

# **EARLY RETIREMENT ILL-HEALTH RETIREMENT AND REDUNDANCY POLICY**

## **SCOPE STATEMENT**

This Policy applies to all members of the Local Government Pension Scheme (or those non-LGPS members who are eligible for membership) excluding:

- Those employed by Governing Bodies in educational establishments under delegated powers.

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## 1. Introduction

- 1.1 This policy statement is made in accordance with regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 and the Local Government Pension Scheme Regulations 2013 which require each Local Government Pension Scheme (LGPS) employer to formulate and review its policy on early retirement.
- 1.2 This policy will be reviewed under these provisions and in order to meet other relevant statutory legislation. If the Council decides to change its policy, it will publish a statement of the amended policy within one month of the date of its decision.
- 1.3 In formulating and reviewing its policy, the Council
- (a) has regard to the extent to which the exercise of its discretionary powers (in accordance with the policy), unless properly limited, could lead to a serious loss of confidence in the public service;
  - (b) is satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs;
  - (c) has regard to service delivery needs; and
  - (d) recognises the need for consistency, fairness and equity in employee relations.

## 2. General Principles

- 2.1 The Council's application of this policy will have regard to an employee's entitlement under this policy and appropriate pension legislation.
- 2.2 Applications and proposals under these schemes will be made to an Early Retirement Panel constituted by the Chief Officer - Finance, Performance & Change, Chief Officer - Legal & Regulatory Services, HR & Corporate Policy; and the Group Manager - Human Resources and Organisational Development, or their nominated officers.
- 2.3 All applications for early retirement will be considered objectively

## Section 1 – Schemes

### 3. SCHEME A - VOLUNTARY EARLY RETIREMENT (The 85 Year Rule)

- 3.1 The Local Government Pension Scheme (Amendment) Regulations 2006 removed the 85 Year Rule with effect from 1 October 2006. However, these Regulations allow for a measure of protection for existing scheme members as at 30 September 2006.
- 3.2 Scheme A only applies to those employees protected by the LGPS (Amendment) (No 2) Regulations 2006.
- 3.3 This scheme applies to those employees who are 55 years of age and over (if protected) who apply to retire early and elect to receive immediate payment of retirement benefits.
- 3.4 An employee who qualifies and whose total age and service (both in whole years) is 85 years or more will receive pension and lump sum benefits based upon actual service, which may be subject to actuarial reductions; as determined on the merits of the individual application by the Voluntary Early Retirement (VER) Panel.

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**4. SCHEME A - VOLUNTARY EARLY RETIREMENT (Employee Request)**

4.1 Employees who are eligible under this scheme and are aged *over 55* will be allowed to retire voluntarily and early under the following scheme.

4.2 Pension and retirement grant will be reduced by an amount shown as appropriate in guidance issued by the Government actuary.

**5. SCHEME B - EARLY RETIREMENT IN THE INTEREST OF THE EFFICIENCY OF THE SERVICE**

5.1 This scheme will apply to those employees who qualify for early release of pension under the Local Government Pension Scheme Regulations 2013 and subsequent legislation and in respect of whom the Council determines that retirement would be in the interests of the efficiency of the service, in that it would meet one of the following criteria:

- **Criterion A:** Retirement would be **beneficial to service delivery and would produce measurable net savings** to the salary bill over a maximum period of five years or would permit a **fundamental improvement to the delivery of services**, which would not be possible by other means such as redeployment, retraining etc. This must take into account any capitalised cost to the pension fund and any additional costs arising from any associated restructuring or re-grading exercise – to be stated at the time of the proposal.
  
- **Criterion B:** There are **compelling personal reasons** to release an individual (e.g., on grounds of compassion) **and release would permit significant service delivery improvements.**

5.2 The calculation of any compensatory payment will be based on average weekly earnings.

5.3 Those employees who retire early under this scheme will qualify for benefits in line with the Local Government (Early Termination of Employment) (Discretionary Payments) (England and Wales) Regulations 2006, or where appropriate Regulation 52 of the Local Government Pension Scheme Regulations 2013, as outlined below.

