**Hugh Joicey CE Aided First School**

**Redundancy and Early Retirement Scheme for Teachers and Support Staff - 2013/14**

### Section A - General

**A1 Purpose**

This whole school policy sets out the arrangements that the governing body will use to decide termination payments for staff arising from redundancy or efficiency of the service and applications for early retirement. It includes all areas where it has discretion to make these decisions for teachers and support staff.

The policy applies in all cases where employment is terminated during the period **1 April 2013** to **31 March 2014**.

The governing body will publish its agreed scheme no later than 1 March 2013 and will lodge a copy with its HR and payroll provider(s) no later than 31 March 2013.

**A2 Policy Statement**

In formulating and reviewing this policy the governing body has regard to the extent to which the exercise of their discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service and will ensure it is satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

**A3 Principles**

This policy takes account of and will be operated to comply with:

* Section 37 of the Education Act 2002 which sets out the statutory powers of the governing body of maintained schools and the local authority in respect of termination payments;
* the Teachers’ (Compensation for Redundancy and Premature Retirement) Regulations 1997 and the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006;
* the Equality Act 2010 to ensure that there is no unlawful discrimination in relation to the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation;
* the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 to ensure that there is no discrimination on the grounds of part-time working; and
* the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 to ensure that there is no discrimination due to the fixed-term nature of the contract of employment.

**A4 Roles and responsibilities**

**Governing body:**

* The governing body is responsible for deciding, where it has discretion to do so, whether to award financial compensation to an employee under this policy and the amount of that compensation.
* Decisions about payments as a consequence of a redundancy process will be fully delegated by the governing body to the hearing body established for the purpose of managing the process under the school’s Redundancy Procedure.
* Decisions about payments in all other cases will be fully delegated by the governing body to the school’s Joint Staffing and finance Committee.

**Local authority**

* The local authority is responsible for compensating employees in maintained schools who are awarded payments when leaving service on the grounds of redundancy or efficiency, other than when staff are employed under community powers as such payments have to be met from that specific budget, unless it has good reason not to meet these costs. The reasons why the local authority will not meet termination of employment costs are set out in the Scheme for Financing Schools. The scheme has the practical effect that in the vast majority of cases maintained schools should expect to meet these costs from their delegated budget share, although the local authority retains sole discretion to meet costs from its own budget even where such reasons apply. Schools should enter into discussions with the local authority at an early stage in the process if they wish to seek funding to meet termination of employment costs and agreement will only be valid if confirmed by the local authority in writing.
* Formal approval is required from local authority officers in Children’s Services, Finance and HR in all cases in order to release payments on the grounds of redundancy or efficiency of the service, which should be obtained before the employee is issued with notice. The role of the officers is to ensure that the proposed termination of employment is for genuine reasons to justify the use of public funds for this purpose and decide whether the costs in whole or in part will be met from the local authority’s budget, the school’s budget share or the school’s community powers budget.
* In cases where delegation of the budget has been withdrawn from the governing body, the local authority will make decisions within scope of this policy.

**Employee:**

* Where relevant, the employee is responsible for liaising with their pension provider regarding the options available to them and seeking independent financial advice about those options.

A5 Confidentiality and record keeping

Under the Freedom of Information Act 2000 the governing body will publish this policy through its scheme of publication.

Termination payments are a confidential matter between the governing body and the individual employee. The headteacher, the clerk to the governing body, the Chair of Governors and the school’s HR and payroll provider need to be aware of such payments in order to perform their duties, but appropriate details will be kept strictly confidential.

The hearing body or committee will ensure that decisions about payments made under this policy are confidential. They will report their decisions to the full governing body as a confidential item without discussion. The confidential matters referred to in such minutes shall only be revealed to persons who require access as part of their official duties.

Records of decisions will be retained by the governing body for a minimum period of 6 years. All staff will be granted reasonable access to their own records.

A6 Complaints

Any complaint by an employee regarding the application of this policy to their own situation will be heard in the first instance by the committee who made the decision (for example, the hearing body at the representations meeting under the Redundancy Procedure). If the complaint does not concern the application of this policy within the context of another HR procedure with its own arrangements for hearings, the Procedures for Conducting Hearings and Appeals will apply.

