

LGRJF

facilitating local government reorganisation

CIRCULAR LGRJF/11 – FEBRUARY 2015 **Revised RPA Staff Severance Scheme**

This circular supercedes Circular LGRJF/05 - April 2013.

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COVER LETTER TO: CIRCULAR LGRJF/11 – FEBRUARY 2015

To: Chief Executives of District Councils, ARC21, SWaMP 2008, North West Region Waste Management Group, Northern Ireland Housing Executive and the Local Government Staff Commission for NI

Cc: DoE Local Government Division, Public Service Commission

Dear Colleague

1. The attached revised Circular 'RPA Staff Severance Scheme for Local Government' (the RPA Scheme) has been agreed between the Employers' and Trade Union Side of the Local Government Reform Joint Forum (Joint Forum) and is recommended for adoption by councils.
2. This revised Circular replaces Circular LGRJF/05 issued in April 2013.
3. This RPA Scheme is based on the provisions of the Northern Ireland Executive's 5th Guiding Principle, as recommended by the Public Service Commission and is underpinned by the Local Government Reorganisation (Compensation for Loss of Employment) Regulations (NI) 2015 currently being progressed by the Department of the Environment.
4. The revisions take account of:
 - The provisions contained within Section 123 of the Local Government (NI) Act 2014
 - The provisions of the Local Government Pension Scheme Regulations (NI) 2015 which will take effect from April 2015

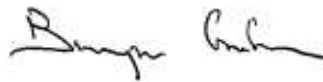
Other general revisions include:

- Deletion of the tapering provision and related reference to a 'Default Retirement Age'
- Deletion of reference to Transition Committees/Statutory Transition Committees
- Deletion of the requirement to use a Standard Approval Form
- Clarification that the calculation for the Statutory Redundancy Payment is based on a contractual week's pay

5. Guidance has been developed to assist employers with the interpretation and application of this Circular. The Guidance is available to download from the dedicated Local Government Reform Joint Forum webpage at <http://www.lgsc.org.uk/new-initiatives/local-government-reform-joint-forum/>
6. In the event that interpretation matters arise or clarification is necessary contact should in the first instance be made with the Independent Secretariat at Commission House on 028 9031 3200.



A KERR
LGSC



B GRAHAM
LGRJF TUS Lead



R WILSON
LGRJF Employers' Lead

04 FEBRUARY 2015

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**RPA STAFF SEVERANCE SCHEME
FOR LOCAL GOVERNMENT STAFF**

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RPA STAFF SEVERANCE SCHEME FOR LOCAL GOVERNMENT

1.0 SCOPE AND PURPOSE

- 1.1** This RPA Staff Severance Scheme for Local Government (the RPA Scheme) has been agreed between the Employers' and Trade Union Side of the Local Government Reform Joint Forum (the Joint Forum) and will apply to all local government staff under the scope of the Joint Forum, ie:
- 26 district councils (including Environmental Health and Building Control Group Committees)
 - arc21 and SWaMP 2008 and the North West Region Waste Management Group
 - staff in the 11 new councils
 - Northern Ireland Housing Executive
 - Local Government Staff Commission for Northern Ireland
 - Other appropriate bodies as the Joint Forum may determine.
- 1.2** The RPA Scheme is based on the provisions of the Northern Ireland Executive's 5th Guiding Principle as recommended by the Public Service Commission's '*Voluntary Severance Arrangements*' and represents the operationalisation of this Principle for the reform of the local government strand of RPA implementation.
- 1.3** The RPA Scheme will apply specifically in cases of both voluntary and compulsory redundancy (avoidance of compulsory redundancy is a necessary requirement to ensure the smooth transfer of staff to new organisations) which is linked exclusively to the reform of the local government strand of the RPA programme including Improvement Collaboration and Efficiency (ICE) implementation and will only apply to staff who are surplus under the new structures and who cannot be offered suitable alternative employment.
- 1.4** The RPA Scheme will only apply to situations where the termination meets the criteria of being in the financial and managerial interests of the service and organisational need, and it is anticipated that the RPA Scheme will have only minimal application.
- 1.5** New councils will be responsible for identifying and notifying those members of staff who have been approved to leave under the terms of the RPA Scheme. Decisions made in relation to non-RPA Severance after vesting day will be a matter for the new council.
- 1.6** No staff will be released before 01 April 2015 (vesting day) and payment will be made by the new councils.
- 1.7** The RPA Scheme will operate up to 31st December 2019, subject to monitoring by the Joint Forum.

