

Surrey County Council

Redundancy & Severance Policy

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Amendments tracker	Dec 2020	<ul style="list-style-type: none"> Re-engagement restriction does not apply to Schools
	Aug 2021	<ul style="list-style-type: none"> Define final salary
	April 2022	<ul style="list-style-type: none"> Link to Change Management Policy replaced with Managing Restructures & Reorganisations Policy
	Jan 2023	<ul style="list-style-type: none"> Newly added Special Severance section added. Includes what constitutes as a Special Severance payment, who needs to authorise and play a part in the decision making process. A business case form has been added for Special Severance payments. Links to existing policies updated, since intranet migration project.

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1. Introduction and Scope

It is the council's policy to take all reasonable steps to avoid compulsory redundancies and where such redundancies occur nevertheless for unavoidable business reasons, to keep the number of redundancies to a minimum.

Alternative courses of action will be reviewed in order to identify alternatives to compulsory redundancies such as:

- A restriction or freeze on recruitment
- The termination, where practical, of any agency workers or temporary staff (who are not on fixed term contracts).
- A call for volunteers below State Pension Age from relevant service areas to express an interest in voluntary redundancy.
- Retraining and redeployment, where appropriate, of existing employees into appropriate vacancies.

2. What is the Severance scheme?

The Severance scheme at Surrey County Council includes severance on the grounds of Compulsory Redundancy, Voluntary Redundancy, Efficiency or in some cases Special Severance.

3. Who does the policy apply to?

The policy applies to all council employees who are eligible to be members of the Local Government Pension Scheme (LGPS). It also covers all council employees who are eligible to be members of the Teachers' (TPS) and NHS Pension Schemes, including those under the management of School Governing Bodies.¹

4. Why do we have a Severance scheme?

The scheme is run with the aim of:

- Ensuring the efficient running of the county council
- Helping the county council reach its cost reduction targets
- Minimising the need for compulsory redundancies now and in the future and;
- Ensuring the consistent application of the policy.

For the purposes of the Scheme, severance of employment will be considered against a range of factors including but not limited to:

- The existence of a justifiable business case in terms of organisational impact
- Whether the employee has refused an offer of suitable alternative employment
- Whether there are alternatives to redundancy, through full consideration of redeployment opportunities.
- Whether the employee's conduct or performance is actionable under relevant council procedures
- A financial payback period within 3 years or where above 3 years in line with a compelling business case to the Retirement, Redundancy & Discretions Group²

¹ The Governing Body of a school has statutory discretion to determine all cases (except early retirement on compassionate grounds) in respect of non-teaching employees and Teachers. However if funding is to be sought from the Council a Governing Body must submit a business case for consideration by the Retirement, Redundancy & Discretions Group.

² Information about the Retirement, Redundancy & Discretions Group is on SCC Info..

Where approved, the employee will receive the benefits of Severance as outlined below.

The council reserves the right to refuse requests for Severance where it considers the skills could be retained or due to financial prudence.

5. What types of severance are there?

5.1 Compulsory Redundancy

Redundancy may occur if suitable alternative employment is not offered following:

- A business closure (closure of the business altogether)
- A workplace closure (closure of one of several establishments)
- A need for employees to carry out work of a particular kind has ceased or diminished or is expected to cease or diminish.

Please refer to the [Managing Reorganisations and restructures policy](#) for more information on Compulsory Redundancy.

5.2 Voluntary Redundancy

Voluntary redundancy occurs when an employer offers a financial incentive to an employee to leave the organisation voluntarily, in order to avoid making compulsory redundancies.

Voluntary redundancy still constitutes a dismissal.

For an application for Voluntary redundancy to be considered it must:

- Show that there was a genuine reduction in the requirement for work of a particular kind to be undertaken at a particular establishment or school. This usually arises through the deletion of the position occupied by the individual concerned.
- Show that by terminating an employee's employment by reason of redundancy it would leave a vacancy that provides suitable employment for someone who would otherwise be made compulsorily redundant from a different redundant post.

If the above criteria are met, an employee could request redundancy through their line manager.

- On rare occasions invitations for volunteers for severance may be made even when there is no reorganisation in a team/service. Such "employee led" voluntary redundancy would be subject to the statutory earnings limit when calculating a week's pay for redundancy pay purposes. Further information is provided in section 6.1.

