

Appendix 1 to Pay Policy Statement 16/17

# Voluntary Redundancy and Enhanced Severance

## The Scheme



2015-16

## **FINANCIAL TERMS FOR TERMINATION OF EMPLOYMENT ON THE GROUNDS OF REDUNDANCY**

### **1. Introduction**

This document sets out the financial terms adopted by the council in the event of redundancy and termination of employment on the grounds of business efficiency. It also incorporates how the council will exercise discretionary powers over a prescribed time period to make a discretionary severance payment in addition to a redundancy payment. These discretionary powers are contained within the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006.

### **2. Scope**

These financial terms apply to all council employees.

### **3. Financial Terms For Redundancy**

#### **Definition of Redundancy:**

The definition of redundancy is contained in Section 139 of the Employment Rights Act 1996. An employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is attributable wholly or mainly because:

- The council has ceased to provide the services or perform the function which the employee is employed to provide. Or;
- The place at which the employee is employed is closing. Or;
- Fewer employees are required or expected to be required to carry out the work that the employee is employed to do.

If an employee is dismissed on the grounds of redundancy, subject to a number of qualifying conditions, they will receive:

a) A redundancy payment

b) A severance payment (provided the employee has volunteered for redundancy and has formally accepted an offer of voluntary redundancy within the prescribed time period). A severance payment will not be made in circumstances where the redundancy is compulsory unless there is a record of a previous application for

enhanced severance being turned down by the council within the prescribed time period.

### **Redundancy Pay:**

This is a statutory payment that uses age and length of service to calculate the number of weeks pay a redundant employee will be entitled to receive. A maximum of 30 weeks is payable.

An employee with two or more years continuous service who meets the conditions set out in Section 4 below will receive the statutory number of weeks redundancy pay in accordance with the “ready reckoner” attached at Appendix A.

Employees should be aware that where a redundancy payment exceeds the limit imposed by HMRC (currently £30,000), tax is payable on the excess amount.

### **Severance Pay:**

This is a discretionary payment that is made in addition to redundancy pay in circumstances where an employee has volunteered for redundancy. Severance pay will be calculated by means of a multiple of the statutory number of weeks redundancy pay.

A redundant employee who meets the conditions in Sections 4 and 5 may, at the discretion of the council, receive severance pay in addition to statutory redundancy pay. Severance pay is equal to one half of the numbers of weeks statutory redundancy pay. For example, if the number of weeks statutory redundancy pay is 20 weeks pay, severance pay will be 10 weeks pay.

This provides a maximum combined total redundancy and severance payment of 45 weeks pay, but the actual number of weeks will depend upon age and length of continuous service.

In circumstances where the combined redundancy and severance payments fall below £5000 the council will enhance the total payment to a fixed sum of £5000 (Pro rata for part-time staff).

Employees should be aware that severance payments are subject to assessment for personal taxation. Where a redundancy and severance payment, when combined, are greater than the limit imposed by HMRC (currently £30,000), tax is payable on the excess amount.

### **Weeks Pay:**

The value of a weeks pay for Redundancy Pay and Severance Pay will be determined by the employees actual weekly pay, rather than the statutory maximum (currently £475.00). Whether or not an element of pay is taken into account when determining an actual weeks pay will depend on a number of factors, such as whether it is contractual payment for a particular duty, whether it is a regular or variable payment or whether it is re-imbusement for an allowance etc.

Where staff work variable weekly hours their weeks pay will be based on the average weekly pay over a prior reference period of 12 weeks. This calculation will be repeated at the actual time of dismissal and if a higher figure is achieved the employees redundancy and severance payments will be calculated on the higher amount. Otherwise calculations will be based on the previous estimated amount.

## **4. Conditions Relating To Redundancy Payments**

- To qualify for a redundancy payment an employee must have completed a minimum of two years continuous service with Lambeth council or a “Modification Order body”. Continuous service is calculated by counting backwards from the employees last day of service with the council’;
- Continuous service with other local authorities and other bodies listed in the Redundancy Pay (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 counts for the purpose of this scheme;

A maximum of 20 complete years of continuous service will be taken into account when determining entitlement to redundancy pay.

- If an employee is under notice of redundancy and:
  - They accept a job offer from another local authority or Modification Order body, whether in writing or not, including a job offer from the council, before their last day of service,  
And
  - They begin that employment within 4 weeks of the end of the previous employment

the dismissal will no longer constitute a dismissal for redundancy and no redundancy or severance payment will be made.

In this event statutory continuity of employment will be preserved for the purpose of calculating any future entitlement to redundancy payments that might arise with the new employer.

