

# **London Borough of Bexley - Financial Terms for Redundancy and Terminations on Grounds of Business Efficiency**

HR Service Effective from April 2014 (as amended by General Purposes Committee January 2007 and Local Collective Agreement April 2011)

## 1. Introduction

This document sets out the financial terms adopted by the Council in the event of redundancy and termination on the grounds of business efficiency (generally referred to as 'efficiency retirement').

It also incorporates the Council's decisions on how it will exercise discretionary powers contained within the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 and the Teachers (Compensation for Redundancy and Premature Retirement) (Amendment) Regulations 2006.

## 2. Scope

These financial terms apply to all employees of London Borough of Bexley including those employees in:

- voluntary schools
- foundation or foundation special schools
- any technical institute (or similar) assisted by the Council under the Education Act 1996
- federated schools

## 3. Financial terms for redundancy

### Definition of Redundancy

A redundancy is 'any dismissal for reasons not relating to the individual' (ie. not conduct or capability related) and occurs when either:

- the needs of the business for employees to carry out work of a particular kind have ceased or diminished, or are expected to cease or diminish
- the needs of the business for employees to carry out work of a particular kind in the place where they were so employed have ceased or diminished or are expected to cease or diminish

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

1. Redundancy pay; and
2. Severance pay

### Redundancy Pay (Employment Rights Act 1996, Part XI, Chapter 5 s 162, as amended)

This is a statutory payment that uses age and length of service to calculate the number of weeks' pay that a redundant employee will be entitled to. 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 statutory 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 (General Purposes Committee - January 2007 as amended by local collective agreement April 2011)

This is a discretionary payment that the Council may pay to a redundant employee in addition to Redundancy Pay. Severance pay will be calculated by means of a multiple of statutory redundancy pay.

A redundant employee who meets the conditions in Sections 4 and 6 may receive severance pay in addition to statutory redundancy pay. Severance pay is equal to one quarter of redundancy pay. For example, if statutory redundancy pay is 20 weeks pay, severance pay will be 5 weeks pay.

This provides a maximum total redundancy and severance payment of 37.5 weeks' pay but the actual amount payable will depend upon age and length of service in accordance with statutory redundancy pay.

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

### **Weeks Pay**

('Actual' weeks pay General Purposes Committee January 2007. Guidance on calculation - Department of Trade and Industry)

The value of a weeks pay for Redundancy Pay and Severance Pay will be determined by the employees 'actual' weeks pay, rather than the statutory maximum.

The method of calculating a 'weeks pay' varies according to whether an employee is paid:

- a fixed wage or salary or entirely on an hourly rate
- by piece-rates, variable bonuses or commission

Whether or not an element of pay is taken into account when determining 'actual weeks pay' depends upon 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 of an allowance, etc. A list has been prepared of all pay elements across the Council, indicating whether or not they will be included, based upon DTI guidance.

TOPS (Payroll Services) will calculate the precise 'weeks pay' amount for any formal estimate.

## **4. Conditions relating to redundancy payments**

**(Employment Rights Act 1996, Part XI, Chapter 5 s 162, as amended and the Redundancy Pay (Continuity of Employment in Local Government, etc) (Modification) Order 1999).**

(a) To qualify for a redundancy payment an employee must have completed two years continuous service with London Borough of Bexley or a 'Modification Order body' - see (b) below.

(b) 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. [Statutory Instrument 1999 No. 2277](#) as amended by [Statutory Instrument 2001 No. 866](#).

A maximum of 20 complete years of service will be taken into account when determining redundancy pay. This is determined by counting backwards from the last day of service.

(d) If an employee is under notice of redundancy and:

- they accept a job offer from another local authority or Modification Order body, including a job offer with the Council, before their last day of service, and
- they begin that employment within 4 weeks\* of the end of the old employment

\*If the termination date is on Friday, Saturday or Sunday the 4 weeks begins on the following Monday

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 purposes of calculating any future entitlement to redundancy payments that may arise with the new employer.

(e) If an employee is offered alternative employment as described in (d) above and:

- the Council considers this suitable alternative employment; and
- the employee unreasonably refuses this employment

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

If there are any doubts about how an employee's redundancy payment may be affected by the offer and acceptance of alternative employment, they should speak to their local HR contact.