In cases of both Compulsory and Voluntary redundancy the following will apply:

- From time to time as part of localised or county-wide organisational change, the council / schools may invite volunteers for severance on any of the grounds set out in this policy. In inviting applications the council does not bind itself to accept any or all applications made as a result.
- An employee will not be entitled to a severance payment if, before leaving the council / school, they accept an offer of employment with another local authority or associated employer contained in the *Redundancy Payments (Modification) Order 1999* and commence the new employment within four weeks of their last day of service as the employment would be deemed to be continuous.

In cases of Compulsory redundancy the following will apply:

- An employee will not be entitled to a severance payment (if on compulsory grounds) they unreasonably refuse suitable alternative employment offered by the council prior to their last day of service. If an employee returns to local authority employment after a period of 4 weeks their continuous service will begin again.³

5.3 Efficiency

In exceptional circumstances decisions can be made relating to whether an employee would be able to leave on the grounds of efficiency. This would include situations where:

- The employee's role has changed sufficiently that they are no longer able to adjust and perform in the role they perform and/or;
- Where the job requires new skills or competencies that the employee does not have and where retraining, investment in future development would not be appropriate; and/or
- Where performance management procedures would not be appropriate.

When considering cases under this category, each case will be dealt with individually on its own merits and various factors will be taken into account including, but not limited to:

- Overall cost to the organisation
- Any demonstrable benefit to the council
- Where suitable alternative role is considered not appropriate
- Where the employee's role has changed sufficiently that they could not be reasonably expected to adjust and perform in the role they are in
- Consideration of succession planning and/or structural changes which could lead to savings through appointing a replacement at a lower level or whether it avoids a redundancy situation.

The essence of the efficiency arrangements is to seek to reach agreement with the employee for the mutual termination of the contract of employment.

The Retirement, Redundancy & Discretions Group will examine each case fairly and make a decision in accordance with this policy.

³ If you have any questions regarding your pension please contact pensions services on 020 8541 9000, option 3.
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6. Do I qualify for a severance payment and what is the impact on my pension?

6.1 Redundancy

The following calculations will apply depending on the age of the employee and under which category they leave the organisation⁴:

Type	Age	Benefit	Calculation
"Employer led" Voluntary/ Compulsory redundancy	Over 55 and a member of the occupational pension scheme	Pension	Immediate payment of pension benefits. The pension benefits paid to an employee retiring on redundancy grounds before the pension scheme's Normal Pension Age (NPA) will NOT be reduced due to early payment. ⁵
		Redundancy-Severance payment	Employees would also be due a redundancy payment based on the number of weeks as calculated by the ready reckoner multiplied by the employee's weekly pay. This is up to a maximum of 30 weeks' pay.
"Employer led" Voluntary/ Compulsory redundancy	Under 55 (and those over 55 who are not members of an occupational pension scheme offered by the county council)	Pension	Not applicable
		Redundancy-Severance payment	The severance payment is based on 1.5 weeks' pay for each year of continuous service, up to a maximum of 40 weeks' pay. The council has the discretion to take non-continuous service into account in working out the severance payable
Efficiency	Over 55 and a member of the occupational pension scheme	Pension	Immediate payment of pension benefits. The pension benefits paid to an employee retiring on efficiency grounds before the pension scheme's Normal Pension Age (NPA) will <u>not</u>

⁴ Employees in both cases must have a minimum of 2 years local authority service to qualify

⁵ A minimum of 2 years scheme membership is required. In the LGPS separate employments are treated independently. If a LGPS member who has multiple employments is made redundant from one post, then the LGPS benefits related to that post are payable immediately. In the TPS all teaching employment must cease in order for the member to qualify for the immediate payment of their TPS benefits.
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Type	Age	Benefit	Calculation
			be reduced due to early payment. ⁶
		Efficiency - severance payment	No payment would be made in cases where employee is over the age of 55 and leaving the organisation on efficiency grounds.
Efficiency	Under 55 (and those over 55 who are not members of an occupational pension scheme offered by the county council)	Pension	Not applicable
		Efficiency - severance payment	The severance payment is based on 1.5 weeks' pay for each year of continuous service, up to a maximum of 40 weeks' pay. The council has the discretion to take non-continuous service into account in working out the severance payable
"Employee Led" Voluntary Redundancy	Over 55 and an member of the occupational pension scheme	Pension	Immediate payment of pension benefits. The pension benefits paid to an employee retiring on redundancy grounds before the pension scheme's Normal Pension Age (NPA) will NOT be reduced due to early payment
		Redundancy-Severance payment	Employees would also be due a redundancy payment based on the number of weeks as calculated by the ready reckoner multiplied by the employee's weekly pay up to the statutory maximum weekly pay of £525 (as at April 2019) This is up to a maximum of 30 weeks' pay
	Under 55 (and those over 55 who are not members of an occupational pension scheme offered by the county council)	Pension	Not applicable

