



Guidance Note
1 April 2007 (updated October 2010)

Employer Discretions

Redundancy payments
Early termination regulations
Minor discretions under pension schemes

Please note this is a guide. Nothing on this note can override the provisions of the Local Government Pension or Teachers' Pension Schemes. Bristol City Council together with the schemes' administrators (Local Government Pension Scheme: Bath and North East Somerset Council, Teachers Pension Scheme: Capita Teachers' Pensions) will use the scheme regulations to reach any decision should a dispute arise.

S:\CORPDEVHR\Pensions Admin\BCC policies\2010 update

Contents

Page	Title	Sub Title
3-5	Redundancy payment discretions	
4-5		Ready reckoner
6-14	LGPS Regulations BCC Discretions	
10		AVCs
6-7		Compensatory added years
11		Contributions equivalent premium
10		Deferred benefits - payment of
9		Flexible retirement, "standing down" - drawing pension
10/11		Fraud/misconduct
14		Non LEA schools/colleges
8		Optional contributions after a period of absence
6		Pension abatement on re- employment
11		Shared cost voluntary contribution scheme
13		Transfer rights
14	Administering Authority Discretions	Abatement
14		Employer contribution rates
14		Spouses

Redundancy Payment Discretions

The City Council has discretions under the Local Government (Early Termination of Employment) Discretionary Compensation Regulations and Teachers(Compensation for Redundancy and Premature Retirement) Regulations to award up to 104 weeks severance pay on redundancy grounds.

HR Committee 24th September 2010 resolved that:

- For any voluntary redundancies on or after the 1st October 2010, and any compulsory redundancies which take place on or after 1st January 2011, the City Council will base payments on actual week's pay up to a maximum weekly pay figure of £700. For employees who are not employed on Teachers' Terms and Conditions redundancy payments will be based on a calculator of double the statutory minimum number of weeks redundancy pay. Details of the policy for teachers are outlined in Bristol City Council's pay policy.
- Where the employee's termination date for a compulsory redundancy is prior to 1st January 2011 the redundancy payment will be based upon actual weekly pay.

Discretionary Compensation for Redundancy Ready Reckoner

To calculate the number of weeks pay due to employees who are not employed on teachers terms and conditions, you should use the following amounts –

- 1 week's pay for each full year of service where age during year less than 22
- 2 week's pay for each full year of service where age during year is 22 or above, but less than 41
- 3 weeks' pay for each full year of service where age during year is 41+

The maximum number of years continuous service that can be counted for redundancy is 20.

You should note that where an employee's service crosses two bands, the figures in each band should be added together. For example -

Example 1 - if you are 25 with 7 years service, you will be entitled to 10 weeks' redundancy pay. The 10 weeks entitlement is based on 1 weeks' pay for each completed year of service between age 18 and 22 and 2 week's pay for each completed year of service between age 22 and 25. (The middle band of 2 weeks' pay only applies where an employee, who is entitled to a redundancy payment, has completed a year service at age 22 or above).

Example 2 - if you are 38 years old and have 12 years of service, you will be entitled to 24 weeks' redundancy pay. The 24 weeks is based on 2 week's pay for each completed year of service between age 26 and 38.

Example 3 – if you are 49 years old and have 15 years of service, you will be entitled to 38 weeks redundancy pay. The 38 weeks' entitlement is based on 2 week's pay for each completed year of service between age 34 and 41 and 3 weeks' pay for each completed year of service between age 41 and 49.

Please use calculator/ready reckoner overleaf.