**IF QUALIFYING UNDER CRITERION A**

5.4 The employee who retires under this scheme will be entitled to receive:

- (a) an annual retirement pension; and
  
- (b) a lump sum retiring allowance (as appropriate)  
*(each calculated on the basis of reckonable service)* and
  
- (c) an award of a compensatory payment based upon actual wage and a multiplication factor of 1.2 applied to the formula for Statutory Redundancy Pay equivalent to a maximum of 36 weeks.

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5.5 An employee may request, before leaving and whilst an active member of the pension scheme, to convert the full amount of the compensatory payment due into additional pension.

**IF QUALIFYING UNDER CRITERION B**

5.6 An employee who retires under this scheme will be entitled to receive:

- (a) an annual retirement pension; and
- (b) a lump sum retiring allowance (as appropriate)  
*(each calculated on the basis of reckonable service)*

5.7 In very exceptional circumstances an award of a compensatory lump sum payment based upon actual wage and a multiplication factor of 1.2 applied to the formula for statutory redundancy pay equivalent to a maximum of 36 weeks' pay may be approved by the VER Panel.

5.8 An employee may request, before leaving and whilst an active member of the pension scheme, to convert the full amount of the compensatory payment into additional pension.

**6. SCHEME C – EARLY RETIREMENT IN THE INTEREST OF THE EFFICIENCY OF THE SERVICE WITH REDUNDANCY**

6.1 This scheme will apply to pensionable employees who are eligible to retire early under the Local Government Pension Scheme Regulations 2013, but who have not reached normal retirement age and whose post becomes redundant in the interest of the efficiency of the service.

6.2 Those employees who qualify will be offered benefits in line with Parts II and III of the Local Government (Early Termination of Employment) (Discretionary Payments) (England and Wales) Regulations 2006.

6.3 An employee who retires under this scheme will be entitled to receive:

- (a) an annual retirement pension; and
- (b) a lump sum retiring allowance (as appropriate)  
*(each calculated on the basis of reckonable service)*, together with
- (c) a statutory redundancy payment calculated in accordance with Regulation 5(2) of the Local Government (Early Termination of Employment) (Discretionary Payments) (England and Wales) Regulations 2006. Payment will therefore be based upon average weekly wage to a maximum of 30 weeks' pay according to age and service; and
- (d) a compensatory lump sum payment based upon a multiplication factor of 1.2 applied to the formula for statutory redundancy pay equivalent to a maximum of 36 weeks' pay.

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6.4 The employee may request, before leaving and whilst an active member of the pension scheme, to convert the full amount of the compensatory payment into additional pension.

6.5 To qualify for redundancy and compensatory payment employees must have a minimum of two years' qualifying service.

## 7. SCHEME D – REDUNDANCY (Voluntary or Involuntary)

7.1 This scheme will apply to those employees whose redundancy will produce measurable net savings, who have a minimum two years' qualifying employment, and who are:

- (a) LGPS Members (or those non-LGPS Members who are eligible for membership) who **do not qualify for early release of pension benefits** under the LGPS Regulations 2013; or
- (b) LGPS Members (or those non-LGPS Members who are eligible for membership) **who are over the permitted age for early retirement.**

7.2 An employee who retires under this scheme will be entitled to receive:

- (a) a statutory redundancy payment calculated in accordance with Regulation 5(2) of the Local Government (Early Termination of Employment) (Discretionary Payments) (England and Wales) Regulations 2006. Payment will therefore be based upon average weekly wage to a maximum of 30 weeks' pay according to age and service; and
- (b) a compensatory lump sum payment based upon a multiplication factor of 1.83 applied to the formula for statutory redundancy pay equivalent to a maximum of 55 weeks' pay.