1.8 This RPA Scheme also takes account of the provisions of:

1. Transfer of Undertakings (Protection of Employment) Regulations 2006
2. The Pensions (2008 No. 2 Act) (Commencement No. 9) Order (NI) 2012
3. Local Government Pension Scheme (NI) Regulations 2015
4. Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (NI) 2014
5. Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (NI) 2007 as amended
6. Employment Rights (Northern Ireland) Order 1996
7. Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order (Northern Ireland) 1999
8. NI Executive's Principles and Associated Recommendations as recommended by the Public Service Commission
9. The Local Government Act (Northern Ireland) 2014
10. Circular LGRJF/07 June 2014 Scheme of Transfer for Local Government Staff

The Local Government Act (NI) 2014, Section 123 requires the Department of the Environment to make regulations for the purpose of the payment of compensation for loss of office or diminution of emoluments.

The Department has indicated that this RPA Scheme will provide the basis for the Statutory Regulations, which are required under Section 123.

2.0 TERMS OF THE SCHEME

2.1 Entitlements

If, at the date of redundancy, you are:

- **aged under 55**
- **or aged over 55 but not a member of the Local Government Pension Scheme (NI) (LGPS (NI))**

You will be entitled to:

Option 1. An Enhanced Redundancy Payment

If you are under age 55 at the date of the redundancy and a member of the LGPS (NI), your benefits will be deferred to your normal retirement date.

If, at the date of redundancy, you are:

- **aged 55 or over and**
- **a member of the LGPS (NI)**

You will be entitled to:

Immediate Payment of Unreduced Pension Benefits, ie:

Members of the LGPS (NI) who are aged 55 or over at the date of redundancy are entitled to the immediate unreduced payment of their main LGPS (NI) benefits if made redundant or retired on the grounds of efficiency. The employer pays for this immediate release of unreduced benefits.

Plus the following options for enhancement of redundancy benefits by way of compensation:

Option 1. An Enhanced Redundancy Payment; **OR**

Option 2. A Statutory Redundancy Payment plus Additional Pension.

(see 2.5 below for details of these Options)

2.2 Payback Period

All the costs associated with the severance package must not exceed the individual's annual salary cost multiplied by **3.25**. This is the period during which the costs are recouped or paid back, ie:

– *Severance Package ÷ Individual's Total Annual Salary Cost = 3.25 or less*

Severance Package Costs are:

- Redundancy Payment, ie, Statutory and Enhanced if applicable
- Capital Cost, ie, cost paid to pension provider for Early Payment of Unreduced Pension
- Additional Pension, ie, cost paid to pension provider if Additional Pension is awarded

Individual's Total Annual Salary Cost, at the point of offer, are:

- Gross Annual Salary
- Employer's National Insurance Contributions
- Employer's Pension Contributions

Where an individual's costs do not fall within the 3.25 year payback period, a reduced Enhanced Redundancy Payment or reduced award of Additional Pension may be negotiated.

2.3 Other Conditions

It is intended that all payments made under the terms of this RPA Scheme will be based on the maximum possible (based on their entitlements) for the individual subject to the 3.25 payback period.

Selection decisions will be made on the basis of the information available at the time, any subsequent recalculation of benefits, etc resulting from, for example, the implementation of the outcomes of a Single Status Pay and Grading Review will not alter the original decision.

2.4 Qualification for Redundancy Payments

To qualify for a redundancy payment an individual must be entitled to a redundancy payment under the Employment Rights (Northern Ireland) Order 1996, ie, be employed by one of the bodies at 1.1 above and have two years' continuous service with that body or continuous previous service with an Employer to which the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order (Northern Ireland) 1999 applies.

For clarification, those who transfer and subsequently compete and are successful in obtaining a local government post which at a later point becomes surplus as a consequence of RPA will have an entitlement for the purposes of this RPA Scheme to have all of their service counted as reckonable service.

Any payment will be based upon the employee's contractual weekly rate of pay, as at the "calculation date" for the purpose of calculating a redundancy payment.

Any benefit in kind, eg, the value of a leased car; will not be taken into account when determining the amount of a week's pay.

2.5 Details of Options 1. & 2.

OPTION 1. ENHANCED REDUNDANCY PAYMENT

An **Enhanced Redundancy Payment** is made up of two elements:

- i. Statutory Redundancy Payment as detailed in the Employment Rights (Northern Ireland) Order 1996

Plus

- ii. A Compensation Payment.

The Enhanced Redundancy Payment will be calculated as follows:

- i. The Statutory Redundancy Payment (based on a contractual week's pay) is calculated in accordance with the Employment Rights (Northern Ireland) Order 1996. A copy of a **Ready Reckoner** for calculating the number of weeks' pay due is attached as **Appendix 1**.
- ii. The Compensation Payment is calculated by applying a multiplier of **3.46** to the calculated Statutory Redundancy Payment (based on a contractual weeks' pay) to give the overall Enhanced Redundancy Payment, ie:
 - *Statutory Redundancy entitlement (comprising the number of weeks' pay due x contractual weekly rate of pay) = Statutory Redundancy Payment*
 - *Statutory Redundancy Payment (based on a contractual week's pay) x 3.46 = Overall Enhanced Redundancy Payment*
 - *Overall Enhanced Redundancy Payment - Statutory Redundancy Payment = Compensation Payment*

Note: The Enhanced Redundancy Payment is **inclusive** of the Statutory Redundancy Payment (i.e. an employee **will not receive both** an Enhanced Redundancy and a Statutory Redundancy Payment).

