

NORTH LINCOLNSHIRE COUNCIL

CORPORATE SERVICES CABINET MEMBER

REVISED HUMAN RESOURCES (HR) DOCUMENTS

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1. To seek approval for revisions to the following HR documents
- Working Time policy
 - The Local Government Pension Scheme (LGPS) Discretionary Options and Compensation for Termination of Employment policy.

2. BACKGROUND INFORMATION

Working Time

- 2.1 The Working Time policy has been reviewed following an audit, which highlighted that some elements of the Working Time Regulations 1998 (as amended) were not sufficiently detailed.
- 2.2 The revised policy sets out clearly the provisions of the Working Time Regulations 1998 (as amended) to ensure that standard working arrangements across the council take account of entitlements to daily and weekly rest periods etc.
- 2.3 The revised policy also addresses the process for employees wishing to take up additional employment. Whilst the council does not prevent employees from having more than one job, the policy guides relevant managers in assessing the working time and health and safety implications of a request to do so.

LGPS Discretionary Options and Compensation for Termination of Employment

- 2.4 This policy has been amended to take account of two recent developments in the LGPS.
- 2.5 The first concerns retirement in the interest of the efficiency of the service. There are now two options available, one actuarially protects the employees pension (which is the current practice) the other offers an actuarially reduced pension.

The second option is less advantageous to the employee but is considerably less expensive. It can be offered when it would not be otherwise possible to provide sufficient savings to fund the retirement within the required two year period.

- 2.6 The second amendment adds flexible retirement, which is growing in popularity, to the list of matters that can be approved by Service Directors in consultation with the Service Director Human Resources and with the agreement of the Finance/Resources Manager.

3. OPTIONS FOR CONSIDERATION

- 3.1 To consider and accept the revised policies.
- 3.2 To reject the proposed policies.
- 3.3 To suggest further revisions to the proposed policies.

4. ANALYSIS OF OPTIONS

- 4.1 Accepting the proposed changes will ensure that the policies accord fully with legislation, represent best practice and promote fairness and consistency in these areas.
- 4.2 Rejecting the proposed changes would result in the council's approach not keeping up to date with best practice. It would also mean continuing to use documents that do not fully reflect legislation in these areas.
- 4.3 Recommending further changes to the policies is an option if there are particular aspects or clauses that are deemed to be unsatisfactory but would require further consultation and delay implementation.

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

5.1 Financial

Early retirement in the interests of the efficiency of the service is an option available to the council in exceptional circumstances if termination of employment on the grounds of capability or conduct is not the correct solution. The provision of the second option is considerably less expensive to the council.

5.2 Staffing

None.

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 revised Working Time policy addresses health and safety issues associated with working arrangements, legislated for by the European Working Time Directive and the implementing UK legislation the Working Time Regulations 1998 (as amended).

6.2 The LGPS Discretionary Options and Compensation for Termination of Employment policy complies with pension regulations in this area in setting out fully the council's discretionary position.

7. OUTCOMES OF CONSULTATION

7.1 The relevant trade unions have been consulted and are supportive of the revisions.

8. RECOMMENDATIONS

8.1 That the revised policies be approved and adopted.

SERVICE DIRECTOR HUMAN RESOURCES

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Background Papers used in the preparation of this report: None

1.0 INTRODUCTION

1.1 The standard working week for full time employees is a 37 hour (5 day) week. Part time employees and those with irregular working patterns shall be subject to the same provisions pro-rata to comparable 37 hour (5 day) week employees in the council.

1.2 While the standard week is 37 hours, it is accepted that on occasions this may be varied by agreement. On those occasions the average hours worked should not exceed 37 hours per week in a 17 week period.