The Procedures for Conducting Hearings and Appeals will apply to all appeals regarding the application of this policy.

A7 Monitoring and review

The governing body will monitor its application of this policy, particularly to ensure that its practices are fair and do not discriminate unlawfully.

The governing body will review this policy every year with effect from 1 April. It will seek to agree any revisions with recognised trade unions after consultation with all staff. This consultation will be usually be arranged by circulating a draft policy to all school staff and seeking written comments.

For the avoidance of doubt, this scheme is not contractual, and the governing body may vary the discretionary terms of the scheme from time to time, subject to the requirement that the scheme cannot come into effect until one month has elapsed following the publication of the amended policy.

Statutory regulations and guidance will take precedence in the event of any inadvertent contradictions with this policy.

**Section B – Payments for teachers and support staff in cases of redundancy**

Such payments arise where the termination of employment is as a result of the governing body conducting an exercise to reduce its staffing establishment under its Redundancy Procedure on the grounds that the work the employee undertakes is ceasing or diminishing and the school (or any other body covered by the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999) does not intend to re-employ the employee.

**B1 Redundancy/Severance Payment**

**B1.1 Service requirement**

Redundancy payments will be made on the basis of continuous local government service to all eligible teachers and support staff. Employees with a minimum of two years of continuous local government service at their dismissal date, including all organisations covered by the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999, as amended plus any other service transferred in under a Statutory Transfer Order (STO) or the Transfer of Undertakings (Protection of Employment) Regulations, are eligible to receive a payment when they are dismissed for the reason of redundancy. An exception to this requirement is made for an employee who has had a break in service for maternity or reasons concerned with caring for children or other dependents. Previous service will be taken into account providing that the break in service does not exceed eight years and no permanent paid full time employment has intervened (and no redundancy/ severance payment has been made in respect of previous service).

**B1.2 Calculation of redundancy/severance payment for teachers**

The governing body has set a discretionary redundancy payment scheme for permanent and fixed-term employees that includes the statutory redundancy payment payable, which is:

* the statutory redundancy payment table provided in Appendix 1, which awards a maximum of 30 weeks’ pay;

multiplied by

* an employee’s actual contractual weekly pay calculated according to the guidance set out in Appendix 2 at the relevant date for the purpose of calculating a redundancy payment.

**B1.3 Calculation of redundancy/severance payment for support staff**

The governing body has set a discretionary redundancy payment scheme for permanent and fixed-term employees that includes the statutory redundancy payment payable, which is:

* the statutory redundancy payment table provided in Appendix 1, which awards a maximum of 30 weeks’ pay;

multiplied by

* an employee’s actual contractual weekly pay calculated according to the guidance set out in Appendix 2 at the relevant date for the purpose of calculating a redundancy payment.

**B2 Release of pension for members of Teachers’ Pension Scheme**

B2.1 The governing body will not use its discretion to release pension to eligible teachers under the premature retirement arrangements that apply to dismissal on the grounds of redundancy within the Teachers’ Pension Scheme.

**B3 Release of pension for members of Local Government Pension Scheme**

B3.1 It is mandatory that the governing body releases pension to eligible members of the Local Government Pension Scheme who are aged 55 or over at their leaving date and their contract ends for the reason of redundancy.

B3.2 This will incur a “strain on the fund” cost from the Northumberland Pension Fund for early release of pension if the employee’s leaving date is before they reach normal pensionable age.

B3.3 The governing body will not grant augmented membership to LGPS members entitled to early retirement.

**B4 Payback period for voluntary redundancy**

B4.1 When considering applications for voluntary redundancy and having first considered whether the case is in its operational/managerial interests, the hearing body will consider that the case could be in its financial interests if the costs incurred will be recouped by savings within a one-year period. However it retains its sole discretion to:

* agree exceptions to this payback period where approving the case is judged to be in the overall interests of the school (for example, to avoid a compulsory redundancy situation); or
* refuse the application if the costs incurred for the volunteer could be substantially higher than if compulsory redundancies were made.

