

Early Severance

This policy applies to:	
Members	No
Officers	Yes
Managers	Yes

You must:

- Understand that consideration for early severance is a discretion, not a right

Managers must:

- Take into account costs, savings and efficiencies when considering a recommendation for early severance
- Seek advice from HR before submitting a report for consideration by the Early Severance Panel

Further advice from: HR via Hrhelp@north-herts.gov.uk x4556

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1. Background

The Council may exercise discretion to agree early severance of employment for two reasons, either on the grounds of redundancy or in the interests of 'efficiency' (Section 26 of the Local Government Pension Scheme Regulations 1997).

Efficiency and Redundancy

The Local Government Pension Scheme Regulations (LGPS) do not define 'efficiency'. However, consideration by the Council of early severance on grounds of 'efficiency' requires one of the following criteria to be met:

(i) Efficiency

Effectiveness - when an employee does not fit in with a Directorate's (changed) requirements and is not able/prepared to accept a change but where discipline or capability processes may be inappropriate or not cost effective.

Economy - e.g. as part of a restructuring or reorganisation an individual is not redundant but is displaced and held on protected salary with little or no prospect of a job at their former level becoming available. In some circumstances it may be more cost effective for them to 'retire'.

(ii) Redundancy

The Council is committed to ensuring that every effort is made to continue to employ existing staff and redundancies will only be made where savings through the assessment of natural wastage, continued use of temporary staff and consultants or stopping/restricting overtime have been calculated and are not sufficient or practicable.

To meet the expectations within the DCR, financial provision for redundancy is determined using weekly basic salary and length of service, in line with the government statutory redundancy formula. The total lump sum payable will not exceed 104 weeks of weekly salary. A standard multiplier has been agreed by senior management and this will be used for each redundancy case. Redundancy payments are covered by a special provision under regulation 33 of the Employment Equality Age Regulations 2006 so long as they follow the statutory redundancy formula.

The redundancy figure calculated will be inclusive of statutory redundancy.

2. The 85 year rule

Members of the Local Government Pension Scheme (LGPS) Please check the LGPS member website for more details: [Taking your pension :: LGPS \(lgpsmember.org\)](http://lgpsmember.org)

3. Compassionate Grounds

Under the Local Government Pension Scheme regulations if an employee is aged over 55 they are entitled to request retirement on compassionate grounds if one or more of the following criteria apply and the Early Severance Panel will consider it.

- The employee wishes to retire early for the purpose of caring for someone who cannot manage without help because of illness, frailty, or disability.
- The employee has become the sole carer for a child or children.
- The employee is suffering from ill health which could not be classified as 'permanent ill health' but which is a recurring problem, which has caused a reduction in the job performance or made the ability to work difficult.

Some other substantial reason – i.e. there may be exceptional circumstances where a case for early retirement does not neatly fall into any of the above criteria. In these situations, there is the discretion for the Panel to consider the merit of the proposals put forward.

4. Issues to be considered when presenting an Early Severance Case include

- The cost of any discretionary or statutory payments and costs as a result of the employee leaving and the financial periods covered.
- The savings to be generated within Directorates from the removal of the post or changes in payroll costs and overheads.
- The non-cash efficiencies that may arise.

5. Information to the Early Severance Panel

All cases of efficiency will be submitted to an Early Severance Panel. If there are multiple cases to consider, decisions may be made in line with our policy on redundancy payments that will cover each redundancy in that group. Composition of the Panel will be the Managing Director, the Human Resources Service Manager and relevant members of the Leadership Team.

The Service Manager (Grade 11/12) must provide a report to the Human Resources Service Manager. This must be presented to the Early Severance Panel, detailing on what grounds the employee is being recommended for early release and how the total cost of the package can be funded within current budget provisions. It should also include recommendations regarding payment of early termination penalties. The decision of the Panel will be final.

Where possible costs of early severance should be covered by cost efficiencies over a reasonable life period, e.g. 5 years. If this is not the case then budget provision will have to be obtained to cover the net cost of severance.

6. Monitor and Review

All cases of early severance will be subject to regular review to ensure consistency of approach throughout the Council. The Early Severance Panel will be responsible for this and the Human Resources Services Manager will maintain information to enable this to happen. This policy has been revised following consultations with the Staff Consultation Forum.

7. Employment Law:

Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006

Local Government Pension Scheme (Amendment) Regulations 2007

9. Appendices

Appendix 1 Purpose and Scope

Appendix 2 Compensation Payments for Redundancy and Efficiency

Appendix 1

Purpose and Scope

The Council recognises that there may be occasions when it is in the interests of both the Council and individual employees mutually to agree to early severance of employment. The Council also recognises that it has a responsibility to act reasonably in the stewardship of its financial resources.

This Policy Statement sets out how the Council will normally deal with situations where early severance might be appropriate, although all instances will be dealt with at the discretion of the Council with no automatic rights for potentially eligible employees.

The Local Government (Early Termination of Employment) (Discretionary Compensation) England and Wales Regulations 2006 (DCR) that determine payment options for Early Severance were issued on 8th November 2006 and back dated to 1st October 2006. This was in response to the legislative requirements held within the Employment Equalities (Age) Regulations 2006. These regulations removed the ability to award Compensatory Added years to those leaving employment with the Council and changed the method of calculating redundancy compensation.

As required by the DCR this authority has formulated and published and will keep under review this policy and if the authority decide to change this policy it will be published one month after the date of the decision.

This policy confers no contractual rights and the Council retains the right to change the policy at any time. Only the policy that is current at the time a relevant event occurs will be the one that this applied to that employee.

Appendix 2

Compensation Payments for Redundancy and Efficiency

Redundancy

Under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (DCR) it is not possible to award LGPS added years as compensation. Instead the Council will award compensation in line with the Governments formula for redundancy calculations and extra compensation allowed under the DCR that takes into account age and length of service.

This is the exception to the age discrimination regulations (regulation 33).

The Council has taken the decision to apply a factor of 2.0 to the statutory redundancy calculation formula.

This is applied on the following basis:

Up to age 21 0.5 weeks pay per completed year of service.

Age 22 – 40 1 weeks pay per completed year of service.

Age 41+ 1.5 weeks pay per completed year of service.

To a maximum of 20 years.

Some examples of how this would be calculated follow:

Employee aged 43 with 12 full years service on a basic salary of £13500=

$(13500 / 365) \times 7 = \text{£}258.90$ per week

Age 31 – 40 = 10 x 1 week pay

Age 41 – 43 = 2 x 1.5 weeks pay

As a result of the above this person qualifies for a total 13. weeks pay.

$13 \times \text{£}258.90 = \text{£}3365.70 \times 2.0 = \text{£}6731.40$

Employee aged 25 on £9500 with 2 years service

$(9500/365) \times 7 = \text{£}182.49$

This person qualifies for 2 weeks pay.

$2 \text{ weeks} \times \text{£}182.49 = \text{£}364.98 \times 2.0 = \text{£}729.96$

Employee aged 55 on £43500 with 25 years service

$(43500/365) \times 7 = \text{£}834.26$

This person qualifies for 27 weeks pay.

$27 \text{ weeks} \times \text{£}834.26 = \text{£}22525 \times 2.0 = \text{£}45050$

Efficiency

In efficiency cases the statutory redundancy formula should not be used to calculate compensation. The protections by the exception to the age discrimination regulations (regulation 33) are only valid for redundancy situations. It is suggested that the Council should give consideration to paying a one off lump sum taking into account the following:

- Direct financial savings to be incurred by the employee leaving the Council's service.
- Overall reasonableness of the compensation.