## **5. Financial terms for termination on grounds of business efficiency**

(General Purposes Committee - January 2007)

If an employee is terminated on grounds of business efficiency, subject to the conditions in Section 6, they will receive a severance payment of 26 weeks pay.

There will be no entitlement to redundancy pay.

A 'weeks pay' for the purposes of termination on grounds of business efficiency is based on 'actual' weeks pay and calculated in the same way as for Redundancy Pay.

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

## **6. Conditions relating to severance payments**

These conditions apply to severance payments made in both redundancy cases and termination on the grounds of business efficiency.

- (a) Severance payments will only be made to employees who are eligible to be either a member of the Local Government Pension Scheme or the Teacher's Pension Scheme. (LG Early Termination of Employment (Discretionary Compensation)(Eng & Wales) Regs 2006 and the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997 (as amended)).
- (b) In cases of termination on grounds of business efficiency there is no qualifying period of employment for payment of severance. (General Purposes Committee January 2007).

- (c) In redundancy situations to qualify for a severance payment an employee must have completed two years continuous service with London Borough of Bexley or a 'Modification Order body' - see (d) below. (General Purposes Committee January 2007).
- (d) 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. [Statutory Instrument 1999 No. 2277](#) as amended by [Statutory Instrument 2001 No. 866](#).
- (e) Employment must be continuous with the following exceptions (Policy and Resources Committee April 1998):
- 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 dependants, 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 paid full-time employment has intervened
  - continuous service prior to a break under Bexley's career break/return scheme will be counted
  - if an employee voluntarily returned to Bexley directly from an organisation to which they were transferred from Bexley 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
- (f) There may be circumstances whereby exercising discretion to count discontinuous service would help to alleviate hardship. The Deputy Director (HR and Customer Support) may count such service at his discretion (Policy and Resources Cttee April 1998).
- (g) A severance payment will not be payable if the employee has had an additional period of service awarded under regulation 52 (power of employing authority to increase total membership) of the Local Government Pension Scheme Regulations ie. Augmented service (The LG Early Termination of Employment (Discretionary Compensation)(Eng & Wales) Regs 2006).
- (h) Severance payments will be recovered from any employee who commences alternative employment with any other employer within 4 weeks\* of the date of termination of the contract of employment. This includes employment with any other authority, person, firm or company or becoming self-employed.

**\*If the termination date is on Friday, Saturday or Sunday the 4 weeks begins on the following Monday(Policy and Resources Cttee July 1991)**

**Note:** This condition varies from the conditions relating to the take-up of alternative employment in respect of redundancy pay (see Section 4 (d) and (e)). It may be possible for an employee to retain an entitlement to redundancy pay but, depending upon the timing of an offer and nature of the alternative employment, become ineligible for Severance Pay.

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(i) Severance payments will only be made if, during the remaining period of employment with the Council, the employee:

- is reasonably willing, when requested, to transfer to and undertake other productive work of which they are capable
- continues to co-operate with management in the undertaking of their duties
- maintains a reasonable attendance and performance record
- remain in employment with the Council for the full period required by the Council (Policy and Resources Cttee July 1991)

Employees will be informed at the earliest opportunity if their conduct under any of these headings is likely to put their severance payment at risk.

## **7. Exceptional cases**

### **Non-Schools based employees**

Where the circumstances of a particular case justify a departure from these arrangements, the Deputy Director (HR and Customer Support) may vary the standard payment terms of enhanced severance. Overall payment will not exceed that permitted by legislation (Policy and Resources Cttee July 1991).

### **Schools based employees**

There may be exceptional cases where it would be in the interests of the Council to secure an early retirement, where the Teacher would only be able to accept a retirement if some enhancement were available, but the governing body is unable to meet the costs. In such exceptional circumstances Members reserve the power to make such a payment from the centrally retained budget (Education and Leisure Services Cttee Feb 1999).

## **8. Funding arrangements**

### **Non- Schools based employees**

Redundancy and severance costs will be fully funded from staffing budgets. If pension is also payable, staffing budgets are required to fund 50% of basic pension costs up to the age of 60 for Local Government Pension Scheme employees or the additional cost to the pension scheme of the pension being taken early for Teachers Pension Scheme employees.

