



# **EARLY TERMINATION OF EMPLOYMENT POLICY**

**LANCASTER  
CITY COUNCIL**

*Promoting City, Coast & Countryside*

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# Early Termination of Employment Policy

## Introduction

This Policy sets out the Council's approach to the early termination of employment of its employees, and to the award of compensation to those employees whose employment is terminated early, either on the grounds of redundancy or the efficiency of the service. The Policy applies to all employees of the Council.

For the purposes of this Policy, early termination occurs where an employee's employment ceases before the age of 65, the normal retiring age at which retirement benefits become payable. Early termination may result from actions taken by the Council or be granted in response to a request by an individual employee.

This Policy has been drafted in accordance with the Local Government Pension Scheme Regulations 1997, and the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, and constitutes the Council's Policy Statement under Regulation 7 of the 2006 Regulations.

In formulating this Policy, the Council has had regard to the extent to which the exercise of its discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service, and has satisfied itself that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

The Council's view is that early termination of employment should be seen as an exception rather than a norm, although it recognises that there may be circumstances where early termination of employment is unavoidable, and circumstances where early termination may benefit the Council and be acceptable to the employee.

### **1. Ill-Health Retirement**

Where an employee is deemed by an independent medical practitioner to be permanently incapable of performing the duties of their employment, or any other comparable employment with the Council due to ill-health, the employee will be entitled to an ill-health pension and lump sum. These will be based on length of membership of the Local Government Pension Scheme (LGPS), and the Council has no discretionary powers with regard to compensation.

### **2. Normal Retirement Age**

The Council's normal retirement age is 65. For employees who were active members of the LGPS on the 1st October 2006, normal retirement date (i.e. the date at which an employee's pension can be paid without reduction and without capital cost to the Council) is now 65. This follows a removal of earlier Regulations which allowed a protected normal retirement date for employees who joined the LGPS before the 1st April 1998.

### **3. Early Retirement With Reduced Pension**

Under LGPS regulations, however, employees aged 50 or over may request to retire early and receive their annual pension and lump sum before the age of 65. If the employee elects to receive benefits before the normal retirement date, the benefits will normally be reduced to reflect the costs of the pension coming into payment early, although under the Regulations, transitional protection arrangements apply in certain situations. There may be a capital cost to the Council, and in that

event the Council's consent will be required. In such cases, in considering whether to give its consent, the Council will consider the individual circumstances and any costs that will be incurred by the Council and how these can be met. Consent will only be given if this is in the interests of the Council.

#### **4. Redundancy**

As a matter of general law, a redundancy situation arises:

- (a) Where the employer has ceased, or intends to cease to carry on the business for the purposes for which the employee was employed, or has ceased, or intends to cease to carry on that business in the place where the employee was so employed; or
- (b) Where the requirements of the business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in a place where the employee was employed by the employer, have ceased or diminished or are expected to diminish.

Whilst the Council recognises that, on occasions, policy decisions will necessitate the need to achieve a reduction in the number of its employees beyond the level that can be achieved beyond natural turnover, it will take all possible steps to avoid compulsory redundancy. The Council's Redeployment Policy is particularly relevant in this respect and should be read together with this Policy.

However, in the event that compulsory redundancy is unavoidable, the Council will calculate redundancy pay using the statutory formula for the time being in force, currently under the Employment Rights Act 1996, but using the employee's actual weekly pay rather than any statutory maximum figure for weekly pay. In accordance with statute, a redundancy payment will only be made where the employee has at least two years' continuous service, and the maximum service that can be taken into account is twenty years. For the purpose of the calculation, continuous employment will be the aggregation of all continuous local government and related employment defined within the Redundancy Payments (Continuity of Employment in Local Government etc.) (Modification) Order 1999 (as amended).

#### **5. Voluntary Redundancy**

Where a redundancy situation, as defined above, exists, an employee may apply for voluntary redundancy.

In the circumstances of voluntary redundancy, the terms of the Redeployment Policy will not apply to the applicant employee. Further, it will not be open to an employee who has unsuccessfully sought redeployment in a redundancy situation to subsequently apply for voluntary redundancy.

If the application for voluntary redundancy is granted, the employee will receive an enhanced redundancy payment which will be calculated using the statutory redundancy formula, but using the employee's actual weekly pay rather than any statutory maximum figure for weekly pay, and applying a multiplier of 2.2 to the statutory formula. This provides for compensation to a maximum of 66 weeks' pay. In accordance with statute, a redundancy payment will only be made where the employee has at least two years' continuous service, and the maximum service that can be taken into account is twenty years. For the purpose of the calculation, continuous employment will be the aggregation of all continuous local government and related employment defined within the Redundancy Payments (Continuity of Employment in Local Government etc.) (Modification) Order 1999 (as amended).

#### **6. Termination in the Interests of the Efficient Exercise of the Authority's Functions**

Early termination of employment in the interests of the efficient exercise of the Council's functions does not require a redundancy situation to exist, and does not require that a post be deleted from

the Council's Establishment. It is impossible to define conclusively "the interests of efficiency". However, this might include circumstances where changes beyond the individual employee's control have led to inefficient discharge of a function, or where the retention of an employee is preventing the introduction of changes in structure or practices that would improve efficiency. Early termination on the grounds of efficiency will not be granted as a substitute for disciplinary action, or for action on the grounds of capability where such action would be justified.

