

**NORTHAMPTON BOROUGH COUNCIL**

**EARLY RETIREMENT / SEVERANCE SCHEME**

(changes to the scheme approved in October 2007 are in italic)

**1. INTRODUCTION**

- 1.1 There are a number of circumstances in which early retirement, or severance, may be appropriately considered for an employee. These circumstances may be related to the individual situation of an employee, for example in the case of ill health, or arise as a result of organisation changes.
- 1.2 The Council will in all circumstances make every effort to avoid compulsory redundancies. Where the Council decides, however, that after taking all considerations into account, early retirement, flexible retirement or redundancy is either unavoidable or appropriate for sound business reasons, the Council will ensure that:
- The processes used will be fair, transparent, reasonable and objective
  - Any enhancements given are affordable in the short and long term.
- 1.3 Any payments made under this scheme will be subject to tax *and pension* regulations in force at the time of their implementation.

**2. SCOPE**

- 2.1 The provisions of the Council's early retirement and severance scheme applies to all Council employees who meet the relevant eligibility criteria set out in the remaining sections of this document, subject to legislation and regulations in force at the time of their implementation.

**3. LINKS TO OTHER COUNCIL POLICIES**

- 3.1 This document should be read in conjunction with the following existing Council policies and procedures and any relevant future policies which replace, change or amend the existing polices:-

Redundancy Selection and Consultation Procedure  
Attendance Management Policy and Framework

**4. CRITERIA FOR EARLY RETIREMENT/SEVERANCE**

- 4.1 *There are a number of different, but specific, circumstances which might lead to early retirement or severance being considered. These are as follows;*
- 4.2. *Ill Health*
- 4.2.1 *To be eligible for retirement on these grounds the employee must have at least 3 months membership of the scheme or has had a transfer of pension*

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*rights into the scheme and are between the ages 50-65. There are two tiers of ill health retirement that may apply.*

- 4.2.2 *Tier 1: The pension payable will be based on accrued membership plus 100% of prospective membership between leaving and age 65 where the employee has no reasonable prospect of obtaining gainful employment before age 65.*
- 4.2.3 *Tier 2: The pension payable will be based on accrued membership plus 25% of the prospective membership between leaving and age 65 where the employee is unlikely to obtain gainful employment within a reasonable period of time, but is likely to be able to obtain gainful employment before age 65.*
- 4.2.4 *'Gainful Employment' is defined as 'paid employment for not less than 30 hours per week for a period of not less than 12 months'.*
- 4.2.5 *Employees who are members of LGPS and who are aged 45 or over on the 31 March 2008 will receive no less pension benefit than they would have done under the scheme in force at that time.*
- 4.2.6 *Part time employees will receive the appropriate pro rated of pension benefit at the day of leaving.*
- 4.2.7 *Ill Health Retirement decisions are made solely on the basis of medical grounds and must be certified by a medical practitioner qualified in occupational health medicine.*

### 4.3 Redundancy

This applies where there is a redundancy situation as defined by the Employment Rights Act 1996:

- where business has ceased or diminished
- where the requirements for work of a particular kind have ceased or diminished
- where there has been a significant change in the place of employment and there is no suitable alternative employment available.

NB. There is provision for transferred redundancies, known as 'bumped redundancy' which is covered in existing redundancy consultation procedures and is subject to relevant legislation.

- 4.3.1 The same provisions apply whether the employee agrees to retire voluntarily or is made compulsorily redundant.

- 4.3.2 The provisions are as follows:

REDUNDANCY PAYMENT – To be calculated on actual weekly pay or the statutory maximum for full time employees of £330 per week (whichever is greater) for each completed year of service between the ages of:

- Up to 21 .5 weeks Pay

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- 22-40 1 weeks pay
- 41+ 1.5 weeks pay

This is subject to a maximum 30 weeks pay based on the last 20 years service.

PENSION – To be eligible for early release of pension benefits an employee must be:

- 55 or over (*existing members protected – age 50 until 31 March 2010*)
- In the LGPS with at least 3 months membership or with transferred service

The scheme gives:

- Early release of pension (which is unreduced)
- Payment of pension lump sum
- Redundancy payment as detailed above.