### **Schools based employees**

Redundancy and severance costs will be fully funded by the school. If pension is also payable, the school will be required to fund 50% of basic pension costs up to the age of 60 for Local Government Pension Scheme employees or the additional cost to the pension scheme of the pension being taken early for Teachers Pension Scheme employees.

These funding arrangements apply unless the Council agrees to pay some or all of the costs e.g. if it was the Council's actions that led to the termination - such as through closing a school.

(For 50% funding Policy and Resources Cttee April 1998. TPS funding dictated by TPS. Council to pick up school's costs Education and Leisure Services Cttee Feb 1999).

## 9. Authorisation

General Purposes Committee are required to authorise redundancies and terminations on the grounds business efficiency for posts:

- subject to Member level appointment; or
- Head Teacher and Deputy Head Teacher (or equivalent level of post) in Schools

In all other non-school cases, delegation to agree to redundancy or termination on the grounds of business efficiency rests with the appropriate Designated Officer in consultation with the Director of Corporate and Customer Services.

In all other school cases, delegation to agree to redundancy or termination on the grounds of business efficiency rests with the Deputy Director (Schools & Educational Improvement).

(Non-Schools - Policy and Resources Cttee April 1998. Level of post delegated to Designated Officer adjusted since by Council's constitution. Schools - Education and Leisure Services Cttee Feb 1999 as amended by Council's constitution).

## Appendix A – Redundancy Payments Ready Reckoner

Age	Service (years)																			
	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
18*[1]	1																			
19	1	1½																		
20	1	1½	2																	
21	1	1½	2	2½																
22	1	1½	2	2½	3															
23	1½	2	2½	3	3½	4														
24	2	2½	3	3½	4	4½	5													
25	2	3	3½	4	4½	5	5½	6												
26	2	3	4	4½	5	5½	6	6½	7											
27	2	3	4	5	5½	6	6½	7	7½	8										
28	2	3	4	5	6	6½	7	7½	8	8½	9									
29	2	3	4	5	6	7	7½	8	8½	9	9½	10								
30	2	3	4	5	6	7	8	8½	9	9½	10	10½	11							
31	2	3	4	5	6	7	8	9	9½	10	10½	11	11½	12						
32	2	3	4	5	6	7	8	9	10	10½	11	11½	12	12½	13					
33	2	3	4	5	6	7	8	9	10	11	11½	12	12½	13	13½	14				
34	2	3	4	5	6	7	8	9	10	11	12	12½	13	13½	14	14½	15			
35	2	3	4	5	6	7	8	9	10	11	12	13	13½	14	14½	15	15½	16		
36	2	3	4	5	6	7	8	9	10	11	12	13	14	14½	15	15½	16	16½	17	
37	2	3	4	5	6	7	8	9	10	11	12	13	14	15	15½	16	16½	17	17½	18
38	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	16½	17	17½	18	18½
39	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	17½	18	18½	19
40	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	18½	19	19½
41	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	19½	20½
42	2½	3½	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½
43	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
44	3	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½
45	3	4½	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
46	3	4½	6	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½
47	3	4½	6	7½	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
48	3	4½	6	7½	9	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	24½
49	3	4½	6	7½	9	10½	12	13	14	15	16	17	18	19	20	21	22	23	24	25
50	3	4½	6	7½	9	10½	12	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	24½	25½
51	3	4½	6	7½	9	10½	12	13½	15	16	17	18	19	20	21	22	23	24	25	26
52	3	4½	6	7½	9	10½	12	13½	15	16½	17½	18½	19½	20½	21½	22½	23½	24½	25½	26½
53	3	4½	6	7½	9	10½	12	13½	15	16½	18	19	20	21	22	23	24	25	26	27
54	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	20½	21½	22½	23½	24½	25½	26½	27½
55	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22	23	24	25	26	27	28
56	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	23½	24½	25½	26½	27½	28½
57	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25	26	27	28	29
58	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	26½	27½	28½	29½
59	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28	29	30
60	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	29½	30½
61*[2]	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	30	31

18\* [1] - It is possible that an individual could start to build up continuous service before age 16, but this is likely to be rare, and therefore the table starts from age 18.

61\* [2] - The same figures should be used when calculating the redundancy payment for a person aged 61 and above.