

Thurrock Council
Termination of Employment Policy

Version Control

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Amendment Record

Version No.	Date	Summary
1.02	1 July 2014	LGPS 2014 scheme impact
1.03	2 July 2018	Details of termination of a fixed term contract added and notice periods updated
1.04	10 April 2019	Updated notice periods and details of submitting a resignation in line with oracle cloud.
1.05	August 2020	Updated approval requirements for sign off of business cases

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1. Policy statement

- 1.1 This policy outlines Thurrock Council's approach to the termination of an employee's contract of employment, either by the employee or the Council.
- 1.2 It makes particular reference to redundancy and early retirement, where the Council can exercise discretion with regard to termination arrangements for both members and non-members of the Local Government Pension Scheme.
- 1.3 The Council recognises that changes in statutory requirements, best value in service delivery and technological developments may affect its staffing needs. It is committed to the establishment of effective organisational structures which are flexible and responsive to changing service requirements.
- 1.4 Corporate Directors, Directors and Assistant Directors have a duty to safeguard the Council's current and future ability to deliver efficient services. The loss of skills and experience as well as short or long-term financial liabilities must be assessed. A balanced and effective workforce should be the priority.
- 1.5 This policy does not confer any contractual rights on employees in addition to those contained in their written statement of particulars of employment. The Council reserves the right to change its early retirement arrangement at any time.

2. Scope

- 2.1 All Employees at Thurrock Council, including non-teaching, schools-based employees where the school has adopted this policy. It should be noted that schools are bound by the Council's discretionary policy statements.

3. Counselling

- 3.1 Employees in need of counselling, advice or other support in relation to their employment may access the Council's free, independent and confidential Employee Assistance Programme.

4. Resignation (see also section on 'Leaving arrangements')

- 4.1 Resignation occurs when an employee terminates their contract of employment. The Council cannot refuse to accept an employee's resignation. However, there may be circumstances when an employer should not accept a heat of the moment resignation and should discuss the circumstances with Human Resources before accepting such resignation.

- 4.2 Under Section 24 of the Council's terms and conditions of employment employees are required to give contractual notice if they wish to resign following confirmation of successfully completing their probation as follows:

Grade	Notice Period
TLW	4 Weeks
A-C	4 Weeks
D-F	8 Weeks
G-I	12 Weeks

In addition to this there are harder to recruit roles that require the employee to give 12 weeks' notice as follows:

- Social Workers
- Occupational Therapists
- Senior Practitioners
- Town Planners
- Leaving Care Workers
- Senior Maintenance Engineer
- Qualified Surveyors
- Emergency Duty Team Workers
- Lawyers

- 4.3 An employee who wishes to resign should submit their resignation online using Oracle Cloud. Employees will need to complete their termination information and can attach their resignation letter to the notification. Their last day of service must be in line with their contractual notice, which is based on their grade set out above.
- 4.4 Managers should encourage employees who have resigned to complete an exit interview/ questionnaire.
- 4.5 Where employees are unable to submit their resignation online the line manager will be required to do this on their behalf. This will need to be done in a timely manner to avoid any overpayments.
- 4.6 If, after resigning, an employee changes their mind, they may write to their manager to request that their notice is withdrawn, giving reasons. Any decision to accept such a request will be entirely at the discretion of the Council.

5. End of a fixed term contract

- 5.1 The expiry of a fixed-term contract without renewal is, regarded as a dismissal (s.95(1)(a) of the Employment Rights Act 1996). This is despite the fact that the nature of a fixed-term contract requires the employer and employee to have agreed in advance that the contract will terminate on a specified date, at the end of a specified job or project, or on the occurrence (or non-occurrence) of a specific event.

An example of the latter would be a fixed-term contract set up to cover an employee's maternity leave, the exact duration of which may not be known at the outset. When the absent employee returns to work, the replacement employee's fixed-term contract will come to an end.

- 5.2 When a fixed term contract ends on the agreed end date; the employer will normally not need to give notice. If the work ends after two years' service the employee may be entitled to a redundancy payment and will be entitled to the same redundancy rights as a permanent employee. A business case will need to be submitted and approved in accordance with 7.7 below and Human Resources will inform the employee of their entitlement.
- 5.3 If the work ends before the agreed end date and the contract allows the worker to be dismissed then the employer should give the appropriate notice period.

