



Voluntary Severance/ Early Retirement Policy (VS/ER)

Voluntary Severance/Early Retirement Policy

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Presented to Council 12 February 2019

VOLUNTARY SEVERANCE/ EARLY RETIREMENT POLICY

1. Introduction

Like all public sector organisations, Midlothian Council faces significant financial pressures. This Voluntary Severance/Early Retirement (VS/ER) Policy is a strand of the Council's Policy for Managing Change (and teachers equivalent) and is one of the mechanisms used to help reshape the workforce and facilitate organisational changes that are required as a result of these financial pressures.

2. Aims

The Voluntary Severance/Early Retirement Policy has been designed to:

- Help avoid compulsory redundancies;
- Realise reductions in the budgeted staffing establishment;
- Align with the Council's Workforce Strategy and help facilitate service reviews;
- Ensure that VS/ER cases are treated fairly and are considered equitably against a set of appropriate criteria.

3. Scope

The Policy applies to all permanent employees of Midlothian Council with the exception of:

- Employees who have already resigned/given notice of a specified date for retirement;
- Employees who have already reached State Pension Age as defined by The Pensions Act 2014 (note this exclusion does not affect employees' statutory redundancy rights);
- Employees who are currently subject to formal procedures which may result in their dismissal (Managers must agree any such exclusions with HR).

For the purposes of this Policy, an employee on a fixed term contract is deemed permanent if they have four or more years' continuous service with Midlothian Council.

Only where the business case requirements have been met and a permanent recurrent financial saving is expected to be generated from an employee's departure, may a VS/ER offer be made and subsequently approved (see section 7 for further details).

Where an employee is in a redundancy situation and they either do not meet the requirements of this VS/ER policy or do not accept the VS/ER offer then they would be served notice of redundancy and leave the Council on statutory redundancy terms. This means that for those earning less than the statutory maximum amount a week's pay will reflect the lower figure of their actual contractual weekly earnings.

This policy refers to a figure of £508, which is the statutory redundancy amount for a maximum week's pay effective from 6 April 2018*. Whilst the statutory redundancy amount will change (normally each April) the £508 referred to in this report will not be updated when calculating voluntary severance payments.

Details on statutory redundancy entitlements can be found at:

<https://www.gov.uk/staff-redundant/redundancy-pay>

4. Employees in a Redundancy Situation

Where an employee finds themselves at risk of redundancy, and there is little or no prospect of finding suitable alternative employment, then an employee may be offered VS/ER as an alternative to statutory redundancy.

For the purposes of VS/ER there are two categories of employee determined by (a) the employee's age and (b) whether or not they are a member of the Lothian Pension Fund/Scottish Teachers Superannuation Scheme:

- a) For an employee who is either not in one of the two pension schemes noted above, OR has not already accessed their Local Government or Teacher's Scheme pension OR is unable to access their pension yet due to scheme rules, then a Voluntary Severance payment which is the greater of the actual weekly wage or £508 per week (pro rata to hours where part time) is payable;
- b) For an employee who is able to, or has already accessed their Local Government or Teacher's Scheme pension, a voluntary severance payment based on £508 per week (pro rata to hours where part time) is payable together with immediate access to pension where appropriate. The pension will include the payment of a lump sum retirement amount **and** an annual pension.

The Severance Calculator (detailed at Appendix 1) is used to determine the number of weeks' pay on which the voluntary severance payment is based. It provides for a maximum of 30 weeks' severance payment. In both cases above, the applicable weekly earnings figure is multiplied on the basis of the Severance Calculator.

5. Other Situations Where VS/ER May be Applicable

From time to time, the Council may decide to offer VS/ER to specific groups of staff in order to achieve workforce reductions. This may be at the commencement of a service review, at the discretion of the Head of Service or applied more widely as a VS/ER Scheme subject to approval by Council to do so. The terms would be the same as those set out in Section 4 and the decision making as set out in Section 7.

In addition an employee can at any time apply to their Head of Service (preferably after having had a discussion with their line manager) setting out a justification for them to leave through VS/ER. The terms would be the same as those set out in in Section 4 and the decision making remains as set out in Section 7.

6. Enhancement to Redundancy Pay (Statutory versus Voluntary VS/ER)

In comparison to VS/ER a statutory redundancy payment would be calculated on an employee's contractual weekly wage up to a maximum weekly of £508. (Dependant on the individual's circumstances they may also receive immediate access to their pension benefits.

The voluntary VS/ER scheme therefore represents an enhancement on statutory redundancy terms as follows:-

Earnings status	Pension scheme member	Amount to be used
earning less than £508 per week	no/yes	£508
earning greater than £508 per week	yes	£508
earning greater than £508 per week	no	weekly wage

Once VS/ER is approved, the employee will be informed of their leaving date which will take into account the relevant contractual notice period or result in a payment in lieu of notice.

Employee can request an earlier leaving date but in these circumstances there would be no payment made in lieu of notice.

7. Decision Making

All VS/ER cases will be considered by the relevant Head of Service, and require the approval of the Chief Executive, relevant Director and Head of Finance and Integrated Service Support.

Proposals regarding VS/ER arrangements for Chief Officers (The Chief Executive and Directors) will require Council approval. Proposals regarding Heads of Service will be subject to Cabinet approval. These arrangements are consistent with the authorisation levels for appointments to these posts as set out in the Council's Standing Orders.