The Council believes that termination in the interests of efficiency will be rare. Generally the Council will not exercise its discretion to pay compensation where employment is terminated early on efficiency grounds. However, individual cases will be considered on their merits.

If compensation is being considered or if there are pension costs arising from the termination, Service Heads must be able to demonstrate how they intend to make the required efficiency savings and fund the early termination.

## **7. Employees aged 50 and over**

In addition to the compensation payments specified above for termination of employment on the grounds of redundancy or efficiency, employees aged 50 or over who have at least three months' membership of the Local Government Pension Scheme and whose employment is terminated on the grounds of redundancy or efficiency, will receive immediate payment of an unreduced pension and lump sum based on their accrued contributory service at the date their employment is terminated.

## **8. Process for applying for Early Termination (Redundancy or Efficiency)**

Redundancy (or potential redundancy) situations will be identified initially by Service Heads, in consultation with Directors, and linked to the Council's corporate and business planning arrangements, or other emerging changes in business needs. In doing so, Service Heads will advise and consult with Human Resources and Financial Services.

Potential situations for terminating employment in the interest of efficiency will also be identified in this way.

Subject to Human Resources' confirmation of the situation, and Financial Services' confirmation of the financial implications, Service Heads will then notify staff affected (or potentially affected) staff and where appropriate, seek applications for voluntary termination on the relevant grounds. Wherever possible, volunteers will be sought, rather than resorting to compulsory redundancy

An employee who is considering the possibility of applying for early termination on either redundancy or efficiency grounds should first speak to the appropriate Service Head on a confidential basis. The Service Head will then consult Human Resources and Financial Services as appropriate, together with the relevant Corporate Director, and a decision will be made as to whether or not the application would be supported in principle.

Employees who are members of a recognised trade union are strongly advised to discuss their application with their trade union representative at an early stage in the procedure.

Employees may also wish to contact Human Resources for information about redundancy/compensatory pay and pension benefits (if appropriate). However, Human Resources staff are not able to advise on pension matters and further information regarding pension benefits may be obtained from Lancashire County Council, as the administering body. Seeking such information will not commit the employee, and the request or application may be withdrawn by the employee at any stage.

In the event that an employee decides to formalise an application for early termination, whether on grounds of redundancy or efficiency, the request should in the first instance be made in writing to

the Service Head stating the date on which it is requested that the employment should terminate. A copy of the letter should also be sent to the Human Resources Manager.

All such formal applications, which involve the early payment of pension benefits, will be referred to Management Team for corporate consideration, and if supported in principle by Management Team, will then be referred to the Personnel Committee for decision. Applications, which are part of minor structural reorganisations and only involve employees aged under 50 with no pension costs, will be considered under the Scheme of Officer delegation.

If Management Team does not support an application, or if Personnel Committee does not grant the application, the employee will be informed in writing. There is no right of appeal against such decisions,

## **9. Financial considerations**

In identifying potential redundancy or 'efficiency' situations, Service Heads must consider all feasible options of managing the situation. The overall aim is to minimise any adverse impact on service delivery and on affected employees, whilst minimising also any costs arising through the application of this policy.

Where there are options available, any costs must be recovered over (at most) a 3-year payback period from the date of termination of employment, but this will be shortened if necessary to take account of relevant circumstances, e.g. if staff affected attain their Normal Retirement Date within a 3- year period. The payback period will be agreed with Financial Services.

It is recognised that some situations, such as redundancy, may meet the 3-year payback period but have high up-front costs being incurred in year 1 (i.e. over and above available service budgets). Where services cannot meet such year 1 costs from their own budget provisions, but where the overall pay-back requirement can be met, consideration will be given to using any corporate savings, if available, to manage the position. Information on this aspect would be prepared by Financial Services for incorporation into the report to Management Team. Should any associated applications be supported, then it is possible that Cabinet approval may be required for such use of savings, depending on their nature.

In considering applications for voluntary redundancy, the Council will consider the financial savings that will arise from the deletion of the post, and the workload implications of deleting the post. The cost of the compensatory payment, together with any costs arising from any immediate entitlement to pension, must be able to be recovered from such savings within the agreed payback period.

In considering applications for termination in the interests of efficiency, the Council will consider the amount of efficiency savings that will accrue from allowing the termination to take place, and must be satisfied that the cost of any compensatory payment being considered, together with any costs arising from any immediate entitlement to pension, will be recovered from such savings within the agreed payback period.

In considering applications for early retirement on reduced pension, where there would be a cost to the Council, the Council will consider the amount and appropriateness of the savings options put forward, and must be satisfied that any costs arising from any immediate entitlement to (reduced) pension, will be recovered from such savings within the agreed payback period.

## **10. State Benefits**

The Council recommends that any employee whose employment with the Council is terminated should request information from the local office of the Department for Work and Pensions about state benefits. Entitlement to state benefits e.g. Jobseekers Allowance, Unemployment Benefit and Income Support and other short and long term benefits may be affected by a number of factors. Individuals are advised to check their own personal position in relation to the claiming of

benefit.

## **11. Review of Policy**

This Policy will be regularly kept under review in the light of operating experience, changes in legislation, and the financial position of the Council. If changes are made to the Policy in so far as it relates to discretionary compensation for the early termination of employment, a statement of the amended policy will be published, which will take effect one month after the date of publication.