

To: Chief Executives
 Salaries and Wages
 Human Resources
 Pension Contacts

Circular 14/2014
 4 December 2014

At: All Employing Authorities

Dear Colleagues,

Public Sector Redundancy Schemes

We have become aware that several Scheme employers are in the process of designing redundancy schemes for their staff. This circular explains how the existing Local Government Pensions Scheme and Compensation Regulations need to be taken into account in the design. It also includes a sample redundancy scheme, which is compatible with the regulations.

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1. Regulatory Background (relating to pensions)

Scheme employers considering formulating redundancy schemes must take account of the provisions of the following regulations, which are outlined in this Circular:

- The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007
- The Local Government Pension Scheme Regulations (Northern Ireland)

In addition, employers may take account of other relevant provisions such as the Employment Rights (Northern Ireland) Order 1996.

The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007 (SRNI 2007 No. 93) as amended, set out a framework for the payment of discretionary compensation to persons whose employment is terminated due to redundancy, on efficiency grounds or where there has been a joint appointment and the other holder has left. This framework includes a discretionary power to increase statutory redundancy payments by using an actual week's pay instead of the statutory limits, a provision to award a discretionary compensation lump sum of up to 104 weeks' pay and the requirement for employers to have a policy statement in place to cover both discretions.

An employer formulating a redundancy scheme to be implemented on or after 1 April 2015 must take account of *The Local Government Pension Scheme Regulations (Northern Ireland) 2014 (SRNI 2014 No. 188)*. These regulations provide for early payment of unreduced pension benefits due to redundancy or business efficiency providing the member is aged 55 or over. An additional discretionary provision enables an employer to award additional pension of up to £6,500 per annum (as at 2015/16). Once again employers are required to have policy statements in place stating how they will exercise their discretions in this and other areas. Employer costs will apply both to release the pension early and to award additional pension.

If an employer is formulating a redundancy scheme to be implemented by March 2015 then the scheme must take account of *The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 (SRNI 2009 No. 32)* as amended. These regulations describe the benefits payable to those members aged 55 or over who are dismissed due to redundancy or business efficiency (see regulation 19). These regulations also contain discretionary provisions at regulation 12 enabling an employer to increase the total membership of members and at regulation 13 enabling employers to award additional pension. Once again employers are required to have a policy statement in place stating how they will exercise their discretions. This Circular does not describe the provisions of these regulations in any further detail as we understand that the severance schemes are not effective until the next financial year i.e. 2015/16.

2. Summary of benefits that could be payable on redundancy

Table 1 shows the various options that are available under the Scheme and Discretionary Compensation regulations.

XX refers to the payback period that an employer may apply.

Table 1 - Summary of redundancy benefits

Type of Employee	Potential benefits						
Not a member of the Scheme	Statutory Redundancy	OR	Increased Redundancy Payment	PLUS	Compensation Payment		
	Total payment cannot exceed 104 weeks' pay Cost to employer cannot exceed XX payback period						
Younger than age 55 and a member of the Scheme	Statutory Redundancy	OR	Increased Redundancy Payment	PLUS	Compensation Payment	PLUS	Deferred pension benefits
	Total payment cannot exceed 104 weeks' pay Cost to employer cannot exceed XX payback period						
Aged 55 or over and a member of the Scheme (using both Comp. Regs. and LGPS (NI) regs.)	Statutory Redundancy	OR	Increased Redundancy Payment	PLUS	Compensation Payment OR Additional Pension by conversion	PLUS	Immediate payment of unreduced pension benefits
	Total payment cannot exceed 104 weeks' pay Cost to employer cannot exceed XX payback period Employer may have a capital cost invoiced for early release of pension benefits						
Aged 55 or over and a member of the Scheme (not making comp. payment)	Statutory Redundancy	OR	Increased Redundancy Payment	PLUS	Additional Pension	PLUS	Immediate payment of unreduced pension benefits
	Cost to employer cannot exceed XX payback period Employer may have a capital cost invoiced for early release of pension benefits Employer would need to be satisfied that it could objectively justify its policy to award additional pension						

3. Explanation of the discretions under The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007

3.1 To whom do these regulations apply?

These regulations cover all employees whose employment is terminated due to redundancy, efficiency or whose employment is terminated as the other holder of a

joint appointment has left. The employees must be employed by a Scheme employer and be *eligible* to be a member of the Local Government Pension Scheme (Northern Ireland), (the Scheme).