7.3 An employee may request, before leaving and whilst an active member of the pension scheme, to convert the full amount of the compensatory payment into additional pension.

7.4 Exceptions to this scheme outlined above include:

- employees over the permitted age (55 years) to qualify for early release of pension who have opted out of the LGPS in the one-year period prior to termination on the grounds of redundancy; and
- re-employed pensioners who return to work following early retirement.

7.5 In these instances a compensatory payment will be based upon the average weekly wage to a maximum of 66 weeks according to age and service (a maximum of 30 weeks statutory redundancy pay and 36 weeks compensatory payment in total).

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7.6 Subject to a minimum of 2 years' service, LGPS members who are under the permitted age to qualify for early release of pension (55 years) who are made redundant, will be entitled to preserved pension benefits.

## **8. SCHEME ON RETIREMENT ON THE GROUNDS OF ILL-HEALTH**

8.1 The scheme will apply to all employees who have a minimum of 2 years membership of the Local Government Pension Scheme who become permanently or semi permanently unable to work due to ill-health. Any retirement on the grounds of ill-health will be dealt with in line with the Council's policy for managing attendance.

8.2 An employee who is absent from duty will be referred to the Council's Medical Adviser in line with the Council's corporate policy and procedure.

8.3 The Council's Medical Adviser, in consultation with the employee's physician where appropriate, will provide medical opinion regarding the employee's continued employment.

## **9. Termination of employment**

9.1 If an employee is unable to discharge the duties of the post for which they are employed they will, wherever possible, be offered appropriate alternative employment, in line with the procedure outlined in the paragraph 5.1 of the Redundancy and Redeployment Protocol.

## **10 Ill-health retirement – seeking medical advice**

10.1 In instances where the Council has determined that the employment of a scheme member is to be terminated, the employee will be referred to an independent registered medical adviser for a medical opinion on whether the employee is permanently incapable of discharging efficiently their duties of employment or that they are not immediately capable of undertaking any gainful employment.

10.2 The independent registered medical adviser will be required to certify whether the employee is capable of obtaining gainful employment before normal retirement age. If there is no such prospect, then a Tier 1 retirement with full enhancement to benefit is awarded. If there is no prospect of them undertaking gainful employment within 3 years of leaving employment but is likely to undertake gainful employment before normal retirement age, then a Tier 2 retirement with 25% of full enhancement to benefit is awarded. If there is a realistic prospect of obtaining gainful employment within 3 years, then a Tier 3 retirement is awarded without enhancement until such employment is obtained.

10.3 Tier 3 retirements are for a maximum duration of 3 years and are subject to review after 18 months. The retiree is obliged to inform the Council of changes to his/her employment status and repay any overpayment of pension so identified where employment has commenced.

10.4 The employee may be referred back to an independent registered medical adviser with a view to reviewing the Tier awarded.

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- 10.5 Employees who have less than 2 years total pension membership will receive a refund of contributions.
- 10.6 An employee who has over 2 years total pension membership will be entitled to immediate payment of a pension and a tax-free lump sum (as appropriate). These benefits are calculated in the same way as normal retirement benefits and increased in line with the Tier awarded to compensate for early retirement.
- 10.7 The enhancement to pension will be in accordance with the Local Government Pension Scheme Regulations.
- 10.8 The retired employee will be eligible to a period of notice in accordance with the individual's contractual rights, or statutory entitlement whichever is the greater. Where it would be impractical to serve such notice, e.g., due to a person's continued absence, a payment in lieu of notice will be payable.

**Section 2 – Dependant’s Benefits**

- 11 The LGPS Regulations provide for certain benefits to be payable on the death of a scheme member.
  - 11.1 Benefits are payable, when qualifying conditions are met, to the spouse, civil partner or cohabiting partner, together with dependent children’s pensions.