Service (Years)																				
Age	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
18	2	-																		
19	2	3	-																	
20	2	3	4	-																
21	2	3	4	5	-															
22	2	3	4	5	6	-														
23	3	4	5	6	7	8	-													
24	4	5	6	7	8	9	10	-												
25	4	6	7	8	9	10	11	12	-											
26	4	6	8	9	10	11	12	13	14	-										
27	4	6	8	10	11	12	13	14	15	16	-									
28	4	6	8	10	12	13	14	15	16	17	18	-								
29	4	6	8	10	12	14	15	16	17	18	19	20	-							
30	4	6	8	10	12	14	16	17	18	19	20	21	22	-						
31	4	6	8	10	12	14	16	18	19	20	21	22	23	24	-					
32	4	6	8	10	12	14	16	18	20	21	22	23	24	25	26	-				
33	4	6	8	10	12	14	16	18	20	22	23	24	25	26	27	28	-			
34	4	6	8	10	12	14	16	18	20	22	24	25	26	27	28	29	30	-		
35	4	6	8	10	12	14	16	18	20	22	24	26	27	28	29	30	31	32	-	
36	4	6	8	10	12	14	16	18	20	22	24	26	28	29	30	30	32	33	34	-
37	4	6	8	10	12	14	16	18	20	22	24	26	28	30	31	32	33	34	35	-
38	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	33	34	35	36	-
39	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	35	36	37	-
40	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36	37	38	-
41	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	39	-
42	5	7	9	11	13	15	17	19	21	23	25	27	29	31	33	35	37	39	41	-
43	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40	42	-
44	6	9	11	13	15	17	19	21	23	25	27	29	31	33	35	37	39	41	43	-
45	6	9	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40	42	44	-
46	6	9	12	15	17	19	21	23	25	27	29	31	33	35	37	39	41	43	45	-
47	6	9	12	15	18	20	22	24	26	28	30	32	34	36	38	40	42	44	46	-
48	6	9	12	15	18	21	23	25	27	29	31	33	35	37	39	41	43	45	47	-
49	6	9	12	15	18	21	24	26	28	30	32	34	36	38	40	42	44	46	48	-
50	6	9	12	15	18	21	24	27	29	31	33	35	37	39	41	43	45	47	49	-
51	6	9	12	15	18	21	24	27	30	32	34	36	38	40	42	44	46	48	50	-
52	6	9	12	15	18	21	24	27	30	33	35	37	39	41	43	45	47	49	51	-
53	6	9	12	15	18	21	24	27	30	33	36	38	40	42	44	46	48	50	52	-
54	6	9	12	15	18	21	24	27	30	33	36	39	41	43	45	47	49	51	53	-
55	6	9	12	15	18	21	24	27	30	33	36	39	42	44	46	48	50	52	54	-
56	6	9	12	15	18	21	24	27	30	33	36	39	42	45	47	49	51	53	55	-
57	6	9	12	15	18	21	24	27	30	33	36	39	42	45	48	50	52	54	56	-
58	6	9	12	15	18	21	24	27	30	33	36	39	42	45	48	51	53	55	57	-
59	6	9	12	15	18	21	24	27	30	33	36	39	42	45	48	51	54	56	58	-
60	6	9	12	15	18	21	24	27	30	33	36	39	42	45	48	51	54	57	59	-
61*	6	9	12	15	18	21	24	27	30	33	36	39	42	45	48	51	54	59	60	-

61* = 61 and over.

Early Termination Regulations Discretions

Pension Abatement on Re-employment

Comment:

The City Council must formulate, publish and keep under review guidelines regarding the abatement/suspension of Compensatory Added Years(CAY) during a period of re-employment.

Guidelines (effective from 5 May 2001):

If an employee is re-employed by an employer subject to the LGPS , and if the annual rates of pay of the new employment + the LGPS pension + the annual CAY is more than the pay from the former job (the one for which the CAY were granted) + inflation, then the annual CAY would be reduced by the excess, or totally suspended.

Compensatory Added Years Apportionment

Comment:

The City Council should determine how it will apportion any surviving spouses' annual CAY, where the deceased is survived by more than one spouse. This provision caters for those whose religious beliefs allow them more than one spouse.

Guidelines (effective from 5 May 2001):

Where a deceased person is survived by more than one spouse the pension is split equally between the spouses.

Compensatory Added Years Apportionment amongst Children

Comment:

The City Council should determine to whom any children's annual CAY is to be paid and if applicable, how the CAY will be apportioned amongst the eligible children.

Guidelines (effective from 5 May 2001):

Where a deceased person is survived by children (age and definition to qualify as defined by the LGPS administering authority, BANES) each child should be awarded an equal proportion.

Compensatory Added Years Payments to Remarried Spouse

Comment:

The City Council should determine whether, in respect of the spouse of a person who ceased employment before 1 April 1998 and has died, and where the spouse then remarries or co-habits after 1 April 1998, the spouses annual CAY should continue to be paid .

Guidelines (effective from 5 May 2001):

That the benefits arising from the CAY should continue to be paid.

Minor Employing Authority
(Bristol City Council) Discretions under Local Government
Pension Scheme Regulations

Regulation 22 - Admin Regulations [formally 18(6)+(7) of the '97 Regs]:

Optional contributions after absence - A scheme member may elect to pay optional contributions to cover a period of absence of over 30 days from duty providing the option is made within 30 days of return to work or cessation of employment "or such longer period as the employer allows".