4.3.3 The business case for any proposed early retirement(s) on grounds of redundancy and/or redundancy payment(s) must be demonstrated. The business case must include:-

- The costs of the proposed early retirement/redundancy payment(s)
- The on going savings to be achieved
- The timescales within which the savings will be made, which should be achieved within a 3 year period.

The business case must clearly show that there are significant on-going savings which are achievable after all the costs associated with the early termination of employment have been met. The Business case must be endorsed by the Director responsible for the service area where proposed changes will be implemented or the Chief Executive where the proposals will be implemented on a Council wide basis. The business case will be submitted to the Section 151 Officer and another Director who will independently examine the merits of the business case and make written recommendations to the Chief Executive. The decision to approve the proposed early termination of employment and the associated severance payments will be made by the Chief Executive. A record of approved and rejected proposals will be maintained by the HR service.

### 4.4 Early Retirement on Grounds of Efficiency of the Service

(Employees aged 55 or over – *existing members protected, age 50 until 31 March 2010*)

4.4.1 This is a voluntary element of the scheme. An employee cannot be compelled to retire under this provision.

4.4.2 One of the following criteria must be satisfied for agreement to the early release of an employees' pension under this element of the scheme. In addition the financial criteria referred to in section 4.4.3 also needs to be met. The criteria are:

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- the employee's ability to perform the job has been affected by changes which mean that it is difficult for them to adjust
- the job requires new skills or competences which the employee does not have and where retraining or investment in future development would not be appropriate
- early retirement would create internal job opportunities, or unblock promotion channels which succession planning could fill through an internal appointment
- structural changes could lead to savings being achieved through appointing a replacement at a lower pay level, or where a replacement removes or avoids a pay protection
- it avoids a redundancy situation by allowing an employee to be redeployed or transferred into the vacancy created

and, overall it is considered to be in the interests of the Council as well as the employee to grant the early retirement.

### 4.4.3 Financial Criteria

The business case for any such proposal must be demonstrated. This must identify the relevant criteria outlined in 4.4.2 above which is applicable to the request. It must also identify the savings to be made and how they will be achieved within the required 3 year timescale. The business case must be signed by the Corporate Director responsible for the service area where the application originated. A pro forma will be available to document the required information. The signed document must then be submitted to the section 151 Officer and a different Corporate Director who will independently examine the merits of the application and make written recommendations to the Chief Executive to approve or reject the application. The decision to approve or reject applications will be made by the Chief Executive. Reasons for approval or rejection will be recorded in writing and this information will be maintained within the HR service.

### 4.4.4 To be eligible an employee must be:

- aged 55 or over (*or subject to the protection arrangements in 4.4 above*)
- in the LGPS with at least two years' membership whilst in NBC service.

### 4.4.5 Requests for early retirement on grounds of efficiency of service where approved will entitle the employees to receive the early release of their pension. The early release of pension without actuarial reduction on grounds of efficiency of the service will only be agreed where the business case demonstrates additional savings over and above the cost of funding the early retirement and any other associated costs and to the extent that such retirement is permitted notwithstanding the abolition of the rule of 85.

### 4.4.6 Regulation 31 of the Local Government Pension Scheme Regulations (amended by the 2006 regulations)

This is commonly known as the Rule of 85.

A member of the LGPS is entitled to receive a pension at 65. Between 60 and 65 the member is also entitled to elect to receive a pension but this will be reduced to reflect the fact that it is being taken earlier than 65 unless the member fulfils the rule of 85, ie that in his or her case the sum of (a) age when employment ends, (b) total years in the scheme and (c) the period between the end of employment and the date of election is 85 years or more.

Between 50 and 60 the member may elect to receive a pension, but only with his or her employer's consent. In that case there will also be a reduction in benefits to reflect the fact that the pension is being taken earlier than 65 unless the rule of 85 is satisfied.

Amending Regulations in 2006 abolish the rule of 85, with effect from 1 October 2006. There are, however, transitional provisions.

Current members who will be 60 on or before 31 March 2016 continue to enjoy the benefits of the rule of 85. There is also a degree of protection for those who will be 60 or more after 31 March 2006 but before 1 April 2020.