⁶ A minimum of 2 years scheme membership is required. In the LGPS separate employments are treated independently. If a LGPS member who has multiple employments retires on efficiency grounds from one post, then the LGPS benefits related to that post are payable immediately. In the TPS ALL teaching employment must cease in order for the member to qualify for the immediate payment of their TPS benefits. Redundancy and Special Severance Policy

Type	Age	Benefit	Calculation
		Redundancy-Severance payment	Employees would be due a redundancy payment based on the number of weeks as calculated by the ready reckoner multiplied by the employee's weekly pay up to the statutory maximum weekly pay of £525 (as at April 2019) This is up to a maximum of 30 weeks' pay

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All severance payments (including those confirmed as leaving on efficiency grounds) are based on an employee's final annual salary at the point of termination of employment. The final salary should be based on normal annual earnings. Annual earnings include any contractual benefits, supplements, enhancements, or allowances directly paid for duties undertaken including any additional contractual hours or regular overtime worked.

The calculation of the pension benefits payable to an employee who is made redundant or retires on the grounds of business efficiency at or over age 55 depends on their scheme membership dates. Benefits built up in the Career Average Re-valued Earnings (CARE) scheme will be based on the pensionable pay that they receive up to their leaving date. A combination of final pay and membership will be used to calculate benefits built up in the Final Salary scheme.⁷

The pension benefits paid to scheme members who retire voluntarily before the scheme's normal pension age (NPA) would normally be reduced to reflect the early payment date. Where an employee is made redundant or retires on the grounds of business efficiency at or after age 55, but before the scheme's NPA, these early retirement reductions will not apply.

6.2 Redundancy/ Efficiency – Underpin

In exceptional cases, where an employee retires on the grounds of redundancy or efficiency, if the capital cost of the early payment of pension benefits (plus any redundancy payment) is less than the severance payment that would be payable to an employee with the same length of service who was not a member of the LGPS or TPS, the Retirement, Redundancy & Discretions Group can approve an additional payment to make up the difference.

6.3 Additional Discretionary Compensation (ADC)

In exceptional circumstances, Additional Discretionary Compensation (ADC) may be awarded to an employee who retires at or after age 55 with an entitlement to a redundancy payment. ADC may not be awarded to an employee retiring on the grounds of business efficiency.

For further information please refer to the [Policy Statement on Employer Discretions](#)

⁷ Recent reforms mean that the structures of all public sector pension schemes have changed from Final Salary schemes to Career Average Re-valued Earnings (CARE) schemes. The LGPS changed to a CARE scheme from 1 April 2014. The TPS changed to a CARE scheme from 1 April 2015, however, depending on their age and length and dates of scheme membership, some TPS members will remain in the Final Salary scheme. More information about the types of scheme member and the protections that apply can be found on the TPS website <https://www.teacherspensions.co.uk/members/your-scheme/understanding-what-type-of-member-you-are/active-members.aspx>

7. What happens if I am on a Fixed Term Contract and I am vulnerable to redundancy?

Employees will be entitled to the same severance payment whether they are on a fixed term or permanent contract. The same entitlement will apply when employment is terminated at the end of a fixed-term contract if redundancy is the reason for the termination.

It is important to note that the end of a fixed term contract for a reason other than redundancy, would not attract a redundancy payment.

8. How will my redundancy and pension payments be taxed?

Any redundancy payment under £30,000 will not be subject to income tax under current HMRC guidelines. Any excess above £30,000 will be taxed in the normal way. Any Pay in Lieu of Notice is taken into account in assessing whether the payment exceeds the £30,000 threshold.

Up to 25% of the value⁸ of an employee's pension can be taken as a tax free lump sum⁹. Pensions in payment are taxed as earned income.

9. Re-engagement of redundant employees

Normally the council will not re-employ or re-engage employees who have been made redundant with an enhanced severance payment, for a period of 12 months following their leaving date. However, where re-employment is in the best interests of the service, the Assistant Director can make a business case to the relevant Executive Director and the Director of People & Change. Re-engagement includes contracts of employment, consultancy arrangements or through an agency.

The council has decided that this restriction will not apply to employees who have been made redundant from a maintained school.