Guidelines (effective from 5 May 2001):

The City Council should allow employees taking more than 30 days unpaid leave the choice of whether or not to pay contributions, provided that they do so within 30 days of being advised of this option.

Regulation 10 - Transitional Regulations [formally 31 of the '97 Regs]:

Comment: This regulation enables existing members as at 1 October 2006 aged 55 to 59 to apply for the early payment of retirement benefits (subject to the agreement of the employer). If the age and membership equalled 85 years, e.g. a member with 30 years service and is age 55 the pension would have been payable without reduction. It does not apply to new members from that said date.

Guidelines (effective from 27 March 1998):

This discretion should only to be used in exceptional circumstances where it is in the City Council's interest or where there are compassionate grounds for early payment of pension, taking in to account operational and financial implications.

Regulation 18 - Admin regs [formally 35(1) of the '97 regulations]:

Re-employed Scheme Members may draw pension

Comment: Scheme members aged 55 and above can with the City Council's consent continue to work for the Council on different (lower) terms and conditions (that is reduced hours or grade) and may request to draw their pension entitlements. Benefits payable before age 65 will be reduced in accordance with guidance issued by the Government Actuary. However, the City Council may choose to waive in whole or in part any such reduction. If the City Council so chooses it shall pay to the Fund the cost incurred as a result of such waiver as calculated by the Fund's Actuary. Any benefits paid are not subject to abatement under regulation 110 in respect of any subsequent employment with the City Council.

Guidelines:

Under the City Council's Flexible Retirement Policy, eligible scheme members can continue to work for the Council on different (lower) terms and conditions (that is reduced hours or grade) and they may draw their pension entitlements at the same time.

Unless there are exceptional circumstances (for example personal hardship, carer responsibilities for say partner, elderly parent or disabled child), the City Council should not waiver the actuarial reduction.

Regulation 15 - Benefits Regs [formally 67-72 of the '97 regulations]:

Shared Cost Voluntary Contributions Scheme

Comment: This regulation allows an authority to establish a Shared Cost Voluntary Contributions Scheme to provide members with additional pension benefits, over and above the standard benefits provided by the pension scheme. This could be established as an additional employee benefit available to all or some employees but costs would be incurred and could be considerable.

Guidelines (effective from 27 March 1998):

This discretion should not be exercised.

Regulation 47 - Admin Regs [formally 88 of '97 regulations]:

Fraud and misconduct - A scheme member who meets the normal criteria for a refund of pension contributions is not entitled to such a refund if he/she ceased employment due to an offence of a fraudulent character or due to grave misconduct unless the City Council direct that a total or partial refund may be made.

Guidelines (effective from 5 May 2001):

The City Council should consider a refund of contributions less any debt owed to the Council by the member (see Regulation 115 below)

Regulation 45 - Admin Regs [formally 89 of '97 regulations]:

Deductions - The City Council may deduct the pension contributions due under the LGPS from a person's pay.

Guidelines (effective from 5 May 2001):

Contributions should be deducted from a person's pay.

Regulation 49 - Admin Regs [formally 92 of the '97 regulations]:

Contributions Equivalent Premium - Where a scheme member is paid a refund of pension contributions, the employer must pay a Contributions Equivalent Premium (CEP) to the Contributions Agency. An element of this is recovered from the refund paid to the scheme member. The balance may be recovered from the Fund.

Guidelines (effective from 5 May 2001):

The balance should be recovered from the Fund. In practice this can be achieved by the Administering Authority paying the CEP out of the Fund direct to the Contributions Agency on behalf of the employer.

Regulation 72 - Admin regs [formally 111 of the '97 regulations]:

Forfeiture certificate - If a scheme member is convicted of, and ceases employment as a result of, an offence in connection with his/her employment which is gravely injurious to the State or liable to lead to a serious loss of confidence in the public service, the Council can apply to the Secretary of State for the issue of a forfeiture certificate. If the Secretary of State issues a certificate the Council may direct that any of the person's rights be forfeited.

Guidelines (effective from 5 May 2001):

Where the Council has applied for a certificate and a certificate is issued by the Secretary of State, the Council should then decide if it should be applied against the member's pension rights, i.e. the rights should be forfeited.

