

Southampton City Council

POLICY FOR FUNDING OF REDUNDANCY AND PREMATURE RETIREMENT FOR TEACHING STAFF AND SUPPORT STAFF IN SCHOOLS

1. Part One – Introduction

- 1.1. This policy sets out how the costs of redundancy and premature retirement for school staff will be apportioned between the school budget and the City Council's central funds, in accordance with the provisions of paragraphs 4 and 5 of Section 37 of the Education Act 2002.
- 1.2. It takes into account the provisions of the Local Government Pension Scheme, the Teachers' Pension Scheme, the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006, and the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2000 (as amended in 2006).
- 1.3. The policy aims to ensure that school employees are treated consistently with other employees of the City Council as far as possible given the powers of school governing bodies under local management.
- 1.4. Teachers and support employees should receive broadly equal treatment in severance terms, although it is noted that their pension schemes may provide for different benefits in some circumstances.
- 1.5. School Governing Bodies are responsible for determining;
 - whether a member of staff should have their employment terminated on the grounds of efficiency or redundancy
 - whether a teacher should be granted premature retirement on the grounds of efficiency or redundancy
 - the amount of any lump sum severance payment.
 - the amount of any discretionary compensatory added years (CAY) awarded to a teacher who is retiring prematurely
- 1.6. The local authority is responsible for paying the costs thus incurred, and may pass on certain of these costs to the school's delegated budget.
- 1.7. Under Section 37 of the Education Act 2002, costs incurred by the local authority in respect of any premature retirement (including the cost of any additional pension benefits awarded) of a member of school staff should be recovered from the school's delegated budget unless the local authority specifically agrees to meet the costs from central funds.
- 1.8. Costs incurred by the local authority in respect of the dismissal on the grounds of redundancy, or for the purpose of securing the resignation, of any member of school staff may only be recovered (in full or in part)

from the school's budget if the authority has good reason for doing so.

1.9. Under the terms of this policy, the Council will exercise its discretion to recover from the school budget the costs incurred by schools in respect of redundancies (beyond the statutory minimum) and premature retirements where it considers the costs to be excessive in comparison to its own policy on premature retirements and severance payments.

1.10. The Council's Policy Statement on Discretionary Severance and Pension Arrangements can be found on the Council's Intranet site at http://intranet.southampton.gov.uk/Images/Policy%20Statement%20-%20Discretionary%20Severance%20and%20Pension%20Arrangements_tcm19-175461.pdf.

2. Part Two – Responsibilities of the Governing Body and the Local Authority

Redundancy procedure

- 2.1. Before any person is dismissed on grounds of redundancy, all relevant statutory requirements, such as those concerning the selection of staff for redundancy and consultation with trade unions and others, must be observed. By following the agreed procedure for handling reductions in staffing in Southampton schools, school governing bodies will comply with both statutory requirements and good practice.
- 2.2. Any employee who is declared redundant should be dismissed using the agreed dismissal procedure. The school must seek the advice of the Council's Human Resources section before making a decision to dismiss an employee on the grounds of redundancy. The Council will need to consider;
- whether there are any other suitable posts in the area to which that person could be redeployed, and
 - whether the costs that will be incurred by the decision to dismiss will be funded by the authority in part or in full.
- 2.3. The agreed redundancy procedure describes the obligations on the authority, as the employer, to seek suitable alternative employment for potentially redundant employees. Where an employee has been identified as potentially redundant, he or she will not be eligible to receive a redundancy payment (or premature retirement as a result of redundancy) if he or she unreasonably refuses an offer of suitable alternative employment.
- 2.4. The agreed redundancy procedure allows for employees to volunteer for redundancy and/or redeployment. If the redundancy of a volunteer will secure the necessary reduction in staffing, then the governing body may accept the volunteer and he or she may be dismissed on the grounds of redundancy.

- 2.5. If the reduction in staffing cannot be achieved by natural wastage or voluntary redeployment/redundancy, then the head teacher will select an employee or employees for redundancy using selection criteria agreed in accordance with the procedure. The individual(s) thus selected should then be dismissed in accordance with the agreed procedure.