*(As at December 2007 the Government is undertaking a fresh assessment of costs and a further period of consultation on these transitional arrangements. The advice of HR/Pensions must therefore be sought in any case where the Rule of 85 may be applied.)*

#### 4.5 Voluntary Early retirement – Compassionate Grounds

4.5.1 Employees who have left their employment with the Council with a deferred pension may request his\her deferred pension to be paid early on compassionate grounds. If the early release of the deferred pension is agreed the benefits will be paid in full with no actuarial reduction.

4.5.2 The Council may also consider requests to waive actuarial reduction where this would otherwise be the case in relation to the early release of pension benefits. The Council may do so on compassionate grounds. The circumstances where the council may exercise this discretion are set out below:-

- a. In relation to employees who have left employment with the Council with a deferred pension and who request early payment of benefits under Regulation 31 above on or after age 55 (*50 where protection applies*) and before age 60, or who voluntarily opt for payment of the benefit early on or after age 60 and before the normal retirement date or
- b. In relation to current employees who are seeking early retirement to the extent permitted under Regulation 31 above on or after age 55 (*50 where protection applies*) and before age 60, or who voluntarily retire on or after age 60 and before their normal retirement date.

4.5.3 For current employees to be eligible he\she must be:

- over 55 (*Existing members protected, age 50 until March 2010*)
- in the LGPS with at least two years contributions, or with transferred service.

4.6.4 Requests from past and current employees for the early release of pension benefits without actuarial reduction on compassionate grounds will be agreed by the Chief Executive following consultation with the Councils section 151 officer. The decision will be based on a full evaluation of the financial implications for the Council

4.6.5 The LGPS requires the ground for compassionate early retirement to be defined. These are defined as; where an active member or deferred beneficiary needs to care full time for a close relative, spouse, partner or other dependant who, through illness, requires full time or substantial care for the rest of their life expectancy which is anticipated to be in excess of 12 months from the date of the agreed medical advice.

## **5. RE-EMPLOYMENT FOLLOWING EARLY RETIREMENT**

5.1. Any former NBC Council employee who is in receipt of an early retirement pension on the grounds of efficiency, redundancy or at their own request, should not normally be immediately re-employed by the Council either on the basis of a contract of employment or a contract for service with the Council. If there is any doubt about the continuing need for an employee's services then early retirement should not be agreed.

5.2 However, it is recognised that there are some, very limited, circumstances when re-employment would be in the interests of the Council. In these cases a report should be submitted to the Corporate Director or his or her nominated senior management representative seeking approval to re-employ for a specified limited period.

5.3 Where an employee has been made redundant and receives a severance payment (and therefore without a pension) there should be no re-employment until the expiry of the period for which the number of weeks' severance payment has been given, e.g. if the employee has received a severance payment equal to 16 weeks pay, the earliest re-employment could be considered would be 16 weeks after the date of termination.

5.4 Where a former employee has retired on ill health grounds and subsequently applies for a job with the Council, this should be considered carefully bearing in mind the requirements of the Disability Discrimination Act. If it is proposed to appoint any such individual, approval must be given by the Council's Occupational Health Advisers and the relevant Corporate Director or his or her nominated senior management representative.

NOTE; If someone in receipt of a Local Government Pension is re-employed their pension will be abated if in total their pension and pay for the job exceed the pay that they received in the job that they were in before they retired.

**6. NON-FETTERING OF THE COUNCIL'S DISCRETIONS**

6.1 The above forms the Council's "current" policy. It should be noted that:

- a. the policy confers no contractual rights, and
- b. the Council will retain the right to change the policy at any time without prior notice or consultation (although the Council will endeavour to consult with recognised Trade Unions), and
- c. only the policy which is current at the time a relevant event occurs to an employee / scheme member will be the one applied to that employee / member

**7. REVIEW OF THE SCHEME**

7.1 The provisions of this scheme will be reviewed on a regular basis to ensure their on-going sustainability and affordability.

**8. FURTHER INFORMATION**

8.1 Advice and guidance on the application of the scheme is available from HR.