3.2 To which Scheme employers do they apply?

They apply to **all** Scheme employers and each employer should have already published a policy under these regulations. You may wish to ensure that your current policy is up to date or is updated to take account of any change in policy.

3.3 What payments can be made on redundancy?

A Scheme employer can make the following payments on redundancy:

- A statutory redundancy payment
- A discretionary redundancy payment where the employee's actual week's pay is used as it exceeds the statutory limit on a week's pay (this payment includes the statutory redundancy payment element)
- A discretionary additional lump sum compensation payment

We understand that the first £30,000 of the total of any statutory redundancy and discretionary redundancy payment are tax-free.

3.4 Discretionary Power to increase statutory redundancy payment – regulation 4

The Employment Rights (Northern Ireland) Order 1996 states the statutory maximum weekly pay on which a redundancy payment can be made, currently set at £470 per week (effective from 6th April 2014).

Scheme employers have the discretion to calculate the statutory redundancy payment on the employee's actual week's pay where this exceeds the statutory week's pay limit of £470. This means that technically any payment up to £470 per week is the statutory redundancy payment and any payment based on pay above £470 per week is a discretionary redundancy payment.

3.5 Discretionary Lump Sum Compensation – regulation 5

Scheme employers have a further discretion to decide no later than six months after the employee's termination date to pay compensation to anyone who is a member or eligible to be a member of the Scheme providing that the conditions listed under 3.1 are met. Unlike the requirements for statutory redundancy there is no minimum service requirement for lump sum compensation. Thus a discretionary lump sum compensation payment could be made to those with less than two years' service.

The maximum lump sum compensation that can be made is 104 weeks' pay (inclusive of any redundancy payment). For example,

Total lump sum compensation =
(statutory redundancy or discretionary redundancy) + compensation payment

The regulations do not set out a prescribed formula to calculate the lump sum compensation payment. Due to age and gender considerations many employers choose to base the lump sum compensation payment on a multiplier of the redundancy payment. The most common formula appears to use a total multiplier that does not exceed 3.466 i.e. 30 (the maximum number of weeks' pay that can be used in the statutory redundancy payment formula) x 3.466 = 104 weeks.

Employers have the discretion to calculate the compensation payment on whatever rate of pay they choose so long as it does not exceed the employee's actual week's pay. Unlike a week's pay for statutory and discretionary redundancy pay purposes, which is calculated at the calculation date, a week's pay for the additional lump sum compensation is a week's pay at the date of termination of employment.

3.6 Policy Statements

Employers must formulate, publish and keep under review the policy that they apply in respect of regulations 4 and 5 (see 3.4 and 3.5 above). If an employer changes its policy it must publish its amended policy and cannot give effect to any policy change until one month after the date of publication.

Scheme employers are required to:

- have regard to the extent to which the exercise of their discretionary powers (in accordance with their policy) , unless properly limited, could lead to a serious loss of confidence in the public service; and
- be satisfied that their policy is workable, affordable and reasonable having regard to the foreseeable costs.

3.7 Example calculation of lump sum compensation payment

Male, aged 56, assumed annual pay of £20,000, service in excess of 20 years

Statutory redundancy = £20,000 x 7/365 (i.e. 1 week) x 27.5¹ = £10,547.95

Total lump sum compensation = £10,547.95 x 3.46² = £36,495.89

Compensation payment = £36,495.89 - £10,547.95 = £25,947.94

Therefore total lump sum compensation would be payable of £36,495.89 inclusive of his statutory redundancy payment i.e. £10,547.95 + £25,947.94 = £36,495.89.