**Section C - Payments for teachers and support staff in cases of efficiency of the service**

Such payments arise where the termination of employment is considered to be in the financial and operational/managerial interests of the governing body andthe school does not intend to re-employ the employee in any capacity, although the work they undertake is not ceasing or diminishing.

**C1 Discretionary lump sum compensation payment**

**C1.1 Service requirement**

Such payments will be made on the basis of continuous local government service to all eligible teachers and support staff. Employees with a minimum of two years of continuous local government service at their dismissal date, including all organisations covered by the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) Order 1999, as amended plus any other service transferred in under a Statutory Transfer Order (STO) or the Transfer of Undertakings (Protection of Employment) Regulations, are eligible to receive a payment when they are dismissed for “some other substantial reason” on the grounds of efficiency. An exception to this requirement is made for an employee who has had a break in service for maternity or reasons concerned with caring for children or other dependents. Previous service will be taken into account providing that the break in service does not exceed eight years and no permanent paid full time employment has intervened (and no redundancy payment has been made in respect of previous service).

**C1.2 Calculation of severance payment for teachers**

The governing body has set a discretionary lump sum compensation payment scheme for permanent and fixed-term employees that applies only when pension release is not granted under C2:

* the statutory redundancy payment table provided in Appendix 1, which awards a maximum of 30 weeks’ pay;

multiplied by

* an employee’s actual contractual weekly pay calculated according to the guidance set out in Appendix 2 at the relevant date for the purpose of calculating a redundancy payment.

**C1.3 Calculation of severance payment for support staff**

The governing body has set a discretionary lump sum compensation payment scheme for permanent and fixed-term employees that applies only when pension release is not granted under C3:

* the statutory redundancy payment table provided in Appendix 1, which awards a maximum of 30 weeks’ pay;

multiplied by

* an employee’s actual contractual weekly pay calculated according to the guidance set out in Appendix 2 at the relevant date for the purpose of calculating a redundancy payment.

**C2 Release of pension for members of Teachers’ Pension Scheme**

C2.1 The governing body will not use its discretion to release pension to eligible teachers under the premature retirement arrangements that apply to dismissal on the grounds of organisational efficiency within the Teachers’ Pension Scheme.

**C3 Release of pension for members of Local Government Pension Scheme**

C3.1 It is mandatory that the governing body releases pension to eligible members of the Local Government Pension Scheme who are aged 55 or over at their leaving date and are dismissed for the reason of efficiency of the service.

C3.2 This will incur a “strain on the fund” cost from the Northumberland Pension Fund for early release of pension if the employee’s leaving date is before they reach normal pensionable age.

C3.3 The governing body will not grant augmented membership to LGPS members entitled to early retirement.

**C4 Payback period**

Having first considered whether the case is in its operational/managerial interests, the governing body will consider that the case is in its financial interests if the costs incurred will be recouped by savings within a two-year period. However, it retains its sole discretion to agree exceptions to this payback period where approving the case is judged to be in the overall interests of the school.

**Section D - Applications from current members of the Local Government Pension Scheme under the “rule of 85” (i.e. where age and pensionable service add up to 85)**

D1 The relevant committee will not operate an early retirement scheme in relation to employee requests to be granted early retirement under the “rule of 85”.

D2 It will however still retain the right to consider such applications under the statutory provisions contained within the Local Government Pension Scheme Regulations. Where actuarial reductions would apply to the person’s pension benefits, the committee may consider waiving those reductions where it believes that there are compelling compassionate grounds for doing so. This will incur a “strain on the fund” cost from the Northumberland Pension Fund for early release of pension if the employee’s leaving date is before they reach normal pensionable age. Costs arising from such decisions will be met from the school’s budget.

D3 The governing body will not award augmented membership or provide a severance payment in “rule of 85” cases.

D4 The committee may exercise its discretion to approve an application only where the early retirement is in the financial and operational/managerial interests of the governing body. Having first considered whether the case is in its operational/managerial interests, the committee will consider that the case is in its financial interests if any costs incurred will be recouped by savings within a two-year period. However, it retains its sole discretion to agree exceptions to this payback period where approving the case is judged to be in the overall interests of the school.

