



# Flexible Retirement, Early Retirement and Redundancy Payments Policy

## Human Resources

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## HRP 012

<b>Title:</b>	<b>Flexible Retirement, Early Retirement and Redundancy Payments Policy</b>	
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<b>Sponsor:</b>	Director, Human Resources	
<b>Endorsed by:</b>	Cabinet	Date: 1 October 2006
<b>Implementation date:</b>	Revised 1 September 2010	
<b>Review date:</b>	December 2011	
<b>Application:</b>	This policy will apply to all Swindon Borough Council employees who are members of the Local Government Pension Scheme. It does not apply to staff employed under Teacher terms and conditions of employment.	
<b>This document replaces:</b>	N/A	

### Policy Statement

This policy sets out the severance payments to be made to employees in the event that their employment with the Council is terminated on grounds of redundancy or early retirement ahead of their normal retirement age.

In defining this policy, the Council has sought to provide fair and affordable retirement benefits and compensation payments, in accordance with employment legislation, and Local Government Pension Scheme (LGPS) Regulations.

### Normal Retirement Age

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

Employees can remain in the Local Government Pension Scheme beyond age 65, but benefits must be drawn before they reach age 75. If a member of staff opts to

draw their pension benefits after they reach 65, their benefits will be actuarially increased.

Under LGPS regulations, employees who have at least three months membership of the LGPS can elect to receive their annual pension and lump sum at age 60, without the Council's consent, and at no capital cost to the Council. If the employee elects to receive their benefits before their normal retirement date the benefits will be reduced to reflect the costs of the pension coming into payment early.

## **Redundancy**

In the event of dismissal on grounds of redundancy, employees with at least two years continuous local government service will be eligible to receive a redundancy compensation payment as follows:

- (i) Employees aged 18 and over will receive a redundancy compensation payment based on the provisions of the Employment Rights Act 1996 (ERA), as updated by the Employment Equality (Age) Regulations 2006. This payment will be calculated using a formula set out which comprises a defined number of weeks' pay based on age and continuous service at the date when employment is terminated.

The calculation will be based on continuous local government service with any other local authority or employer covered by the Redundancy Payments Modification Order.

Under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, the Council will enhance the ERA provisions so that a week's pay is calculated on the basis of an employee's actual week's pay, rather than the statutory limit.

- (ii) In addition to the redundancy compensation payment specified in (i) above, employees aged 55 or over who have at least three months membership of the Local Government Pension Scheme will receive immediate payment of an unreduced pension and lump sum based on their accrued contributory service at the date their employment is terminated.

Employees who are members of the Local Government Pension Scheme prior to 1 April 2008 may receive immediate payments of pension benefits following redundancy from age 55.

Changes in staffing structures that are likely to result in redundancy must be approved by the relevant Group Director in consultation with the relevant Cabinet Member and endorsed by the Directors of Finance and Human Resources.

## **Early Retirement in the Interests of Efficiency**

Employees aged 55 or over who have at least three months' membership of the Local Government Pension Scheme who are dismissed on the grounds of increased efficiency will be eligible to receive immediate payment of unreduced annual pension

and lump sum based on their accrued contributory service at the date their employment is terminated.

Employees who are members of the Local Government Pension Scheme prior to 1 April 2008 may receive immediate payments of pension benefits following early retirement in the interests of efficiency from age 55.

In approving early retirement on these grounds, the Council will assess each case on its merits following receipt of a written case, taking into account the capital costs of early retirement, and the efficiency savings that will accrue from allowing the early retirement to proceed.

Early retirement on these grounds must be approved by the relevant Group Director and endorsed by the Directors of Finance and Human Resources.

### **Voluntary Early Retirement**

Employees aged between 55 and 59 with at least three months' membership of the Local Government Pension Scheme may seek the Council's consent to voluntary early retirement. Where such a request is approved, the employee will be eligible to receive immediate payment of pension and lump sum, though this will be reduced to reflect the actuarial costs of the Council's decision to allow benefits to be paid earlier than the employee's normal retirement age.

Employees who are members of the Local Government Pension Scheme prior to 1 April 2008 may receive immediate payments of pension benefits following voluntary early retirement from age 55.

The amount of reduction to the pension and lump sum is determined by an actuarial calculation based on a formula determined by the Government Actuary's Department.