4. Pension benefits and discretions under The Local Government Pension Scheme Regulations (Northern Ireland) 2014

4.1 What pension benefits are payable on redundancy?

Members aged 55 or over - regulation 31 (7) provides for the immediate payment of unreduced pension apart from any pension purchased by additional pension contributions under regulation 18 (usually results from members covering unpaid periods of authorised leave or buying additional pension). Additional pension awarded by an employer under regulation 32 is not reduced on redundancy and it is expected that awards of additional pension by employers would be made under this regulation.

Members aged under 55 – they are awarded deferred benefits from the date of redundancy, which are payable from the member's normal retirement age subject to any early payment protections.

¹ 27.5 refers to the number of weeks used to calculate redundancy pay under the Ready Reckoner Table for Statutory Redundancy for a male aged 56 and with service in excess of 20 years.

² 3.46 is the multiplier used in this case to calculate the total lump sum compensation. Using a multiplier of 3.46 ensures the maximum of 104 weeks' pay is not exceeded.

4.2 What employer costs arise under the LGPS (NI) for redundancy?

The employer will have to meet the cost of early release of pension, if a cost arises. This cost is invoiced to the employer as part of the retirement process.

4.3 Awards of additional pension under regulation 32

An employer may award up to £6,500 per annum pension (2015/16 figures) to an active Scheme member or within six months of leaving in the case of a member whose employment was terminated on redundancy or business efficiency. An award of additional pension only increases the member's pension and not that of any survivors. The cost of awarding additional pension is age and gender related and NILGOSC can, on request, provide factors for employers to calculate the cost of awarding this additional pension. The cost of awarding any additional pension will be invoiced by NILGOSC as part of the retirement process.

In some cases, an award of additional pension can result in the annual pension savings for that Scheme member increasing by more than the currently permitted Annual Allowance of £40,000 (2014/15). Any increase in value above that level could result in a tax charge for the member if they had insufficient carry forward allowance. Any additional pension awarded will also count towards the capitalised value of a member's benefits for the Lifetime Allowance check.

4.4 Policy Statements

The regulations require employers to have Policy Statements in place by 31 July 2015 to cover the exercise of any discretions under the new Scheme regulations including awarding additional pension. Employers will need to update their Policy Statements for the 2015 Scheme. NILGOSC has organised training for employers on their policy discretions in January 2014 (see circular 10/2014).

5. Interaction between lump sum compensation under the Discretionary Compensation Regulations and awards of additional pension under the LGPS Regulations (NI) 2014

5.1 Additional pension by conversion

An employer cannot award lump sum compensation as well as additional pension to members being made redundant or being retired on efficiency grounds.

However, an employer could have a policy to allow 'additional pension by conversion' i.e. to grant the member additional pension actuarially equivalent to the value of any lump sum termination payment (in excess of the statutory redundancy payment or in excess of the redundancy payment based on an actual week's pay where this exceeds the statutory week's pay limit) i.e. an amount equal to the compensation payment is used to buy additional pension rather than it being paid as a lump sum (see section 5.2). Only the excess above statutory and discretionary redundancy payment could be converted in this way. An employee cannot split the award and take part as additional pension and the balance as a lump sum compensation payment – it is all or nothing.

5.2 Example of additional pension by conversion

Male, aged 56, assumed annual pay of £20,000, service in excess of 20 years, unreduced pension from the LGPS (NI) of £8,883.55

Statutory redundancy = £20,000 x 7/365 x 27.5 = £10,547.95

Total lump sum compensation = £10,547.95 x 3.46 = £36,495.89

Compensation payment = £36,495.89 - £10,547.95 = £25,947.94

Unreduced annual Scheme pension = £8,883.55

An amount equivalent to the compensation payment of £25,947.94 could be used to buy this member additional annual pension. The factor used to calculate the cost of additional pension for a 56 year old male is 20.27. £25,947.94/20.27 = £1,280 per annum additional pension. Therefore, the benefits payable following conversion would be:

Statutory redundancy = £10,547.95

Unreduced annual Scheme pension = £8,883.55

Additional annual pension = £1,280

The additional pension and main Scheme pension can be commuted for additional tax-free lump sum at a conversion rate of £12 lump sum for every £1 pension given up, subject to tax limits.