Redundancy compensation

- 2.6. The governing body are responsible for determining the amount of the redundancy compensation payment made to an employee who is redundant.
- 2.7. The minimum payment will be calculated in accordance with the statutory formula*. The governing body may decide to make an enhanced payment of up to a maximum of 104 weeks' actual pay.

<http://www.dti.gov.uk/employment/employment-legislation/employment-guidance/page33157.html>

- 2.8. The Council's own policy is to normally make a compensation payment to employees who are redundant based on the employee's actual weekly pay and multiplying the number of weeks' pay the employee would be entitled to under the statutory formula by 1.6, up to a maximum of 48 weeks' pay.*
- 2.9. LGPS employees will be given the opportunity of converting any payment in excess of the statutory redundancy payment into additional pensionable service.*
- 2.10. For teachers aged 50-59 who are granted premature retirement, the enhancement to redundancy compensation payable under the scheme will be converted into discretionary CAY of an equivalent cost to the Council.

Premature Retirement (Redundancy or Efficiency)

Teachers

- 2.11. The governing body can grant premature retirement to a teacher aged between 50 and 59 either for reasons of redundancy or if the employer terminates a teacher's employment in the interests of the efficient discharge of the employer's function. It may also determine whether to award up to 10 years discretionary CAY.
- 2.12. If the governing body grants a teacher premature retirement, the Council, as the compensating authority, will have to pay "mandatory compensation" towards that teacher's annual pension and retirement lump sum. The amount of mandatory compensation will reflect the cost to the pension scheme of allowing a teacher to take their pension before they reach 60. The younger the teacher when he or she is granted premature retirement, the higher the amount of mandatory compensation the authority will have to pay.
- 2.13. If a teacher is awarded premature retirement, he or she may not

also benefit from a lump sum compensation payment, subject to payment of a statutory redundancy payment (based on actual salary) in cases of redundancy.

Support employees

- 2.14. If a member of the Local Government Pension Scheme (LGPS) is made redundant and is over 50, they are entitled (under Scheme regulations) to immediate unreduced pension benefits (lump sum and annual pension).
- 2.15. The employer may grant premature retirement to a support employee aged between 50 and 64 in the interests of efficiency. The Council, as compensating authority, will have to pay a lump sum charge to the pension fund to reflect the actuarial cost of premature retirement either on the grounds of redundancy or efficiency.
- 2.16. The employer may augment the pensionable service of the employee by up to 6 2/3rds years at any point during the employee's service. The Council would have to pay a one-off lump sum to the LGPS. The employee may choose to convert any lump sum compensation in excess of the statutory redundancy payment into augmented service.

Payments to secure the ending of employment in the interests of the efficient discharge of the employer's functions

- 2.17. The governing body may decide to make a lump sum severance payment of up to 104 weeks' pay for the purpose of securing the resignation of any member of the staff of the school for efficiency reasons.
- 2.18. *The Council will consider each case for a lump sum severance payment on its merits, taking into account the financial and other benefits to the Council of the ending of the employee's service, up to a maximum of 48 weeks' pay.*

3. Part Three – The Scheme for Funding Severance Arrangements for Schools

- 3.1. All decisions on funding will be subject to the application of the criteria in Part Four below**

Redundancy compensation

- 3.2. The Council will normally fund the full cost of the redundancy lump sum compensation payment, provided that it does not exceed the provisions made for employees in the rest of the authority.**

Premature retirement – redundancy

- 3.3. If a teacher is dismissed on the grounds of redundancy aged between 50 and 59, the authority will normally fund the mandatory cost to the employer of premature retirement based on accrued service only.**

- 3.4. If a support employee between ages 50 and 64 is dismissed on the grounds of redundancy, the authority will normally fund the charge to the pension fund of premature retirement based on accrued service only.**

Premature retirement – efficiency

- 3.5. If the governing body determines that a teacher aged between 50 and 59 should retire prematurely in the interests of efficiency, the costs of the mandatory compensation and, if agreed, CAY (lump sum and annual pension) will normally be recovered from the school's delegated budget.**

- 3.6. If the governing body determines that a support employee aged between 50 and 64 should retire prematurely in the interests of efficiency, the costs of the charge to the pension fund will normally be recovered from the school's delegated budget.**

Lump sum severance payments – efficiency cases

- 3.7. If the governing body determines that a payment should be made to a member of staff to secure their resignation, the cost will normally be funded by the Council provided that it does not exceed the provisions made for employees in the rest of the authority.**