1.3 In considering working arrangements the following need to be taken into account:

- Relevant health and safety legislation;
- Working Time Regulations 1998 (as amended).
- National Agreements on Conditions of Service

1.4 The main provisions of the of the Working Time Regulations are:

- A limit of an average of 48 hours a week (*40 hours for Young workers*) which a worker can be required to work;
- a limit of an average of eight hours work in 24 which nightworkers can be required to work;
- a right to 11 hours (*12 hours for Young workers*) rest a day;
- a right to a day off each week (*2 consecutive days for Young workers*);
- a right to a minimum in-work rest break of 20 minutes (*30 minutes for Young workers*) if the working day is longer than six hours (*four and a half hours for Young workers*);
- a right to 5.6 weeks paid leave per year;
- a right for nightworkers to receive free health assessments.

Greater detail on all of the above can be found at Appendix 1.

1.5 The aim of the council is to comply with the provisions (i.e. without the use of flexibilities, modifications and exemptions) of the regulations, which have been written with a view to reducing health and safety risks.

1.6 This procedure applies to all employees of the council other than those employed by schools with delegated powers. The scope of the Working Time Regulations however is much wider and in the context of these regulations and the following procedure a 'worker' covers:

- Someone who has a contract of employment, or
- Someone who is paid a regular salary or wage and works for an organisation, business or individual. Their employer normally provides them with work, controls when and how the work is done, supplies them with tools and other equipment, and pays tax and National Insurance contributions. In the council this includes casuals, sessional workers and the majority of agency workers and freelancers.

Note 1: This procedure addresses working time issues during periods of normal activity. Guidance on working time considerations in the event of adverse weather conditions or during a flu pandemic can be found in Appendix 4 and the council's Pandemic Flu policy D.7 respectively.

2.0 STANDARD WORKING ARRANGEMENTS

2.1 The line manager shall determine standard working arrangements at the time of or immediately following an offer of employment to the successful candidate. At the latest this should be conducted on the first day of work and both parties **must** complete and sign Appendix 2, which is provided for this purpose.

Note 2: Completed forms must be forwarded to the relevant Human Resources (HR) service team or the appropriate location to be filed securely in the employee's personal file.

2.2 The council's normal business hours are 8am to 6pm, but a manager may agree standard working hours outside of these limits subject to the needs of the service.

Note 3: Details of non-standard working patterns and shift work including associated enhancements and allowances can be found in the council's Pay policy B.2.

2.3 The manager will consider any request made by the employee in relation to their working hours against the needs of the service. This may lead to negotiations to set the working hours, however the overriding factor will be the need to accommodate service requirements.

2.4 If an employee wishes to temporarily change their standard working arrangements this must be agreed in advance by the line manager, who will decide if the request for change meets the needs of the service. Employee requests to permanently change standard working arrangements should be made in accordance with the council's Flexible Working policy B.3.6 if applicable.

2.5 Requests from employees who do not meet the statutory flexible working criteria set out in the council's Flexible Working policy B.3.6 will be considered on a case by case basis at the discretion of managers.

3.0 IMPLEMENTATION, MONITORING AND REVIEW

3.1 In seeking to make changes to working arrangements, service directors or their nominated senior officers, in conjunction with HR, will consult fully with staff and their trade union representatives.

3.2 HR service teams will assist service directors, as necessary, to establish appropriate records for demonstrating particular areas of compliance as required by the Working Time Regulations, specifically:

- The 48 hour week;
- night working limits; and
- health assessments for night workers.

3.3 Service directors or their nominated senior officers should identify employees who regularly work in excess of 37 hours per week and investigate the reasons for this situation. Where employees are identified as exceeding the 48 hour limit managers should review the workload and practice and consideration should be given to adjusting working hours or redesigning the job.

3.4 Whilst the council discourages this approach, where it is not possible to adjust working hours or redesigning the job conflicts with the needs of the service, relevant employees should be requested to sign a working time waiver clause agreement. This has the purpose of allowing employees to opt out of the 48 hour maximum

working week on an individual basis. A form is provided at Appendix 3 for this purpose. See also paragraph 3.1.