6. Sample Redundancy Scheme

An outline of a sample redundancy scheme from a pensions perspective is attached at Appendix 1. Elements relating to external legislation, managing redundancy, notification, consultation, selection, appeals, alternative employment, time off, resignations, review period etc. have not been included. Please note that this is sample redundancy scheme and employers should satisfy themselves that their own schemes meet all the requirements and have multipliers and payback periods that are appropriate to them.

There is currently an ongoing Departmental consultation on legislating for a severance scheme for those employers affected by the Review of Public Administration (RPA). A copy of this consultation is available on [NILGOSC's website](#).

7. Provision of Redundancy Quotations under the LGPS 2015

If you require NILGOSC to provide pension quotations please speak to us as soon as possible so that the calculations can be timetabled into our work plans as we expect that demand for such assistance could be high.

NILGOSC is currently awaiting a bespoke software release that will introduce the programming for the LGPS (NI) 2015. Our software providers have now advised that they don't expect to release this software until January 2015. In addition, the majority of the actuarial factors required to enable calculations under different provisions within the new Scheme have yet to be published by Government.

This means that we are currently unable to provide definitive quotations on a CARE basis. In the interim we can only quote on the basis of the existing Scheme.

In the meantime, we suggest that you request bulk redundancy quotations on a final salary basis for leaving dates during 2015/16 as per normal. If the members are leaving shortly after 31 March 2015 there will be minimal differences between the final salary benefits quoted and the mixed benefits (final salary and CARE) that will apply although we expect that the benefits payable when the new Scheme is introduced will be slightly higher. The bulk quote request spreadsheet is available on NILGOSC's website at <http://www.nilgosc.org.uk/resources/category/14/forms-and-spreadsheets.aspx> . This spreadsheet can be used for members aged 55 or over and members under age 65. Quotations for any members aged 65 or over should be requested using an LGS17. Please check that you have advised NILGOSC of all hour changes before requesting quotations. Requests for bulk quotations should be sent securely to john.wheeler@nilgosc.org.uk .

We have received separate new actuarial factors from the Scheme's actuary that provide the costs of awarding additional pension under the 2015 Scheme. These factors are specifically for awards where the pension is payable immediately on an unreduced basis. These factors take into account both the cost of early payment and the cost of the additional pension. They are age and gender related and are now available on request from NILGOSC. Please contact Ruth.benson@nilgosc.org.uk if you would like a copy of the factors in order to facilitate your own calculations.

The Scheme's actuary has also advised that the capital costs (strain payments for early release of benefits) need updating. He estimates that the current capital costs need uplifting by around 15%. The publication of the revised factors is imminent. We recommend that employers apply this uplift to any quotations received before the increases are applied. We will advise employers when the new factors are to be implemented.

Please do not hesitate to contact the Pensions Development Team or myself if you have any queries.

Yours sincerely



Zena Kee
Pensions Manager

Appendix

Sample Redundancy Scheme

1 Compensation

1.1 Statutory Compensation

- 1.1.1 To be entitled to a statutory redundancy payment staff must be employed by XXXXXX³ for a continuous period of two years and have been dismissed by reason of redundancy.
- 1.1.2 Compensation is calculated in accordance with statute which is outlined below. The amount payable depends on age, length of service and gross weekly earnings. A maximum of 20 years' service may be taken into consideration.
- 1.1.3 For each complete year of service employees are entitled to:
- ½ week's pay for each complete year in which an employee was under age 22
 - 1 week's pay for each complete year in which an employee was at age 22 but less than age 41
 - 1½ weeks' pay for each complete year of employment in which an employee was at age 41 or more
- 1.1.4 Employees will also be given the statutory minimum notice or contractual notice, whichever is the greater.
- 1.1.5 A week's pay is the amount a member of staff is entitled to under their terms and conditions of employment at the 'calculation date'. Staff do not have to pay tax on their statutory redundancy payment provided it is less than the tax-free limit (currently £30,000).
- 1.1.6 The 'calculation date' is the date on which XXXXXX gives the member of staff the minimum notice to which they are entitled by law. The maximum gross week's pay that can be taken into consideration when making a calculation is set in statute (£470 effective from 6 April 2014).
- 1.1.7 Employees will be provided with a written statement showing how the redundancy payment was calculated.
- 1.1.8 A member of staff with the relevant length of service can complain to an industrial tribunal for failure to be paid the correct statutory compensation. However, staff must use statutory procedures before complaining to a tribunal (refer to the XXXXXX Disciplinary and Grievance procedures in the staff handbook).