Regulation 73 - Admin regs [formally 112 of the '97 regulations]:

Forfeiture certificate - Where the Secretary of State has issued a forfeiture certificate but the City Council has not applied the certificate nor notified the scheme member of an award of benefits under the LGPS, the Council may direct that interim payments are made out of the Pension Fund until such time as it decides to apply the forfeiture certificate or to make an award of benefits.

Guidelines (effective from 5 May 2001):

Where the Secretary of State has issued a forfeiture certificate but the City Council has not applied the certificate nor notified the scheme member of an award of benefits under the LGPS the Council should decide whether or not to direct that interim payments are made out of the Pension Fund.

Regulation 74 - Admin regs [formally 113 of the '97 regulations]:

Recovery (after criminal offence) - Where a member

- ceases employment in consequence of a criminal, negligent or fraudulent act or omission in connection with that employment and
- has incurred a monetary obligation arising therefrom to the Council and
- is entitled to pension benefits under the LGPS, the Council may recover the amount of the monetary obligation or the value of the members pension rights, if less, (other than transferred in pension rights) from the Pension Fund and reduce the members benefits accordingly.

Guidelines (effective from 5 May 2001):

The City Council should decide whether or not to make the appropriate recovery from the Pension Fund where the member has not made good the debt.

Regulation 76 - Admin Regs [formally 115 of the '97 regulations]:

Recovery (after criminal offence) - Where

- a member ceases employment in consequence of an offence involving fraud or due to grave misconduct in connection with that employment, and
- the Council has suffered a direct financial loss resulting therefrom, and
- the member is entitled to benefits under the LGPS and a forfeiture certificate has been applied, or the member is entitled to a refund of pension contributions
- the Council may direct that the amount of the financial loss (or the refund of contributions, if less) be recovered from the Pension Fund.

Guidelines (effective from 5 May 2001):

The City Council may decide whether or not to make the appropriate recovery from the Pension Fund where the member has not made good the debt.

Policy Interpretation Regulations 47 and 72-76 cover cases of gross misconduct and fraud. The council may apply to the Secretary of State for a certificate of forfeiture or it may be issued by the Secretary of State as a result of other action. This certificate if applied would allow the Council to recover monies from an employee's pension benefits if they have incurred a debt as a result of their misconduct

Regulation 83(8) - Admin Regs [formally 121 (8) of the '97 regulations]:

Transfer rights - If a scheme member wishes to transfer pension rights into the LGPS he/she must opt to do so within 12 months of joining the LGPS "or such longer period as the employer may allow".

Guidelines (effective from 5 May 2001):

That the 12 month time limit be extended only where the scheme member has requested investigations to commence within the 12 month time period, i.e. a transfer can be concluded after the 12 months if proceedings have commenced within the 12 months period.

Policy Interpretation:

Transfers in from other schemes can be a lengthy process, but providing the investigations for the proposed transfer in have started within 12 months of the employee joining the scheme the transfer can take place after the 12 month deadline.

Regulation 8 - Admin Regs [formally 127 of the '97 regulations]

Non LEA schools/colleges

Comment: This regulation permits employees of governors of any voluntary school maintained but not provided by a local authority, or the governing body of any polytechnic, technical institute or other similar institution which is for the time being aided by a local education authority under the Education Act 1996, to be members of the scheme.

Guidelines (effective from 27 March 1998):

There are a considerable number of members within this category and permission should be given as appropriate.

Administering Authority Discretions

The following discretions are determined by BANES the administering authority .

Spouses pension & remarriage

Comment: The regulations allow a spouses pension to be paid for life regardless of remarriage in respect of scheme members retiring after 1 April 1998 . Current pensioners who retired before this date are not automatically covered by this change.

Policy: B&NES have passed a resolution to no longer withhold spouse's pension thus treating all pensioners equally.

Regulation 38 - Administration regulations

Review of employer contribution rates

Comment: Once the regulations did not permit a review of the employers contribution rates between actuarial evaluations , when at times it could be prudent to make changes i.e. in the event of a major redundancy programme. The regulations now allow this review to take place.

Policy: It is recommended that the contributions rates are only amended on the advice of the actuary and after discussion with the employing authority and the administering authority.

Regulation 70- Administration regulations

Abatement

Comment: This regulation allows complete flexibility over the provision to abate the pension payments of a pensioner that is re employed in Local Government.

Policy: B&NES have a policy of abatement.