- If an employee is offered alternative employment as described above and:
  - The Council considers this to be suitable alternative employment; and
  - The employee unreasonably refuses this employmentthe dismissal will no longer constitute a dismissal for redundancy and redundancy or severance payment will not therefore be made.

## **5. Conditions Relating To Severance Payments**

- Severance payments will only be considered for employees aged under 55 on their last day of service who are eligible to be a member of the Local Government Pension Scheme (whether they are a member or not), and have formally accepted an offer of voluntary redundancy within the prescribed time period that the severance scheme is available;
- An employee aged 55 and over on their last day of service who is not a member of the Local Government Pension Scheme (or is a member but with less than two years membership of the scheme) and has formally accepted an offer of voluntary redundancy within the prescribed time period will also be eligible to be considered for a severance payment;
- An employee aged 55 and over on their last day of service who is a member of the Local Government Pension Scheme with more than 2 years' membership will not be eligible to be considered for a severance payment;
- Staff leaving the council on the grounds of compulsory redundancy will not be considered for a discretionary severance payment unless there is a record of a previous application for enhanced severance being turned down by the council within the prescribed time period ;
- Severance payments are entirely at the discretion of the council;
- Staff volunteering to leave under these arrangements will not be re-employed or re-engaged by Lambeth council (e.g. as an employee, consultant, agency worker, etc.) within one year of their last day of service;

- To qualify for a severance payment an employee must have completed a minimum of two years continuous service with Lambeth council or a “Modification Order body” before a date to be determined by the council;
- Continuous service with other local authorities and other bodies listed in the Redundancy Pay (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 counts for the purpose of this scheme;
- Employment must be continuous with the following exceptions:
  - If an employee has pensionable employment within the meaning of the NHS Pension Scheme Regulations 1995 this service will be taken into account if the employee was statutorily transferred from the NHS to local authority employment as a result of the Community Care Act 1990. Such employment must be continuous. (If an employee voluntarily changed employer continuous employment is broken);
  - Where an employee has returned to local government service following a break for maternity reasons, or reasons concerned with caring for children or other dependents, they will be entitled to have previous service taken into account for severance purposes provided the break in service did not exceed eight years and that no permanent employment has intervened;
  - If an employee voluntarily returned to Lambeth directly from an organisation to which they were transferred from Lambeth under TUPE provisions, they will be considered as having fully continuous service from the beginning of their pre-transfer continuous service if the organisation was an admitted body of the Local Government Pension Scheme. If it was not, continuous service prior to the transfer will be aggregated with continuous service accrued on return;
  - There may be circumstances whereby exercising discretion to count discontinuous service would help to alleviate hardship. The Director of HR&OD will have the discretion to count such service.
- Severance payments will only be made if, during the remaining period of employment with the council the employee:
  - Is willing, when requested, to transfer to and undertake other productive work for which they are capable;

- Continues to cooperate with management in the undertaking of their duties;
- Maintains a reasonable attendance and performance record;
- Remains in employment with the council for the full period required by the council.

## **6. The Prescribed Time Period**

The prescribed time period during which enhanced severance payments will be available will run from 1 December 2015 to 31 March 2016. The following arrangements will apply:

- Staff who have volunteered for and formally accepted redundancy with a last day of service falling on or after 1 December 2015 and who meet the conditions in Sections 4 and 5 will be entitled to a severance payment;
- Staff who are currently held on the “yes deferred” voluntary redundancy list and who meet the conditions in Sections 4 and 5 will be entitled to a severance payment;
- Staff will be able to apply for voluntary redundancy and, where eligible, severance through the phase 6 voluntary redundancy programme that will go live at the beginning of December 2015. In these circumstances staff must formally accept voluntary redundancy on or before 31 March 2016 for the enhanced terms to apply;
- Staff impacted by restructurings during the prescribed time period will also be able to apply for voluntary redundancy and, where eligible, severance. In these circumstances staff must formally accept voluntary redundancy on or before 31 March 2016 for the enhanced terms to apply;
- It is anticipated that the majority of staff formally accepting voluntary redundancy within the prescribed time period will leave the council by 31 March 2016. Some staff, through the council’s agreement, may leave earlier than this date. The council will also retain the discretion to agree leaving dates that occur after 31 March 2016 provided this would be in the best interests of the council and the last day of service is no later than 30 September 2016.

This will include staff aged 55 and over who are not eligible for a severance payment;

- The enhanced severance scheme will cease at the end of the prescribed time period.

## **7. Exceptional Cases**

Where the circumstances of a particular case justify a departure from these arrangements the Director of HR&OD may vary the standard payment terms of severance provided the overall payment does not exceed that permitted by legislation.

**November 2015**