As soon as the manager is aware that the fixed term contract may end early the manager must:

- write to the employee giving notice that the fixed term contract will be ending early
 - meet with the employee to discuss the reasons the fixed term contract is ending early
 - consider any alternative work and or redundancy payments should the employee have over 2 years' service
- 5.4 Managers need to consider that any employee on a fixed term contract for four or more years may automatically become a permanent employee and must seek advice from Human Resources.

6. Retirement

Scheme Normal Retirement Age (NRA)

- 6.1 Employees may retire on or after their 55th birthday on a reduced pension. A full pension can only be drawn by employees who retire in the Local Government Pension Scheme at the NRA, currently age 65, or over. Employees will continue to accrue service-related benefits after their 65th but before age 75.
- 6.2 Employees who wish to retire should give at least three months' written notice to their manager and Human Resources.

Local Government Pension Scheme

- 6.3 Any employee who has contributed to it will be eligible to receive LGPS pension benefits if they retire on or after their 55th birthday. This

scheme is administered by the Essex Pension Fund. The LGPS website contains a useful overview of the scheme.

- 6.4 Employees can continue to pay into the LGPS, accruing further benefits, until they either retire or reach the age of 75. All LGPS members must draw their pension by age 75 at the latest.
- 6.5 In exercising discretionary powers, the Council acknowledges its responsibilities to:
- maintain confidence in public services
 - ensure arrangements are workable, affordable and reasonable
 - ensure each case is dealt with fairly

How to increase pension contributions

- 6.6 Employees can increase their pension contribution, or make up for any shortfall by, for example:
- purchasing additional pension, up to £6,500 using additional pension contributions (APC) contract
 - paying additional voluntary contributions (AVCs)
 - paying into another AVC scheme, usually an insurance company, up to 100% salary

Please see the LGPS advice on buying extra pension for further information.

- 6.7 The Council cannot provide advice on these matters. Employees should seek independent financial advice prior to making a decision.

Pre-Retirement Leave

- 6.8 Staff approaching retirement will be entitled in their final year to take an additional five days' paid leave in-block, and up to five further days set aside for attendance at a pre-retirement course organised or authorised by the Council.
- 6.9 The above entitlements are in addition to annual leave entitlement and cannot be paid in lieu of taking the time off.

7. Retirement and redundancy

Retirement after 55

- 7.1 Employees aged 55 or over with at least two years' membership of the LGPS can, by giving at least 3 months' written notice, elect to retire early and receive their LGPS benefits at a reduced rate.

- 7.2 Benefits will normally be paid at reduced rates prior to age 65 unless the 'Rule of 85' applies (i.e. the employee's age plus reckonable years' service equals 85: for further details visit the LGPS website).

Retirement and redundancy before NRA

- 7.3 The Council has the discretion to agree to the retirement of employees after age 55 but before the NRA and release all or part of the employee's pension benefits, for the following reasons (which are explained in further detail below):
- a) flexible retirement
 - b) ill-health
 - c) redundancy
 - d) efficiency
- 7.4 Each case will be considered on its merits, based on the following criteria:
- additional cost incurred to the pension fund
 - total costs in relation to operational benefits of early retirement
 - impact on resources/skills for the authority
 - exigencies of the service
- 7.5 A business case is required based on the criteria above for all voluntary retirement and voluntary redundancy requests that will incur a cost to the Council. The business case will need to be submitted and approved by the relevant Director of Service. The business case must then be approved by the Director of HR, OD and Transformation, and the Chief Executive, with advice from the Monitoring Officer and in consultation with the Section 151 Officer and Leader of the Council.
- 7.6 A decision on each case will be entirely at the Council's discretion.
- 7.7 For all other compulsory redundancy and retirement requests, approval will need to be obtained from the relevant Director of Service and the Director of HR, OD and Transformation.
- 7.8 Any employee who takes early retirement from Thurrock Council will not be eligible for future employment with the Council.
- 7.9 If an employee has been offered, or accepts, early retirement or redundancy and then accepts employment with another local authority or any other employer listed in the Redundancy Payments (Modification) Order 1999, their entitlement to redundancy and pension benefits may be affected. Employees must notify their manager or Human Resources in these circumstances.