Augmented service (Support employees)

- 3.8. If the governing body determines to award augmented pension service to a support employee at any point during employment, then the costs of the augmented service will be recovered from the school's delegated budget.**

Recovery of costs from delegated budgets

- 3.9. Costs will normally be recovered within the year in which they are incurred. However, the school may enter into a written agreement with the Council to recover the costs payable by the delegated budget over a period of up to three years, or five years in exceptional circumstances. This agreement will be drawn up and monitored by Resources Finance support.**

4. Part Four - Criteria for decisions on funding by the Council

- 4.1. Redundancies will occur for three main reasons;**
- As a result of a school closure as part of an authority led programme of review of school places (e.g. Primary Places Review, Learning Futures)
 - Financial reasons as a result of individual circumstances in a particular school (e.g. falling pupil roll, funding changes)
 - Internal reorganisation (e.g. review of administration or of senior management)
- 4.2. Premature retirements will occur for two reasons;**
- As a result of redundancy in a member of staff over 50 (see above)

- In the interests of the efficient discharge of the employer's functions

The following costs incurred by school governing bodies in respect of redundancies and premature retirement would be considered to be excessive, and would lead to the authority recovering those costs from the individual school budget, in accordance with Section 37 of the Education Act 2002.

High cost volunteers for redundancy

- 4.3. Premature retirement costs (mandatory costs or pension fund charges) for volunteers for redundancy over 50 who are dismissed with an entitlement to immediate premature retirement where selection criteria, if applied, would have resulted in the dismissal of a different member of staff who was not entitled to premature retirement benefits.
- 4.4. The authority will expect the school to fund the cost of the premature retirement from its own budget.

Enhanced redundancy compensation payments

- 4.5. Redundancy payments with enhancement above that which would have been applied to an employee of the authority in the same or similar circumstances.
- 4.6. The authority will expect the school to fund that part of the payment that is in excess of that applied to directly employed authority employees.

Internal reorganisation redundancies

- 4.7. Redundancy payments in excess of the statutory minimum (subject to using actual weekly pay to calculate payment rather than the statutory ceiling) and premature retirement costs, arising from an internal reorganisation in a school unless this was to meet reduced financial circumstances.
- 4.8. The authority will normally expect the school to fund the cost of premature retirement, and the excess redundancy payment.

Efficiency of the service retirements

- 4.9. Costs associated with premature retirement (mandatory costs or pension fund charges) of an employee in the interests of efficiency.
- 4.10. The authority will expect the school to fund the cost of the premature retirement from its own budget. In exceptional circumstances the Council may consider funding all or part of the cost of premature retirement for teachers or support employees who are aged 55 or over.
- 4.11. Exceptional circumstances will normally be related to securing essential school improvement and might include teachers or support employees in schools vulnerable to an Ofsted categorisation, or already in Special Measures, or may include cases on compassionate grounds. In a school which was not deemed vulnerable, the school

would need to demonstrate why the retirement of the teacher or support employee was essential to maintaining or improving standards. In each case, the school would need to demonstrate that it could not meet all or part of the costs from its own budget. It may be appropriate to consider making a severance payment to an employee as an alternative to premature retirement. Costs may be split between the school and the Council where appropriate.

Augmented pension service

- 4.12. Costs associated with augmented service (LGPS) awarded to employees granted premature retirement on the grounds of redundancy or efficiency. The Council will always expect the school budget to fund these costs.

Discretionary compensatory added years pension

- 4.13. The costs associated with discretionary CAY for teachers where the capitalised cost exceeds the cost to the employer of any lump sum severance payment (over and above the statutory redundancy payment) that would have been made to a direct Council employee in the same circumstances. The Council will always expect the school budget to fund the excess costs.

Severance payments

- 4.14. Severance payments made to secure the termination of employment (for example, for reasons of efficiency) which the Council considers excessive compared to those which would be awarded to an employee of the authority in similar circumstances.
- 4.15. The Council will expect the school to fund that part of the payment that is in excess of that applied to Council employees in similar circumstances.