**Section E - Applications from deferred members of the Local Government Pension Scheme members for early release of benefits**

E1 Where a deferred beneficiary requests the early release of their benefits, the relevant committee may consider granting their request only where it believes that there are compelling compassionate grounds for so doing. The committee may further determine that any actuarial reductions should not be applied to the pension benefits where the nature of the case warrants the exercise of this further discretion e.g. where the person is suffering considerable hardship or there are other material factors. Costs arising from such decisions will be met from the school’s budget.

**Section F - Applications from current members of the Teachers’ Pension Scheme to access Actuarially Adjusted Benefits (AAB)**

F1These cases arise when an eligible TPS member applies to leave employment before their normal pensionable age to access a lower lump sum and pension than would have been awarded. The reduction applies for the lifetime of the benefits, not just until normal pensionable age is reached.

F2 The governing body will not incur any costs in approving an application for AAB, however it is entitled to delay the employee’s leaving date for up to six months from the date on which the member requests their pension benefits.

F3 The governing body notes that it is not possible for an in-service member to take a “token break” in employment in order to become entitled to AAB in the Teachers’ Pension Scheme. In addition to other qualifying conditions, access to AAB requires that there is an actual break in employment of at least one day **and** that any future employment is no longer pensionable (known as “excluded employment”). If the individual is to be re-employed, this should be under a new contract of employment. Where a person is subsequently re-employed by the same employer, there should be a new contract with an expectation that the person would move to a different or changed role. If the person returns to substantively the same post, that should result from an openly competitive recruitment process.

F4 These rules do not apply to scheme members who attain normal pensionable age. They can become entitled to age benefits that are not actuarially adjusted if they opt out of the scheme on or after NPA and enter “excluded employment”. The age benefits payable are a retirement lump sum (if applicable) and pension, although the pension with stop immediately, or at any point during the tax year depending on the amount of re-employment earnings under the scheme’s abatement provisions.

**Section G – Salary restriction for members of the Teachers’ Pension Scheme**

G1 In certain circumstances the salary used to calculate annual pension and lump sum upon retirement will be restricted. This may apply to the award of retirement benefits under the rules for age retirement, actuarially adjusted benefits (Section F of this scheme), premature retirement (Sections B and C of this scheme) or phased retirement. It does not apply to ill health retirement.

G2 Where it applies, the regulation requires that the growth in salary in the last 3 years prior to retirement is reviewed to make sure that the increase, year on year, does not exceed the greater of 10% or £5,400 (this figure is reviewed annually). If it does, the average salary used in the calculation of benefits will be restricted unless the employer decides to purchase additional pension, up to the maximum allowed, within six months of leaving pensionable employment.

G3 It is the policy of the governing body to consider on a case-by-case basis exercising its discretion to purchase additional pension from its delegated budget share in circumstances where this regulation applies.

|  |  |  |  |
| --- | --- | --- | --- |
| **Revision Record of Issued Versions** | | | |
| Author | Creation Date | Version | Status |
| Northumberland HR for Schools (SH) | 3 December 2012 | 1.0 | Final version. |
|  |  |  |  |
| Changed by | Revision Date |  |  |
| School | 28 January 2013 | 2.0 | Draft adapted version for consultation with staff and trade unions |
| School | 28 February 2013 | 3.0 | Final version for publication |

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**Appendix 1 – Statutory redundancy payment table**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Complete years of continuous local government service at date of leaving** | | | | | | | | | | | | | | | | | | | |
|  | **2** | **3** | **4** | **5** | **6** | **7** | **8** | **9** | **10** | **11** | **12** | **13** | **14** | **15** | **16** | **17** | **18** | **19** | **20** |
| **Age** |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| **17** | 1 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| **18** | 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+** | 3 | 4½ | 6 | 7½ | 9 | 10½ | 12 | 13½ | 15 | 16½ | 18 | 19½ | 21 | 22½ | 24 | 25½ | 27 | 28½ | 30 |

Appendix 2 – Calculation of a week’s pay for redundancy purposes

The calculation of a week’s pay for redundancy purposes is set out in statute within the Employment Rights Act 1996 and specifies the required calculation date.