1.2 Discretionary Powers

³ XXXXXX – name of employer

1.2.1 Power to Increase Statutory Redundancy Payments

XXXXXX has the discretion to remove the weekly pay ceiling placed on the payment of a statutory redundancy payment. The calculation may therefore be based on the employee's actual weekly pay.

The power to apply this discretion is exercisable by XXXXX immediately before the termination date.

1.2.2 Power to award Discretionary Compensation Lump Sum and Discretionary Additional Pension

XXXXXX has discretionary powers to award employees (of any age) a maximum one-off lump sum of up to 104 weeks' pay where their employment is terminated early due to redundancy, efficiency or in the case of a joint appointment, because the other holder of the appointment has left. XXXXX may, not later than six months after the employee's termination date, decide to pay compensation under this regulation. This payment is inclusive of any statutory redundancy or increased redundancy payment made.

Under the Local Government Pension Scheme Regulations (Northern Ireland) 2014 XXXXX has the discretion to award:

- additional pension to a Scheme member of not more than £6,500 a year (2015/16 rates) payable from the same date as his/her pension is payable under any other provision.

1.2.3 Please refer to the section below on the Enhanced Compensation Scheme to see how XXXXX intends to apply its discretionary powers.

1.3 Enhanced Compensation Scheme

1.3.1 In addition to the immediate release of any Local Government Pension Scheme (NI) redundancy (or other) benefits (if aged 55 or over) XXXXX provides two separate options for enhancement of severance benefits by way of compensation for loss of office:

Option A: Enhanced Redundancy Payment

or

Option B: Redundancy Payment plus Compensatory Pension

1.3.2 All costs associated with the Enhanced Compensation Scheme, including the capital costs to release the redundancy pension, must not exceed the individual's current annual salary costs to XXXXX multiplied by a factor of X.XX⁴. This is equal to the period over which the costs are to be recouped i.e. XXX years.

⁴ Employers should choose an appropriate payback period

1.3.3 **Option A:** The Enhanced Redundancy Payment is calculated by applying a multiplier of X.XX⁵ to the redundancy payment (based on an actual week's pay rather than the statutory maximum) and is inclusive of the redundancy payment. The redundancy payment is calculated in accordance with the Employment Rights (Northern Ireland) Order 1996 only using the actual week's pay and not the statutory maximum.

For example,

Enhanced Redundancy Payment = Redundancy Payment + Compensation Payment

1.3.4 **Option B:** This option is only applicable to employees who are active members of the Local Government Pension Scheme (NI). Under this option the redundancy payment is calculated as under Option A. The amount in excess of the redundancy payment under Option A (the Compensation Payment) is awarded instead as an actuarially equivalent amount of additional Compensatory Pension (up to a maximum of £6,500 per annum (2015/16 rates). Providing that the extra pension does not exceed the maximum set out in the regulations that person shall be granted that additional pension and not paid a lump sum Compensation Payment.

1.3.5 XXXXXX will have the final decision as to which elements of Option B will be offered but will consult with the employee affected. A decision as to which elements will be paid i.e. additional pension or lump sum compensation must be made before the termination date.

⁵ Employers can choose a multiplier but it should not exceed 3.46 to ensure that the 104 week limit is not exceeded for those with 20 years' service or more