

Policy – Early Termination of Employment (Discretionary Payments)

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Version control

This document is subject to regular review due to legislative and policy changes. The latest versions of all our publications can be found on our website. Before contacting us about the content of this document, we recommend that you refer to the most recent version on the website and any relevant guidance.

Version	Date approved	Approved by	Notes / changes
v1.0	01/04/14	Sophie Vaughan	New regulations Amended to reflect the new LGPS regulations and reconfirms the process
v2.0	25/04/18	Andrea Malam	Reformatting
v2.1	06/03/20	Andrea Malam	Addendum to policy
v2.2	20/06/22	David Kennedy	Reformatting

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ADDENDUM TO POLICY

Denbighshire Leisure Ltd. (DLL)

For the purposes of interpretation of roles and responsibilities please see below:

DCC	DLL
Head of Service	Managing Director/Executive Team Member
Director	Company Board Director
Senior Management Team	Company Executive Team
Section 151 Officer	Company Accountant
Monitoring Officer	Company Secretary

What is this policy?

The normal retirement age within the Local Government Pension Scheme can be either age 65 or state pension age (SPA), depending on when an employee joins the scheme. Some employees may have protection on their benefits prior to this depending on their age and when they joined the scheme. Any employee retiring before the age of 65 / SPA will be classed as an early retirement. Employees will be able to join or remain in the scheme until the day before their 75th birthday and continue to accrue membership. However, payments of benefits must commence before the employee attains the age of 75.

From April 2014 a member age 55 (with more than 2 years membership or more than 3 months if a member before 1st April 2014, or equivalent transfer value into the LGPS) can voluntarily leave their employment and request that their pension be paid. This can however be subject to reduction for early payment.

It will be possible for the employer to consider waiving any reduction in full or part under the following conditions:

- Retirement linked to redundancy
- Retirement in interest of efficiency

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- Employee's request to retire and waive reduction.

This policy does not cover ill health retirements as there are no discretionary payments applicable in such cases. For further information on benefits payable in case of ill health please see the Ill Health Retirement Process.

Benefits payable for redundancy linked to retirement.

An employee over 55 whose employment is terminated due to redundancy will receive an enhanced redundancy payment in accordance with the Redundancy Policy and if eligible for Local Government Pension, unreduced basic pension benefits.

Upon retirement the employee will receive an annual pension and if applicable a one off lump sum. This will not be reduced as the cost of accessing the pension early will be borne by the employer. In addition, the employee will receive an enhanced redundancy payment calculated using actual contractual weekly pay, in accordance with the Redundancy Policy.

A redundancy payment up to £30,000 will not be subject to Tax or National Insurance deductions.

Benefits payable for redundancy only.

An employee whose employment is terminated due to redundancy and is not eligible for pension will receive an enhanced redundancy payment in accordance with the Redundancy Policy. The employee will receive an enhanced redundancy payment calculated using actual contractual weekly pay, in accordance with the Redundancy Policy.

A redundancy payment up to £30,000 will not be subject to Tax or National Insurance deductions

Retirement in the interest of efficiency.

Retirement may be offered by mutual agreement to employees, who are eligible by age and service (with more than 2 years membership, or more than 3 months if a member before 1st April 2014, or equivalent transfer value into the LGPS) to receive retirement

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benefits unreduced, where the council would be satisfied that the termination of employment would result in improved efficiency of the service.

In approving retirement under efficiency grounds the council will ensure that it will continue to meet its aims and values, for example, in the need to provide services which are responsive, efficient, reliable and effective or to open up new employment opportunities.

This can be split in to three areas:

Avoiding compulsory redundancy of another employee

As a measure for avoiding compulsory redundancy the authority would seek volunteers for early retirement from the workforce. Where volunteers are sought, the council reserves the right to refuse an application on operational or other business grounds.

Facilitate a restructure of changes to service delivery

This would apply where formal proposals have been drawn up for a restructure or changes in service delivery. In such cases, the changes would not warrant making a post redundant within the official definitions set out in employment law but the person in post may not be the right person to implement the changes required.

This would not be used in cases where an employee has requested to leave as a result of which the department takes advantage of the opportunity to review their structure and service delivery.

Mutual advantage to both the employee and the employer

This might be relevant for the employer where the ability of a service or team to improve can be strengthened by the release of a member of staff. However, this efficiency is not to be used to facilitate the release of problematic employees. Issues of capability, behaviour or discipline should be dealt with in accordance with the appropriate policy.

Benefits payable for retirements in the interest of efficiency.

Upon retirement the employee will receive an annual pension and if applicable a one off lump sum. This will not be reduced as the cost of accessing the pension early will be borne by the employer. In addition a compensatory lump sum may be payable up to a maximum of 45 weeks.

The actual number of weeks payable will be determined by an Authorisation Group which will be made up of the Head of HR, Legal and Democratic, Section 151 Officer and Head of Service.

This compensatory lump sum payment will not be subject to tax and national insurance deductions up to £30,000.

Retiring early and waiving reduction.

At any time from age 55 onwards employees (with more than 2 years membership or more than 3 months if a member before 1st April 2014, or equivalent transfer value into the LGPS) may elect in writing to leave the council, and receive their pension benefits without their employer's approval. Employees can however request that their employer waive some, or all, of any reduction they may face by drawing their benefits early.

Benefits payable for employee requested retirements

If an employee retires before the normal retirement age, their pension and lump sum may be reduced. The reduction depends on how many years early they leave, plus their age and membership at retirement. The reduction is calculated in accordance with guidance issued by the Government Actuary and pension benefits will be reduced to reflect the early payment between ages 55 and their SPA (State Pension Age).

The "85 Year Rule (where a member's service and age equal 85 before their SPA) can be activated for individual members, prior to age 60 in the case of early retirement, the cost of which can be borne, in full or in part, by the employer.

Denbighshire County Council has the discretion to waive reductions in full, or in part, and will consider each case on its own merits if deemed to be financially viable.

What is the authorisation process?

A Business case needs firstly to be undertaken for all terminations. Costs should be recoverable as soon as possible and no longer than 3 years.

If it is financially viable then it will proceed to the [Retirement/Redundancy Authorisation Form \(TERM1\)](#) stage for approval.

All redundancies, redundancy and efficiency linked to early retirements and waiving reductions must be approved by the authorisation group which consists of:

- Head of Service
- Head of HR, Legal and Democratic Services
- Section 151 Officer

The Chief Executive will substitute for any of the above as necessary.

All applications for the Chief Executive and Directors will need to be approved by full council.

A [Business Case for Compensatory Payments for Efficiency and Retirement/Redundancy Authorisation Form \(TERM1\)](#) must be completed by the manager and agreed and signed by the above panel.

What will be the cost to the service?

There are two costs associated with early termination of employment, namely redundancy or efficiency payments and / or employer pension strain costs

The cost of the strain on the pension fund and any redundancy or efficiency payment that may be due should be recoverable by the department in the shortest possible time and no later than 3 years from the date of termination of employment of the post holder.

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This will be determined by the completion of the [Retirement/Redundancy Authorisation Form \(TERM1\)](#).

Repayment of employer pension strain costs can be paid immediately following retirement over to the fund or over a 3 year period which will include interest charges.