

THE LOCAL GOVERNMENT (EARLY TERMINATION OF EMPLOYMENT) (DISCRETIONARY COMPENSATION) (ENGLAND AND WALES) REGULATIONS 2006 - POLICY STATEMENT

1. Preamble

1.1 In accordance with the requirements of regulation 7(1) of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (“the DCR”), Nottingham City Council (“the Council”) has formulated and published the following policy statement in respect of the discretions available under regulations 5 and 6 of the DCR.

2. Regulation 5

2.1 For employees with two or more years continuous service with the Council (or with an organisation covered by the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999) (“the RPMO”), who are dismissed by reason of redundancy, compensation will be paid equivalent to the statutory redundancy payment to which they are entitled under the Employment Rights Act 1996 (“ERA”).

2.2 Continuous service with an organisation covered by the provisions of the RPMO will count towards the redundancy compensation calculated under regulation 5 of the DCR.

2.3 In calculating the amount of redundancy compensation to which an employee is entitled under regulation 5 of the DCR resulting from a compulsory redundancy process, the statutory limit¹ on a week’s pay, as imposed by section 227 of the ERA, will apply.

3. Regulation 6

3.1 Where a policy decision is confirmed by the Executive Board, that reductions are to be made in a service area and makes a determination to initiate a voluntary redundancy exercise, linked to corporate budget proposals:-

1) Save for the circumstance set out in 2) below, any resultant redundancy payment payable to an employee will be based on a multiplier of two (2x) weeks’ pay subject to the statutory limit on a week’s pay imposed by section 227 of the Employment Rights Act; and

2) Where an employee is aged over 55 and is entitled to an unreduced actuarial immediate payment of pension by virtue of regulation 30(7) of the Local Government Pension Scheme Regulations 2013, SI 2013/2356 (“LGPS Regulations”) which is not affected by the Restriction of Public Sector Exit Payments Regulations 2020 (“Exit Payment Cap Regulations”) or the Local Government Pension Scheme (Restrictions of Exit Payments) (Early Termination of Employment) (Discretionary Compensation and Exit Payments) (England and Wales) Regulations 2021 (“New Pension Regulations”), any resultant redundancy payment payable to an employee will be based on a multiplier of one (1x) weeks’ pay subject to the statutory limit on a week’s pay imposed by section 227 of the Employment Rights Act 1996 (“ERA”).

¹ With effect from 6 April 2020, the statutory limit of a week’s pay is £538 per week.

3.2 Where a voluntary redundancy exercise receives insufficient applications, for the Head of Paid Service, in consultation with the Corporate Leadership Team, to determine, on a case by case basis, an enhancement to be made to resultant compulsory redundancies on the following basis:-

1) Save for the circumstance set out in 2) below, any resultant redundancy payment payable to an employee will be based on a multiplier of one and a half (1.5x) weeks' pay subject to the statutory limit on a week's pay imposed by section 227 of the Employment Rights Act; and

2) Where an employee is aged over 55 and is entitled to an unreduced actuarial immediate payment of pension by virtue of regulation 30(7) of the Local Government Pension Scheme Regulations 2013, SI 2013/2356 ("LGPS Regulations") which is not affected by the Restriction of Public Sector Exit Payments Regulations 2020 ("Exit Payment Cap Regulations") or the Local Government Pension Scheme (Restrictions of Exit Payments) (Early Termination of Employment) (Discretionary Compensation and Exit Payments) (England and Wales) Regulations 2021 ("New Pension Regulations"), any resultant redundancy payment payable to an employee will be based on a multiplier of one (1x) weeks' pay subject to the statutory limit on a week's pay imposed by section 227 of the Employment Rights Act 1996 ("ERA").

3.3 Save for the circumstances set out in 3.2 above, for an employee who is entitled to a statutory redundancy payment resulting from a compulsory redundancy process, no discretionary compensation element will be paid under regulation 6 of the DCR to enhance that redundancy payment.

3.4 For an employee who is dismissed in the interests of the efficient exercise of the Council's functions, the Council will have the discretion to make a payment to the employee up to a maximum of 52 weeks' pay in circumstances where there is a demonstrable business benefit to the Council arising from the payment. Discretionary compensation payments paid in the interests of the efficient exercise of the Council's functions will not normally exceed £30,000.00 (excluding the Council's pension strain) unless prior approval is obtained from the Council's Appointments and Conditions of Service Committee. It is expected that discretionary payments made under regulation 6 of the DCR in the interests of the efficient exercise of the Council's functions will only be considered in exceptional circumstances.

3.5 Discretions under paragraph 3.4 of the DCR Policy will be applied in the following manner:-

- Payments to officers at the level of Head of Service and above² in the efficient exercise of the functions of the Council will be made at the discretion of the Appointments and Conditions of Service Committee.
- Payments to officers below the level of Head of Service in the efficient exercise of the functions of the Council will be made at the discretion of the Chief Executive.

³ This includes Corporate Directors and officers within the Strategic Leadership Management Group (SLMG).

- 3.6 In accordance with the Local Government Pension Scheme regulations³, employees who have attained the age of 55 or over and who are members of the local government pension scheme with at least two years qualifying membership in the pension scheme or transferred pension rights into the pension scheme from another scheme, are also entitled to receive and must take immediate payment of an unreduced pension if they are dismissed by reason of redundancy or business efficiency, or if their employment is terminated by mutual consent on grounds of business efficiency.

4. Overpayment or sums paid in error

- 4.1 In accordance with regulation 8 of the DCR where a sum is paid in error and that error entails an overpayment, the Council is required to recover the overpayment. In line with the DCR should this happen then the Council reserves the right to seek recovery of any overpayments made in error.

5. Changes to this policy

- 5.1 In accordance with regulation 7 of the DCR, any changes to this policy and its application will not have effect until one month after a statement setting out the intended changes has been published. The policy will be periodically reviewed to ensure its continued effectiveness.

³ As may be amended or superseded by the Restriction of Public Sector Exit Payments Regulations 2020 ("Exit Payment Cap Regulations") or the Local Government Pension Scheme (Restrictions of Exit Payments) (Early Termination of Employment) (Discretionary Compensation and Exit Payments) (England and Wales) Regulations 2021

Version Control

Current version no.	4
Status	Final
Approved by	ACOS
Approval date	05/01/2021
Author	Jo Hill
Organisation	Nottingham City Council

Document history

Revision date	Version number	Author of changes	Summary of changes
04.04.2016	1	Della Sewell	Statutory change
06.06.2017	2	Sheena Yadav-Staples	Statutory change to limit to a week's pay.
19.06.2020	3	Daljit Singh Nijran/Ana Farenden	Revision to regulation 6 to allow for payment above the statutory minimum where redundancies are through a voluntary redundancy process linked to corporate budget proposals.
05.01.2021	4	Jo Hill	Revision to regulation 5 to remove exception to statutory limit. Revision to regulation 6 to allow for payment above the statutory minimum. Changes resulting from the Exit Pay Cap Regulations