4.0 RECORDING OF TIME

- 4.1 Employees are deemed to start work for the day when they begin their first duty, at their first place of work.
- 4.2 Employees who are not working at their normal place of work and have to undertake a journey to work that is substantially longer than their usual journey from home to work may record the additional travelling time as time worked. Employees whose journey is shorter than usual, should record their start time when they begin their first duty on arrival.
- 4.3 Time spent attending training courses, seminars or some other form of professional development (internally or externally) will be recompensed by:
- the payment (including enhancements) the employee would have received if they had worked the hours they would have worked had they not been required to attend the training course; and/or
 - in the case of part-timers, additional hours above their contracted hours be paid for at plain time rate or (at the discretion of the Service Director) given as equivalent plain time in lieu up to the normal working day.

Note 4: For working time purposes the standard working week is defined as 37 hours over five days with a normal working day of 7.5 hours on Monday, Tuesday, Wednesday, Thursday and 7 hours on a Friday.

- 4.4 If time spent on training sessions results in the standard working week being exceeded, no additional payments will be made.
- 4.5 For time allocation purposes (e.g. flexi-time cards) part-timers and full-timers will claim the actual time spent on the training course, plus any travel time in accordance with paragraph 4.2, subject to it not exceeding the normal working day of a full-time employee (i.e. 7.5 hours Monday to Thursday and 7 hours on a Friday).

- 4.6 If an employee is directed to attend a meeting or conference where the main beneficiary is the council, or the employee is required to represent the council, the actual working time spent away from the work base, plus any travel time in accordance with paragraph 4.2, may be recorded.
- 4.7 In all cases employees who finish earlier than usual whilst working away from their normal base should return to work where it is practicable to do so. If not, they should record the actual hours worked (including travelling time).
- 4.8 Employees attending training courses and meetings/conferences who elect to travel on Sundays and bank holidays will not receive payment and must not record this as working time (including for flexitime purposes). Travel expenses are payable as detailed in the council's Finance Manual (Part B).

5.0 ADDITIONAL EMPLOYMENT

- 5.1 New employees joining the council who already have another job must notify the council prior to commencement so that the overall working hours may be taken into account.
- 5.2 Employees must equally ensure that any work undertaken outside their main employment with the council does not adversely affect their ability to satisfactorily perform the duties of their main post.
- 5.3 Existing council employees who wish to take up additional employment (including work on a self-employed basis) must inform their line manager in writing prior to taking up any additional employment. The letter should contain information about the hours and patterns of work involved and specifically detail the combined total hours the employee intends to work.
- 5.4 Managers must assess the request against the provisions of the Working Time Regulations including considering whether the employee's health is likely to suffer as a result of inadequate breaks. Managers must also judge whether there is any potential conflict of interest.

5.4.1 The council does not prevent employees from having more than one job. However, if an employee has more than one job, they must make sure they declare the combined actual total hours they work. This also applies to any casual work that employees do.

5.4.2 Where an employee has more than one job their combined hours should not exceed the weekly average of 48 hours.

5.4.3 If an employee is working more than an average of 48 hours a week in total, or more generally in the manager's view the number or pattern of hours proposed or being worked might threaten the health or safety of the employee (or of others), the manager must take all reasonable steps to remove the health or safety risk. This might mean:

- reduce the number of hours being worked (if that is reasonable), or
- asking the employee to give up the other job.

The priority should be to protect the health and safety of all workers by ensuring that no individual works such long hours as to be a danger to him or herself or to others.

5.4.4 Where discussions do not successfully reduce the employees total working hours to less than an average of 48 hours a week, the manager should, ask the employee whether he or she wishes to voluntarily sign the working time waiver clause agreement provided at Appendix 3.

5.5 Employees who are paid on spinal column point 29 and above or who undertake work of a regulatory nature will require consent for additional employment by written approval from their service director.

Note 5: 'Regulatory nature' for this purpose means a post that involves 'undertaking enforcement pursuant to a statutory power' i.e. any action taken by officers aimed at ensuring compliance with the law. For example, Environmental Health Officer and Trading Standards Officer.

5.6 The council encourages employees to take all their annual leave entitlement in the corresponding leave year. Employees who do not take a minimum of 207.2 hours (28 days) pro rata of their annual leave entitlement (including bank holidays) or who

undertake additional employment during periods of annual leave infringe Working Time Regulations. Managers should ensure that employees are not engaged to work elsewhere in the council during periods of annual leave.