The Enhanced Redundancy Payment is subject to an overall **maximum of 104 weeks' pay** in total.

Converting the Compensation Payment into Additional Pension

Employees who receive an Enhanced Redundancy Payment on being made redundant and who are members of the LGPS (NI) will be given the option, before their termination date, of advising their employer that they wish to be awarded an additional amount of annual pension that is actuarially equivalent to the Compensation Payment that the employer would otherwise have made. The choice to be awarded annual pension must be exercised before the termination date.

An employer cannot split the Compensation Payment and award part as Additional Pension (up to the limit provided for under the LGPS (NI) 2015) and the balance as a lump sum Compensation Payment. An employer can only convert all (other than the statutory redundancy payment) or nothing.

The Additional Pension is for the member alone, ie, it does not enhance any dependants' benefits and may be actuarially reduced if drawn before normal pension age (the date at which the member would be entitled to receive their state pension).

Payback Period

All the costs associated with the Enhanced Redundancy Payment must not exceed the individual's annual salary cost multiplied by **3.25**. (see 2.2 above)

Where an individual's costs do not fall within the 3.25 year payback period, a reduced Enhanced Redundancy Payment may be negotiated.

OPTION 2. STATUTORY REDUNDANCY PAYMENT + ADDITIONAL PENSION

This Option is only available to those who are members of the LGPS (NI) who are aged 55 or over at the date of redundancy and includes **Immediate Payment of Unreduced Pension Benefits, ie:**

Members of the LGPS (NI) who are aged 55 or over at the date of redundancy are entitled to the immediate unreduced payment of their LGPS (NI) benefits if made redundant or retired on the grounds of efficiency.

Statutory Redundancy Payment

Members choosing this Option will also receive a Statutory Redundancy Payment (based on a contractual week's pay) calculated in accordance with the Employment Rights (Northern Ireland) Order 1996 as detailed in Option 1 above.

Additional Pension

In addition to Immediate Payment of Unreduced Pension Benefits and a Statutory Redundancy Payment, an award of Additional Pension as allowed for under the LGPS (NI) Scheme, will be made at the leaving date, as an alternative to receiving the Enhanced Redundancy Payment as outlined at Option 1 above.

Employers will request an illustration of an individual's potential benefits relating to Additional Pension from the pension administrator NILGOSC and will discuss this with individuals. It is intended that all payments made under the terms of this RPA Scheme will be based on the maximum possible for the individual (based on their entitlements) subject to the 3.25 payback period.

An employer may award Additional Pension up to a maximum provided for in the LGPS (NI) 2015, per year. The Additional Pension is for the member alone, ie, it does not enhance dependants' benefits.

Payback Period

All the costs associated with the Severance Package must not exceed the individual's annual salary cost multiplied by **3.25**. (see 2.2 above)

Where an individual's costs do not fall within the 3.25 year payback period, a reduced amount of Additional Pension, may be negotiated.

2.6 Calculation of Pension Benefits

Employers will request an illustration of an individual's benefits from the pension administrator NILGOSC.

2.7 Making a Choice

Any offer of a redundancy payment made to individuals must meet the conditions and criteria within this RPA Scheme. Where these are satisfied the individual will normally be given the choice of Option where applicable.

Whilst information will be made available to individuals to enable them to make decisions, it will be a decision for the employee, as to what they choose and it will be their responsibility to take appropriate independent advice as to the merits of their choice.

Whichever Option is chosen once a payment has been made the decision cannot be reversed.

2.8 Consideration of Applications for a Severance Payment

In **all** circumstances, a financial case for the payment of severance must be made by the appropriate employing council.

2.9 Criteria for Consideration of Applications

Consideration will be given in cases where there is a surplus of staff under the new structures who cannot all be offered suitable alternative employment and where a voluntary redundancy will avoid the need for compulsory redundancy in the particular group of surplus staff.

In these circumstances the following criteria will be applied:

- Least cost first whilst ensuring that essential skills and expertise are maintained.
- Prioritisation of requests will be based on available finance and the level of savings which will be delivered.
- All other relevant options have been considered including the potential for redeployment/retraining.

3.0 MONITORING THE POLICY

The impact of this policy will be monitored by the Joint Forum and any subsequent changes required will be consulted upon in the normal way.

Any disputes about the interpretation of the provisions of this RPA Scheme will be considered by the Joint Forum who will be the final arbiters.

APPENDIX 1

READY RECKONER TABLE FOR STATUTORY REDUNDANCY PAY

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

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 we have started the table at age 18.

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

This table is an extract from booklet *ER3 Redundancy Entitlement Statutory Rights* published by the Department for Employment and Learning - www.delni.gov.uk/erpublications