In considering VS/ER cases consideration will be given to the following:

- **Business Need:** for example, the post can be deleted in full or in part from the establishment, or the VS/ER allows for another post elsewhere in the Council to be deleted through the redeployment of another employee to the post from which the VS/ER applicant vacates. The reduction in the establishment reflects the service workforce plans and cannot be delivered through alternative changes, for example reducing reliance on employees with fixed term contracts.
- **Affordability:** the cost of the VS/ER is cost-efficient, i.e. it results in a recurrent saving.

Therefore a financial assessment will be carried out for each case in order to:

- Identify the actual costs (including pension strain costs);
- Determine if these costs are affordable and can be met;
- Establish the financial and service benefits;
- Establish the risks associated with the changes and document how these will be adequately mitigated;
- Ensure that this is the most appropriate means to secure changes in the service workforce;
- Ensure that the payback of the cost is assessed and is considered affordable, and is assessed against the cost which would be incurred in a compulsory redundancy situation. The aim will be to minimise the payback period with the majority of VS/ER approvals delivering a payback of less than two years.

The costs will normally be met from reserves earmarked for this purpose or other resources as applicable and an appropriate budget adjustment made to reduce the service budget permanently.

The approval of the VS/ER will also result in a permanent change in the staffing establishment.

8. Multiple Contracts

For employees who have more than one contract VS/ER will usually cover all contracts with the result that the employee will leave the Council entirely. Exceptions can be considered for situations where the contracts are for different roles which do not require the same skill set nor are in the same area.

For example a Facilities Assistant who has two contracts, working in different buildings would be offered VS/ER for both contracts. Whereas a Support Assistant who is also a Sports Instructor may only be offered VS/ER for their Support Assistant contract.

Where an employee with multiple contracts is displaced from only one of these then they would still be entitled to the appropriate statutory redundancy terms for that contract.

In cases where multiple contracts exist Service Managers should seek advice from HR on the appropriate treatment.

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Where employees are offered VS/ER or where statutory redundancy will apply to one, but not all contracts, each contract will be treated entirely separately, so that any redundancy calculation will be based on the length of service of the contract from which the employee is being made redundant.

9. Restrictions on Re-employment

Any employee who elects for VS/ER or who receives a statutory redundancy payment will not normally be re-employed in a similar capacity i.e. a role requiring the same skill set or working in the same area as the original post by Midlothian Council for a minimum period of twelve months from the date of termination of employment. Any employee considering a return to a different role within the twelve month period is advised to discuss re-employment with the Recruiting Manager or a member of HR Services.

As part of the VS/ER offer, employees may be required to commit to work a maximum of four separate days over a maximum of a three month period after leaving to assist with business continuity and transition. Where this applies it will be set out as part of the VS/ER offer and will be paid at a daily rate equivalent to the salary scale/point for the role the employee left.

Despite the restrictions noted above, should an employee secure further employment with the Council within four weeks of their employment ending through VS/ER or statutory redundancy, all payments arising from the termination must be repaid if the employee wishes to retain continuity of employment. This protects employees' service for annual leave, sick pay entitlement and any future redundancy provision.

Employees should also take cognisance of The Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 when considering VS/ER, or statutory redundancy terms and future employment. In summary, the provisions of the order are that if an employee who is under notice of redundancy receives an offer of a job from another Modification Order body before the termination of his or her employment and takes it up within 4 weeks of the end of the old employment, there will be no dismissal for redundancy payment purposes and as such termination payments may be withheld or liable to be repaid. If an employee is considering future employment when leaving under VS/ER or statutory redundancy terms he/she should take independent advice on the potential impact of the Modification Order.

10. Withdrawal of Offer

An employee who has accepted an offer of VS/ER will continue to be bound by the employment terms and conditions of Midlothian Council. Consequently there is an express requirement that they continue to meet all the standards required by the performance framework, the Code of Conduct and the standards of any professional body applicable to their employment

e.g. SSSC. Any failure to do so may result in the offer of VS/ER being withdrawn.

11. Appeal

There will be no right of appeal or recourse to the Resolution Procedure for local government workers or the Grievance Procedure – Teachers against a decision not to approve VS/ER under this Policy. Employee's rights of appeal in respect of statutory redundancy situations will be set out separately in the required redundancy notifications.

12. Review & Publication of Policies

This document shall be available to all staff through the corporate and schools intranet.

The Policy shall be reviewed from time to time to ensure best practice and continued compliance with legislation.

Voluntary Severance/Early Retirement Policy

Name of Document	VS/ER Policy
Author	HR Services
Policy Ownership	Head of Finance & ISS
Unit Responsible	HR Services
Approved by and date	Council 12 February 2019
Assigned Review Period	
Date of Next Review	
Policy Lead	Head of Finance and Integrated Service Support

Version	Version date	Authorised Officer	Amendment Details
1.1	08/05/2018	GF	-
2.1	12/02/2019	GF	Change to Enhancement

Appendix 1

Severance Calculator

Service (Years)	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
Age																				
18	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	
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*[1]	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	30	

61* [1] – The same figures should be used when calculating the redundancy payment for a person aged 61 and above