6.0 FLEXTIME SCHEME

6.1 The flexitime scheme is available to all employees of the council other than those employed in schools with delegated powers or where they have been specifically excluded by their manager because of the nature of the duties of the post or the requirements of the service. Detailed guidance can be found in the council's Flexitime scheme B.3a.

7.0 TIME OFF IN LIEU (TOIL)

7.1 TOIL normally applies:

- where the use of flexitime is inappropriate;
- as an alternative to an overtime payment; or
- as part of the compensation package for working on public holidays.

7.2 The amount of time granted in lieu should exactly match the hours worked in all cases except for national conditions of service relating to public holiday entitlement.

7.3 Time off in lieu should not be granted as a means of overcoming the flexitime limits.

8.0 HOMEWORKING

8.1 Where employees wish to work from home, either on a full-time basis or for a specified proportion of their contracted hours, approval must be given by their manager in line with the council's Homeworking policy A.11.

9.0 EMPLOYEES LEAVING THE COUNCIL'S EMPLOYMENT

9.1 Where employees leaving the council have accrued annual leave and/or have flexitime in credit and have been unable to take time off due to the needs of the

service or some other legitimate reason then payment in lieu of that time at plain time rate will be made.

- 9.2 Where employees leaving the council have taken annual leave in excess of that accrued and/or have flexitime in debit and have been unable to make up that time then a deduction for those hours will be made from the final salary payment due.
- 9.3 Where an employee's final salary payment is insufficient to allow for the whole of any such deduction, an account will be established and the employee will be required to repay the outstanding amount due to the council within 30 calendar days of the termination of employment.

1.0 DEFINITIONS

- 1.1 *An adult worker* is a worker who has reached the age of 18.
- 1.2 *Young workers* are those who are over the minimum school leaving age but have not yet reached the age of 18 and those under the minimum school age on approved work experience schemes. Individuals are under school leaving age until the end of the summer term of the school year in which they turn 16.

Note 1: Legislation and local bylaws govern the employment of children of compulsory school age. Further advice and guidance can be obtained by contacting the council's Education Welfare team or by searching for 'Child Employment' on the council's website.

- 1.3 *Night workers* are classed under the regulations as those who work at least three hours on the majority of their working days between 11pm and 6am or as defined by a collective or workforce agreement.
- 1.4 *Compensatory rest* must be taken if any worker has not taken any or only part of their entitlement to a rest period. Compensatory rest is a period when the worker is not working, the same length as the period of rest, or part of a period of rest, that a worker has missed. All workers affected should take compensatory rest within a reasonable time (e.g. one week for daily rest, one month for weekly rest).

2.0 FLEXIBILITIES, MODIFICATIONS AND EXCEPTIONS

- 2.1 The regulations allow a number of flexibilities, modifications and exemptions in the application of the provisions. The most relevant of these for the council include:
- Employees engaged in
 - a) security and surveillance activities (e.g. security control centre staff)
 - b) residential establishments (e.g. care homes)
 - c) situations where there are foreseeable surges of activity (e.g. winter maintenance)
 - d) unusual/unforeseeable circumstances or exceptional events where consequences could not be avoided (e.g. Emergency Planning coordinated activities) and
 - in relation to accidents or the imminent risk of accidents.

- 2.2 The above situations apply in relation to the working hours, night work and rest period provisions of the regulations.
- 2.3 In relation to daily/weekly rest periods, there are possible exemptions for shift workers. If a shift worker changes shift, it may not be possible for them to take their full rest entitlements before starting the new pattern of work. In such a case, the entitlement to daily and weekly rest does not apply.
- 2.4 The entitlements do not apply also where an employee's work is split up over the day and so precludes taking 11 hours' continuous rest, for example school cleaners who work morning and evenings each day.
- 2.5 The regulations give all workers a right to 90 hours of rest in a week. This is the total entitlement to daily and weekly rest periods. The exceptions allow employees to take rest in a different pattern to that set out in the regulations.
- 2.6 The principle is that everyone gets his or her entitlement of 90 hours rest a week on average, although some rest may come slightly later than normal.