10. Special Severance

Surrey County Council adhere to the Government's Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England. It is the Government's view that Special Severance Payments do not usually represent value for money and should only be considered in exceptional circumstances.

10.1 Categories of Special Severance

The statutory guidance defines Special Severance Payment as any of the following:

- payments reached under a settlement agreement between the employer and employee to discontinue legal proceedings without admission of fault.

⁸ The total value of your LGPS pension includes any additional year's contracts, additional retirement contribution contracts (ARCs), additional pension contribution contracts (APCs) and additional voluntary contribution contracts (AVCs) that you may have taken out.

⁹ Within lifetime allowance limits

- the value of any employee benefits or allowances which are allowed to continue beyond the employee's agreed exit date (for example, lease cars, health insurance etc).
- write-offs of any outstanding loans.
- honorarium payments (different from during employment, these payments would be one off included in an exit package).
- hardship payments.
- payments to employees for retraining related to their termination of employment (including outplacement support).

The following types of payments may constitute Special Severance Payments, depending on the terms of the individual's contract, relevant statutory provisions, any non-statutory applicable schemes and other relevant terms and conditions:

- Pay in lieu of notice (depending on the contractual basis for its payment);
- pension strain payments associated with enhancement of pension payments (for example, awarding of added years).

The following do not constitute as Special Severance Payments:

- Statutory and contractual redundancy payments, whether applicable to voluntary or compulsory and whether agreed by collective agreement or otherwise.
- severance payments made in accordance with that local authority's policy adopted pursuant to Regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (in accordance with the County Council's pay policy)
- a strain cost paid to the relevant LGPS administering authority under LGPS Regulation 68(2) which results from a LGPS member's retirement benefits becoming immediately payable without reduction under Regulation 30(7), or under Regulation 30(6) where the employer has waived the reduction under Regulation 30(8) (i.e. payment of pension without reduction on the grounds of redundancy or business efficiency made to employees aged 55 and over).
- a payment of untaken annual leave
- payments ordered by a court or tribunal or agreed as part of a judicial or non-judicial mediation
- Payments made as part of the ACAS Early Conciliation Process (COT3 as opposed to a settlement agreement)
- Payments made to compensate for an injury at work or death of an employee.
- Payments made in consequence of the award of ill-health retirement benefits under Regulation 35 of the LGPS Regulations

10.2 Approval process

Special Severance payments are approved by the following process:

Special Severance payments are approved by the following process:

- payments of £100,000 and above must be approved by a vote of full council, as set out in the Localism Act 2011 (see section on [exceptional circumstances](#))
- payments of £20,000 and above, but below £100,000, must be personally approved and signed off by the Chief Executive, in consultation with the chair of PPDC (Council Leader).
Recommendation and approval must be sought of the Director of People and Change, Relevant Executive Director and either Director of Finance – Corporate and Commercial Or Director of Finance – Insight and Performance (on behalf of the S151 Officer).
- payments below £20,000 must be approved by the Head of Business Partnering & Employment Practice and relevant Head of Service & People Consultancy Lead. Strategic Finance Business Partner supporting the service funding the application (on behalf of the S151 Officer).

In all cases Legal Services must be consulted.

The Governments guidance states that we may consider making a Special Severance payment in order to settle disputes, where it can be properly demonstrated that other routes have been thoroughly explored and excluded. After receiving appropriate professional advice, it may then be possible to conclude that a special severance payment is the most suitable option and prudent use of public money.

Where a Special Severance Payment forms part of an overall exit package then approval need only be sought for the element of the package that is a Special Severance Payment. For example:

It is proposed to make the following payments to Employee A under a settlement agreement:

- Severance pay in accordance with the Councils Pay Policy - £42,000
- Payment in respect of annual leave accrued but not taken - £3,400
- A special severance settlement payment made in order for the employee to settle any existing for future claims - £28,000

In this case, approval would need to be sought for the final payment only.

Other severance payments are approved by the following process:

- Other severance payments of £150,000 and above must be approved by PPDC.
- payments of £50,000 and above, but below £150,000, must be approved and signed off by Director of People & Change, the relevant Executive Director and either Director of Corporate Finance or the Director of Financial Insights (on behalf of the Section 151 Officer).
- payments below £50,000 must be approved by the relevant Head of Service, Head of Business Partnering & Employment Practice, People Consultancy

10. Annual Reporting

We publish information about all exit payments paid during the financial year in our annual accounts. This disclosure includes details about the number of exit payments paid in 8 payment bands from £0-£250,000.