5. Part Five – the Authority’s Policy Statement on Discretionary Severance and Pension Arrangements

- 5.1. The Council will have regard to its Policy Statement on Discretionary Severance and Pension Arrangements for its directly employed staff when making decisions about the reasonableness of any discretionary compensation awarded by governing bodies in the circumstances above.

6. Part Six – the process for approving funding from central local authority budget(s)

Redundancy

- 6.1. The headteacher will prepare a report to governors detailing the need to reduce the staffing establishment.
- 6.2. The agreed procedure for handling redundancies in schools will be followed, and may result in an individual or individuals being selected or volunteering for redundancy/redeployment.

- 6.3. Prior to the dismissal hearing at the school, a report should be made seeking approval for the authority to fund the costs associated with the redundancy, including premature retirement as appropriate.
- 6.4. The report will be prepared by the headteacher with HR support (unless it is for the redundancy of the headteacher, in which case an officer from CSL will prepare the report), using a standard approved format according to the type of approval sought. Information from CSL and Resources Finance must be sought on each report.
- 6.5. The report will be sent for approval to the Employment and Appeals Panel (see below) if the school is seeking funding for anything other than a statutory redundancy payment. Statutory redundancy payments alone may be agreed under delegated powers by the Head of Human Resources.

Premature retirement on grounds of efficiency

- 6.6. The headteacher (or chair of governors in the case of the retirement of the head teacher) will prepare a report to the Council detailing the reasons for granting the premature retirement and the financial background to the request for the authority to fund some or all of the costs.
- 6.7. The report will be prepared by the headteacher with HR support (unless it is for the premature retirement of the headteacher, in which case an officer from CSL will prepare the report), using the standard approved format. Information from CSL Finance must be sought on each report.
- 6.8. The report will be sent for approval to the Employment and Appeals Panel (see below).

Confirmation of decision

- 6.9. The headteacher (or officer of CSL if it is the redundancy or retirement of the headteacher which is under consideration) will attend the Employment and Appeals Panel to present the case for funding of discretionary costs. The chair of the Panel will inform the head teacher of the decision at the meeting.
- 6.10. If the decision is not to fund all or part of the costs sought, the governing body will need to determine whether, if it goes ahead with the dismissal or premature retirement, the school budget can withstand the costs. If it determines to continue with dismissal, this will be in accordance with agreed procedures.
- 6.11. The authority must agree with the school if the costs are to be recovered from the school budget in one year or over a longer period, as set out in Section 3 above.

Approval by Employment and Appeals Panel

- 6.12. Costs associated with;
 - Premature retirement costs on the grounds of redundancy for

- LGPS employees over 50
- Enhancement to redundancy payment above statutory minimum*
- Premature retirement for teachers aged over 50 on efficiency or redundancy
- Premature retirement on grounds of efficiency for LGPS employees
- Compensatory added years pension or augmented pension service for premature retirements
- Severance payments for efficiency reasons

Approval under delegated powers by Head of Human Resources

- 6.13. Costs associated with;
- Redundancy payment based on statutory formula using actual pay rather than the statutory ceiling.

7. SUMMARY OF MANDATORY AND DISCRETIONARY BENEFITS PAYABLE UPON EARLY TERMINATION OF EMPLOYMENT TO EMPLOYEES IN SCHOOLS – from October 2006

8. Redundancy	9. Type of compensation	10. Under 50	11. Over 50
12. Support employees 13. (LGPS)	14. Mandatory	15. Statutory redundancy pay	16. Statutory redundancy pay and 17. release of accrued pension benefits
	18. Discretionary	19. Redundancy paid on actual salary	20. Redundancy paid on actual salary
21. Augmented service 22. or 23. Compensation payment of up to 104 weeks' pay		24. Augmented service 25. Or 26. Compensation payment of up to 104 weeks' pay	
27. Teachers 28. (TPS)	29. Mandatory	30. Statutory redundancy pay	31. Statutory redundancy pay
	32. Discretionary	33. Redundancy paid on actual salary	34. Redundancy paid on actual salary
		35. Compensation payment of up to 104 weeks' pay	36. Compensation payment of up to 104 weeks' pay 37. Or 38. Release of accrued pension benefits with or without discretionary 39. compensatory added years (CAY)

40. LGPS = Local Government Pension Scheme

41. TPS = Teachers Pension Scheme