3.0 WORKING TIME

- 3.1 *Working time* is defined as any period during which a worker is at his or her employer's disposal and carrying out his or her activities or duties. It includes:
- agreed time spent undertaking training, trade union or health and safety duties;
 - travel undertaken in the employer's time between workplaces;
 - attending external functions required by the job;
 - time on-call at the workplace.
- 3.2 Working time does not include:
- travel to and from a workers normal place of work;
 - official rest breaks e.g. lunch, unless the worker is carrying out duties on behalf of the employer during that time;
 - any form of leave or sickness absence;

- time spent on-call when away from the workplace and not carrying out duties.

Weekly working time limit

- 3.3 Weekly working time for adult workers is limited to an average of 48 hours (including overtime) calculated over a period of 17 weeks.
- 3.4 The number of hours worked each week should be averaged out over 17 weeks or however long a worker has been working for the council if this is less than 17 weeks. This period of time is called the 'reference period'.
- 3.5 The average weekly working time is calculated by dividing the number of hours worked by the number of weeks in the reference period.
- 3.6 When calculating the average weekly working time, if the worker is away during the reference period because he or she is taking annual leave, maternity, paternity, adoption, parental, any form of special leave (paid or otherwise), or is off sick this time will need to be substituted in the calculation. This should be done by adding the hours worked during the days that immediately follow the reference period, equivalent to the number of days the employee was absent.
- 3.7 Individual workers can agree to opt-out of the 48 hour weekly by signing the opt-out agreement provided at Appendix 3, however the council discourages this approach.
- 3.8 Young workers must not work more than 40 hours a week and eight hours a day.
- 3.9 The hours for a young worker cannot be averaged out and there is no opt-out available. The council discourages the approach but young workers may work longer hours where it is necessary to either:
- maintain continuity of service or production, or
 - respond to a surge in demand for a service or product
- and provided that:
- there is no adult available to perform the task;
 - the training needs of the young worker are not adversely affected.

Rest breaks at work

- 3.10 Adult workers whose working day exceeds six hours are entitled to an uninterrupted minimum 20 minute rest break. Breaks should not be at the beginning or end of a period of working time and should not overlap with daily rest breaks. All rest breaks at work will be unpaid.
- 3.11 A young worker is entitled to a 30 minute rest break if their working day exceeds four and a half hours.
- 3.12 Rest breaks of at least the minimum entitlement should be factored into the agreement of standard working hours. Managers must make sure that workers can take their rest break uninterrupted (except in emergencies) and should monitor this by reference to flexi cards and timesheets where available.
- 3.13 Workers are entitled to spend their rest breaks away from their workstations.
- 3.14 If a young worker is working for more than one employer, the time he or she is working for each one should be added together to see if they are entitled to a rest break.

Daily rest periods

- 3.15 An adult worker is entitled to a daily rest period of not less than 11 consecutive hours in each 24 hour period during which they work for their employer.
- 3.16 A young worker is entitled to a daily rest period of not less than 12 consecutive hours in each 24 hour period during which they work for their employer.
- 3.17 A young worker's rest may be interrupted if periods of work are split up over the day or are of short duration.

Weekly rest periods

- 3.18 Adult workers are entitled to an uninterrupted rest period of not less than 24 hours in each seven day period. This must be in addition to the 11 hours daily rest

entitlement (except where this is justified by objective technical or work organisation reasons) and the statutory paid annual leave entitlement.

- 3.19 The weekly rest entitlement for adult workers can be averaged over 14 days, meaning workers can take two days off a fortnight.
- 3.20 Young workers are entitled to a rest period of not less than 48 hours in each seven day period. This period may be interrupted where work activities are split up over the day or are of short duration.
- 3.21 The weekly rest entitlement for young workers cannot be averaged over a two week period and should normally be two consecutive days.
- 3.22 If the nature of the job makes it unavoidable, a young worker's weekly rest entitlement can be reduced to 36 hours, subject to them receiving compensatory rest.