11. Procedure

In the case where a special severance payment may need to be made the following procedure should be adhered to, with professional advice and authorisation sought clearly documented.

As soon as it becomes apparent that a special severance payment may need to be made the Special Severance Payment Business Case form needs to be completed by the Head of Service. The form should evidence all the non-financial avenues explored in an attempt to resolve the issue at hand. The individual completing the form may need to contact Employee Services to obtain some of the information pertaining to the employees terms and conditions of employment in order to complete the form.

The S151 Officer and where appropriate, the Monitoring Officer should at this point be made aware of the business case and be cited on all financial decisions made pertaining to a Special Severance payment.

A thorough breakdown of the costings associated with the special severance payment should be clearly set out on the business case form. Once each category of the business case form has been completed it can be sent to the People Consultancy Team for scrutiny. If the People Consultancy team don't feel that all alternative options have been fully explored it is like that the business case form will not be authorised by the People Consultancy Lead until they are satisfied that all options have been full exhausted.

The business case should be sent to the relevant individual identified to authorise the associated special severance costs.

Once fully complete the business case, with all supporting approvals (if on email) should be sent to the directorate Finance Business Partner, for audit and annual reporting purposes. The documentation should also be sent to the PAPEinbox@surreycc.gov.uk for recording.

12. Exceptional Circumstances

The financial scheme of delegations makes clear that there is an expectation that payments which exceed £100,000 should go to Full Council. The council can take the approach that this would usually be the case unless there are reasons to depart from the statutory guidance.

This could include a number of reasons – for example:

- speed, with a view to minimising the disruption to the Authority from uncertainty should a swift decision not be made;
- in exceptional circumstances it may be inappropriate to divulge information beyond the amount of special payment value
- the need to move forward swiftly, where litigation is on-going.

Where the decision is being taken by the relevant Committee (PPDC), it can be made clear that should members not feel comfortable in agreeing the Special Severance payment they could refer the matter to Full Council.



Appendix 1

Special Severance Payment Business Case form

Strictly Private & Confidential

Special Severance Payment Business Case

This template is to be used for all Special Severance cases submitted for approval.

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Special Severance Business Case	
Employee Name	
Name of Requesting Department	
Date decision is needed by and a brief outline of why	
Circumstances of the case	
Overview of the case (including brief case history, with key dates, summarising how the situation has come about. Any wider Council context)	
Terms of Employment	
(length of service, current salary, contractual notice period, type of contract (e.g. permanent, fixed term, part time, contractual entitlements, pension (and over/under 55))	
Breakdown of proposed exit payment	
List each type of payment separately e.g. enhanced contractual redundancy inc. statutory redundancy element breakdown, pay in lieu of notice, accrued annual leave, compensatory payment proposed, contribution to legal costs	

Proposed ways of proceeding

Rationale for settlement inc. potential consequences? Other options considered? Why is proposal the preferred option?

Financial Considerations

Include here consideration of:

- whether there is any feasible possibility of exiting the individual at a lower cost. Only where there is no such possibility should a Special Severance Payment be considered;
- how the exit payment will be perceived by the public and whether it is in line with the duty to manage taxpayers money appropriately;
- what alternative use could be made of that expenditure. All Special Severance Payments necessarily reduce the funds that would otherwise be available to deliver important public services;
- the setting of any potential precedent (e.g. where a Special Severance Payment is made to certain employees and not others);
- evidence for additionality, i.e. that those offered Special Severance Payments would not have, under any circumstances, been willing to leave with their statutory and contractual benefits alone.

Non-Financial Considerations

Legal Implications

Performance Management

Management Procedures

Repercussions Risk

Lesson Learnt from this case (Explain what lessons have been learned and how management systems have been/will be improved to avoid future occurrences of similar cases)

Wider Impact & potential precedents

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	Head of Service	Name: Signed: Date:
	People Consultancy Lead	Name: Signed: Date:
People Consultant advising on the case – NAME		
Legal Advice sought from- NAME & DATE		

*If any of the senior officers mentioned here are to be the recipient of the payment, they should not play any part in the decision-making process.

A payment cannot be considered authorised unless the business case is completed in full and authorisation is obtained from all of the relevant stakeholders in the applicable amount.

Once fully complete the business case, with all supporting approvals (if on email) should be sent to the directorate Finance Business Partner, for audit, approval and annual reporting purposes. The documentation should also be sent to the PAPEinbox@surreycc.gov.uk for recording.

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