	25
52	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	17.5	18.5	19.5	20.5	21.5	22.5	23.5	24.5	25.5
53	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19	20	21	22	23	24	25	26
54	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	20.5	21.5	22.5	23.5	24.5	25.5	26.5
55	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22	23	24	25	26	27
56	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	23.5	24.5	25.5	26.5	27.5
57	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25	26	27	28
58	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25.5	26.5	27.5	28.5
59	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25.5	27	28	29
60	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25.5*	27*	28*	29*
61	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5*	21*	22.5*	24*	#	#	#	#
62	3	4.5	6	7.5	9	10.5	12	13.5*	15*	16.5*	18*	#	#	#	#	#	#	#	#
63	3	4.5	6	7.5*	9*	10.5*	12*	#	#	#	#	#	#	#	#	#	#	#	#
64	3*	4.5*	6*	#	#	#	#	#	#	#	#	#	#	#	#	#	#	#	#

Consecutive reckonable service with North Lincolnshire Council also includes service with a predecessor authority **but not any bought in service.**

The period of augmented service when added to all reckonable service shall not exceed 40 years.

* As shown or subject to an upper limit of age 65 (the maximum permitted by the pension scheme)

Subject to an upper limit of age 65 (the maximum permitted by the pension scheme)