Night work

- 3.23 The length of shift of a night worker should not exceed eight hours in any 24 hour period averaged over a 17 week period. This should be applied using a rolling system whereby the maximum number of hours must not be exceeded in any 17 week period.
- 3.24 Night workers whose work involves special hazards, physical or mental strain, are subject to a strict eight hour limit for each 24 hour period. No averaging is allowed. Whether night work is included in this category will be determined either by risk assessment or through a collective agreement.

Health assessment for night workers

- 3.25 Adult night workers are entitled to a free health assessment before being required to perform night work and at appropriate regular (annual) intervals thereafter.
- 3.26 Managers should contact their HR service team who will ensure a health assessment is offered to all relevant workers. This will take the form of a

questionnaire provided to the worker, which asks questions about past and present health and should be returned to the Occupational Health Service.

- 3.27 The Occupational Health Service will use this information to make a recommendation on the worker's medical suitability for night work. In some circumstances the worker may be telephoned or required to attend for a health interview with a qualified occupational health practitioner.
- 3.28 Night workers are not obliged to partake in a health assessment but must still be offered the opportunity. A record of the name of the night worker, when an assessment was offered (or when he or she had the assessment if there was one) will be retained by the relevant HR service team for a minimum period of two years.
- 3.29 Young workers who work between 10pm and 6am are entitled to a health and capacities assessment. These assessments are required to determine whether the worker is fit to undertake the night work to which he/she is assigned.
- 3.30 If health problems related to night work arise and are confirmed by a qualified occupational health practitioner, efforts will be made to transfer the worker from night to day work where possible, in line with the council's Redeployment procedure A.9
- 3.31 A night worker cannot opt-out of the night work limit.

Paid annual leave

- 3.32 From 1 April 2009 all workers are entitled to 5.6 weeks (28 days if you work a five day week) paid leave per year. This is pro-rata for those working on a part-time basis. The leave entitlement under the regulations includes bank holidays.
- 3.33 The paid annual leave entitlements provided by the council exceed the minimum statutory requirements provided under the regulations. These are set out in the [Annual Leave policy B.3.](#)

As outlined in your Principal Statement of Main Terms of Employment, paragraph 15, your standard hours of work must be agreed with your manager and a record forwarded to Human Resources (HR) or the appropriate location to be appended to your Statement and filed securely in your personal file. Employees on shift/rota systems should append a copy to this document.

Remember that if your working day is longer than six hours (*four and a half hours for Young workers*) your agreed rest break cannot be less than 20 minutes (*30 minutes for Young workers*).

If you have access to the council's Flexitime Scheme B.3a you must also agree and record the minutes (including +/- or both) by which you may vary your standard hours without prior approval.

After agreement with your manager please complete the following details:

Day	Start time	Variation in minutes (+/-)	Rest break start time	Variation in minutes (+/-)	Rest break finish time	Variation in minutes (+/-)	Finish time	Variation in minutes (+/-)	Daily total hours
Monday									
Tuesday									
Wednesday									
Thursday									
Friday									
Saturday									
Sunday									
Weekly total									

Additional details

Employee:
(signed) _____ (print) _____ **Date:** _____

Line manager:
(signed) _____ (print) _____ **Date:** _____

I.....of.....

agree with my employer, North Lincolnshire Council, as follows:-

1. I am aware of the basic provisions of the Working Time Directive and of the general principle that I should co-operate with my employer to protect my health and safety at work. I am aware that Article 6 of the Working Time Directive states that the maximum weekly working time of any employee (including working time for all jobs whether with other employer(s) or North Lincolnshire Council) should not exceed 48 hours per week inclusive of overtime. **I understand that if I work in excess of the 48 hours per week inclusive of overtime in any one week then I should not exceed an average of 48 hours per week when calculated over any 17 week period.** I understand that Article 6 is intended to protect the health and safety of employees since long working hours have been identified as a health and safety issue.