If an employee joins the LGPS after 30 September 2006 and retires before age 65, his / her pension and lump sum will be reduced. If an employee is contributing to the LGPS on 30 September 2006 some or all of his / her benefits paid early could be protected from reduction. Following the Local Government Pension Scheme (Amendment) (No 2) Regulations 2006 an extension exists to the continuation of the "85 year rule" for all active LGPS members at 30 September 2006, until 1 April 2008. A member born before 1 April 1956 will now be able to retire before age 65 with no reduction in his / her benefits earned up to 31 March 2016. A member who will be age 60 after 31 March 2016, but before 1 April 2020 and can satisfy the 85 year rule (an employee's age and years of membership of the LGPS totalling 85 or over at the date when their employment ends) before 1 April 2020 will have a tapered reduction in benefits earned from 1 April 2008 instead of the full reduction. There may continue to be a capital cost to the Council, depending on an employee's age and service.

In exceptional circumstances, the reduction to the pension and lump sum may be waived on compassionate grounds. The Council will apply the definition "inclined to pity or mercy" to determine whether reduction in pension benefits is to be waived.

Where an employee seeks Council consent to retire early on these grounds, the Council will assess the request on its merits, taking into account the capital costs of early retirement, and the individual circumstances.

Early retirement on these grounds must be approved by the relevant Group Director and endorsed by the Directors of Finance and Human Resources following receipt of a written case.

### **Flexible Retirement**

Employees aged 55 or over who have at least three months' total membership of the Local Government Pension Scheme may seek the Council's consent to flexible retirement. Rather than an employee continuing in his / her job to age 65 and drawing his / her pension from then, he / she could from age 55, with the Council's consent, reduce hours in his / her current post or move to a position on a lower grade and elect to take all or part of his / her accrued pension benefits whilst continuing in employment. An employee taking flexible retirement can continue paying into the LGPS to build up further benefits.

Where such a request is approved, the employee will be eligible to receive immediate payment of the pension and lump sum, though these will be reduced. The amount of reduction to the pension and lump sum is determined by an actuarial calculation based on a formula determined by the Government Actuary's Department.

Staff who are members of the Local Government Pension Scheme prior to 1 April 2008 may upon a written request draw all or part of their benefits from age 55, with their employer's consent.

If an employee joins the LGPS after 30 September 2006 and takes flexible retirement before age 65, his / her pension and lump sum will be reduced for early payment. If an employee is contributing to the LGPS on 30 September 2006 some or all of his / her benefits paid early could be protected from reduction, as a result of the extension to the continuation of the "85 year rule" until 1 April 2008. An employee who seeks to take flexible retirement before age 60 will have a reduction in pension and lump sum.

In exceptional circumstances, the reduction to the pension and lump sum may be waived in whole or in part. This will be on compassionate grounds and the Council will apply the definition "inclined to pity or mercy" to determine this.

Where an employee seeks Council consent to take flexible retirement, the Council will assess the request on its merits, taking into account any capital costs of flexible retirement, and the individual circumstances.

Flexible retirement must be approved by the relevant Group Director and endorsed by the Directors of Finance and Human Resources following receipt of a written business case.

### **III-Health Retirement**

There will be a three-tier ill health retirement package, depending on the severity of the employee's illness, if an employee's employment is terminated because of permanent ill health. The benefits are payable from any age, so long as the employee has 3 months contributory membership of the Local Government Pension Scheme.

**Tier One**

- If the Council determines there is no "reasonable" prospect of any "gainful employment" before age 65, full benefits will be paid based on the employee's membership as if they had worked to age 65.

**Tier Two**

- If the Council determines that an employee is incapable of "gainful employment" within a "reasonable period", but is likely to do so before age 65, benefits accrued to the date of leaving plus 25% of membership to age 65 will be paid.

**Tier 3**

- If the Council deems an employee is "permanently incapable" of undertaking the duties of their own job, but they are judged by an Independent Occupational Health Practitioner to be capable of obtaining "gainful employment" within a "reasonable period" after leaving that employment, then benefits accrued to the date of leaving will be paid until such time as the person obtains "gainful employment", or the Council stops payments following a review.

The definition of "gainful employment" in all three tiers is defined as "30 hours per week for at least 12 months".

A "reasonable period" means a period of 3 years.

There will be an underpin for certain existing members (age 45 or over on 31 March 2008) so that they receive no less than they would have under the Scheme rules established under the Local Government Pension Scheme Regulations 1997.

Compensation under the Employment Rights Act 1996 as updated by the Employment Equality (Age) Regulations 2006. Expressed in Number of Weeks pay.

Service (Years)																			
	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20