**Death in service**

- 11.2 If an employee were to die in service as a member of the LGPS, subject to qualifying conditions, following benefits are applicable:
  - A lump sum death grant of three times the assumed pensionable pay no matter how long they had been a member of the scheme.
  - If the employee had accrued 3 months total membership or if they had brought a transfer value into the scheme then there would be a long-term pension payable to the spouse, civil partner or nominated cohabiting partner.
  - Pensions for eligible children: A long-term children's pension would be payable for so long as eligible children remain following an employee's death. Eligible children are defined as children to the age of 18, together with those in full time education or vocational training up to a maximum of age 23.

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## Section 3 – Miscellaneous Provisions

### 12 GENERAL CONDITIONS

#### **Reduction in pension benefits**

- 12.1 If any employee is entitled to compensation upon retirement under any other Regulations, their pension and lump sum retiring allowances under this scheme could be reduced in accordance with the provisions of such regulations, or the regulations of the Local Government Pension Scheme.

#### **Making application under the Schemes**

- 12.2 An employee wishing to retire under Scheme A (The 85 Year Rule) must make a written request to the appropriate Corporate Director or Chief Officer for initial consideration prior to submission to the VER Panel.
- 12.3 Any proposal under Schemes B, C or D will be initiated by the appropriate Corporate Director or Chief Officer.
- 12.4 Should the number of approved applications under Scheme A (The 85 Year Rule) need to be limited for financial or other reasons, selection will be on the basis of economy, effectiveness and the efficiency of the service.

#### **Notice periods**

- 12.5 In normal circumstances the retiring or redundant employee will serve a notice period in accordance with the individual's contractual rights or statutory entitlement, whichever is the greater, although the entitlement to notice (or pay in lieu of notice) may be waived by the employee concerned. Only in cases where operational considerations make it impracticable for a period of notice to be served (e.g., closure of an establishment) will pay in lieu of notice be made.

#### **Re-engagement of those in receipt of Pension**

- 12.6 Employees whose employment terminates under Scheme A may only be re-engaged with the specific approval of the Group Manager Human Resources and Organisational Development. The same restriction will apply in the respect of the placement via employment agencies.

#### **12.7 Re-engagement of those in receipt of Pension and been made redundant**

In instances of termination under Scheme B and C employees will be prevented from being re-engaged until the expiration of a period equivalent to the discretionary element of the redundancy payment and may only be re-engaged with the specific approval of the Group Manager Human Resources and Organisational Development. The same restriction will apply in the respect of the placement via employment agencies.

#### **Re-engagement of employees made redundant**

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12.8 In instances of termination under Scheme D employees will be prevented from being re-engaged until the expiration of a period equivalent to the discretionary element of the redundancy payment. The same restriction will apply in the respect of the placement via employment agencies.

**Internal Dispute Resolution Procedure (IDRP)**

12.9 When a decision is made under the LGPS Regulations relating to the rights or liabilities of an employee under the scheme, that employee must be notified of the decision as soon as is reasonably practicable.

12.10 If the decision is disputed by the employee they should first contact the employing department who should review their decision after taking appropriate advice.

12.11 The notification sent to the employee must contain the address from which they may request an appeals application form to make an appeal against the decision under the formal Internal Disputes Resolution Procedure (IDRP).

12.12 The Internal Dispute Resolution Procedure (IDRP) will apply to prospective and active members of the LGPS and to others, such as deferred members, pensioner members and pension credit members, whose position may be affected by decisions of the Council.

12.13 On receipt of an appeal application form the Group Manager Human Resources and Organisational Development will pass the appeal to the nominated person(s) for adjudication under stage 1 of the appeals procedure.

**Implementation of Policy Statement**

12.14 The revised schemes will come into operation on the 15 April 2023 and will continue in force until such time as the Council resolves that it should be discontinued or amended.

12.15 Nothing in this policy statement or its schemes can override the statutory provisions of the Local Government Superannuation Acts, or any other relevant legislation or regulations.

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