I currently work in excess of 48 hours per week, under the above regulations, on a regular basis in my job(s) with North Lincolnshire Council and other employer/s.

2. I have had an opportunity to discuss my working hours with my line manager and/or a Human Resources (HR) representative. I have been offered the opportunity to either reduce my working hours, or to agree to sign this document.
3. I have had the opportunity, before signing this form, if I wished, to seek advice from HR, from my trade union or from my own legal advisors.
4. I am willing, in accordance with Article 18(1)(b)(i) of the Working Time Directive, to work weekly hours in excess of the 48 hour maximum and up to a maximum of 55.5 hours.

5. I will fully co-operate with the keeping of detailed records of my actual working time with all my employers, including overtime, as directed by my line manager and I will provide information, on request, as to my working time to the relevant competent national authorities for example, the Health and Safety Executive.

6. I may withdraw from this agreement upon one month's notice and I understand that I will not thereby suffer any detriment save for, where applicable, a reduction in remuneration in line with the reduction in my working hours.

Name:..... Post Title:

Signed: Date:

- 1.1 The Service Director Highways and Planning will keep Service Directors informed if extreme weather conditions are forecast.
- 1.2 Service Directors will be responsible for considering the implications of any severe weather on their service areas. If the closure of council premises is warranted, the Service Director or a nominated officer will ensure that all affected employees and service users are informed. Executive Management Team (EMT) and Public Relations should also be informed.
- 1.3 Employees who are sent home early or who are advised (by management) that their workplace is closed through adverse weather conditions will continue to receive their normal pay.
- 1.4 Employees who wish to leave early or decide not to attend through adverse weather conditions should inform their line manager at the earliest opportunity. Every effort should be made to accommodate the employee's wishes. The employee concerned should be advised that they will be required to use their annual leave or flexi-leave.

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 2008 and covers the following areas:
1. Compensation for termination of employment due to redundancy.
 2. Compensation for termination in the interest of the efficiency of the service.
 3. Flexible retirement.
 4. 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:

- 2.1 The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007.
- 2.2 The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006.
- 2.3 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

- 3.1.2 To be eligible for a redundancy payment an employee must have 2 years qualifying service either with this authority or bodies named on the Redundancy Payments (Continuity of Employment in Local

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Government, etc) (Modification) Order 1999 (the Modification Order). Other qualifying criteria are listed in the Redundancy Policy A.8.

- 3.1.3 An employee is eligible for a redundancy payment regardless of their age. There is no upper or lower age limit.
- 3.1.4 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.

Note - 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.
- 3.2.4 The length of service to be taken into account when calculating augmentation is limited to the number of completed years of consecutive reckonable service with North Lincolnshire Council or its predecessor authorities (Boothferry Borough Council, Glanford Borough Council, Humberside County Council, Scunthorpe Borough Council) at the date of leaving.
- 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 consecutive reckonable service.

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Note – Reckonable service is service for which the employee has been a member of the local government pension scheme. 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.

3.2.6 The discretionary award of augmentation of pensionable service will be calculated by applying the age and consecutive reckonable service of the employee at the date of leaving to the table at Appendix 2.

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.

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.

In such cases employees who are 55 or over (50 for existing members as at 31 March 2008 who leave before 31 March 2010) and members of the LGPS may be granted early access to their pension. Augmentation will not be applied in such circumstances.

There are two alternatives available, both of which will be quoted on the statement of benefits provided by the East Riding Pension fund. 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

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viable if the anticipated savings do not allow the first option to be fully funded within the two-year time limit.

It is essential that both payroll and the pensions service 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 (50 for existing members as at 31 March 2008 who leave before 31 March 2010) 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 use its discretion to award employees 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 (50 for existing members as at 31 March 2008 who leave before 31 March 2010) 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.

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- 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 Whichever method is adopted, the cost must be recouped within 2 years.
- 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.

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- 8.2 Reckonable service information is contained on the employee's annual benefit statement provided by the East Riding Pension Fund. HR can also obtain details of reckonable service from the East Riding Pension Fund.