<http://www.legislation.gov.uk/ukpga/1996/18/part/XIV/chapter/II>

This guidance sets out this applies to employees with different contractual arrangements.

**1 Employee with normal working hours that do not vary with the amount of work done**

A week’s pay will be the pay that the employee is contractually entitled to for working their normal working hours:

Actual annual salary divided by 52.1428

Notes: Casual overtime is not included in normal working hours. Where a contract provides that an employee will be paid a premium for working more than their fixed number of hours, the normal working hours will be those fixed number of hours. However, where an employee is required to work a fixed number of hours, but some of those are paid at premium rates, the employee’s normal working hours will be those fixed number of hours and therefore, in these cases, the premium will be included. This has been interpreted to mean that hours beyond the standard working week will not be counted as normal working hours unless it is guaranteed by the employer and the employee is contractually obliged to work it.

**2 Employee with normal working hours but pay varies with the amount of work done**

**A Part year employee with equated salary e.g. term-time, term-time + 5 training days**

The Employment Appeal Tribunal in Gilbert & Otrs v Barnsley MBC (unreported), as set out in LGE Advisory Bulletin 460, held that the amount of pay did vary with the amount of work done as the equated salary was for administrative convenience only. This case established that the actual annual salary should be divided by the number of weeks actually worked in the year (including paid annual leave and bank holidays), rather than 52.1428:

Actual annual salary divided by weeks worked including paid holidays e.g. employee working 195 days with less than 5 years’ service = 44.8 weeks paid (i.e. 195/227 x 52.1428); employee working 195 days with 5 years’ service or more = 45.8 weeks paid (i.e. 195/222 x 52.1428). Examples of weeks paid are:

|  |  |  |
| --- | --- | --- |
| **Number of days worked** | **Length of service** | **Weeks paid** |
| 190 | Less than 5 years | 43.6 |
| 190 | 5 years or more | 44.6 |
| 195 | Less than 5 years | 44.8 |
| 195 | 5 years or more | 45.8 |
| 200 | Less than 5 years | 46.0 |
| 200 | 5 years or more | 47.0 |

**B** **Employee paid according to the amount of work done**

Average hourly rate x normal weekly working hours

where average hourly rate = total pay for hours worked

total hours worked

in the last 12 complete weeks before the calculation date.

Any overtime calculated is counted in total hours worked. The pay received for the overtime is counted in total pay as if it had been worked during normal working hours i.e. any premium paid is excluded.

If in any of those individual weeks no work was done for which remuneration was payable, then those non-working weeks are disregarded and pay received in earlier weeks will be included in the calculation so that there are 12 weeks where pay has been received.

**C Employee whose pay varies with the time of the work e.g. the employee receives a premium rate for working outside the standard working day and therefore a week’s pay varies depending on what hours are worked**

Average hourly rate x average number of normal weekly working hours

where Average hourly rate = total pay for hours worked

total hours worked

and Average number of weekly hours = total number of normal working hours/12

in the last 12 complete weeks before the calculation date.

Any premium for working more than the standard working week is counted in total hours worked. The pay received for the additional work is counted in total pay as if it had been worked during normal working hours i.e. any premium paid is excluded. Premiums for working outside the standard working day are also included in the calculation.

If in any of those individual weeks no work was done for which remuneration was payable, then those non-working weeks are disregarded and pay received in earlier weeks will be included in the calculation so that there are 12 weeks where pay has been received.

**3 Employee with no normal working hours**

If an employee does not have normal working hours then a week’s pay is the average weekly remuneration in the last 12 complete weeks before the calculation date.

Overtime payments including premiums are included in the calculation.

If in any of those individual weeks no work was done for which remuneration was payable, then those non-working weeks are disregarded and pay received in earlier weeks will be included in the calculation so that there are 12 weeks where pay has been received.