Flexible retirement

7.10 Flexible retirement can be used as part of an organisational restructuring programme, an alternative to redundancy or as part of phased retirement, when an employee may be asked to, or requests to:

- reduce their contractual hours
- move to a lower graded post

Further information is available from the Local Government Pension Scheme website.

7.11 Employees should always obtain an estimate of the impact of either of the above prior to making any decision: this can be requested via Human Resources.

Ill-health retirement

7.12 The Council's Managing Sickness Absence procedure includes a process to be followed if the Council believes that an employee may be unfit to continue working due to ill-health.

7.13 The LGPS allows for employees of any age to benefit from an early release of their pension entitlements if they:

- have at least 3 months' membership of the LGPS
- have been certified, by an independent registered medical practitioner approved by the Essex Pension Fund as being permanently incapable of doing their job or any available, comparable job with the Council.

There are three 'tiers' of ill-health retirement, as follows:

7.14 Tier 1 – employees must have at least two years' membership of the LGPS

If there is no reasonable prospect of obtaining gainful employment before NRA, benefits are increased:

- as if the employee is retiring at the NRA and
- by adding to the total membership at the date of termination the period between that date and the NRA

For example, if an employee retires at 55 years old and has 20 years' membership, service will be increased by 10 years to 30 years' membership if the NRA is 65.

7.15 Tier 2 – employees must have at least two years' membership of the LGPS

Although there is no reasonable prospect of obtaining gainful employment in a reasonable period of time, it is likely that gainful employment can be obtained before NRA. Benefits are increased:

- as if the employee is retiring at NRA
- by adding to the total membership at that date 25% of the period between that date and the NRA

For example, if an employee retires at 55 years old and has 20 years' membership, service will be increased by 2½ years to 22½ years membership if the NRA is 65.

7.16 Tier 3 – employees must have at least two years membership of the LGPS

If there is no reasonable prospect of obtaining gainful employment within a three-year period:

- accrued pension will be paid

The employee must notify Thurrock Council if they find employment within three years of leaving, giving details of pay and working hours.

The Council will check the individual's employment status 18 months after they have started receiving their pension benefits and:

- if they remain without gainful employment a further referral will be made to the Occupational Health Practitioner for certification
- if it is considered that the member has or may have gainful employment, the administrating authority, Essex County Council, will be instructed to cease payments

If the individual remains eligible for pension benefits, they will continue to receive them for a total of three years, after which they will cease.

Redundancy

7.17 The Council's Change Management Policy describes situations where jobs are either changed significantly or deleted, so that employees are potentially redundant.

7.18 In these situations, employees may be invited to consider voluntary redundancy, or they may be made compulsorily redundant. In both cases, if they have at least two years' continuous service they will receive the following payments:

- i) if they are aged under 55, they will be eligible to receive a redundancy payment which, at the Council's discretion, may be enhanced to more than the statutory minimum

- ii) if they are aged 55 or over, they will be eligible to receive a statutory redundancy payment and, if they are a member of the LGPS, their full pension benefits

Early retirement in the interests of the efficiency of service

7.19 Retirement on efficiency grounds is relatively rare, as in the majority of scenarios there is usually a more appropriate process to follow, e.g. the redundancy, absence management or capability procedure.

7.19 Employees are eligible to be considered for an efficiency retirement if they:

- are aged 55 and over but before the normal retirement day
- have been members of the LGPS for over two years

7.20 An employee can retire early in the interests of the efficiency of the service for reasons related to effectiveness, economy, health or compassion.

7.21 An individual's corporate director may authorise this type of retirement only after alternatives such as redeployment and retraining have been explored with HR.

7.22 A business case to support an efficiency retirement must demonstrate that clear, quantifiable efficiency gains will outweigh the costs of retirement.

7.23 Circumstances in which efficiency retirement may be appropriate

- where, due to no fault of the individual, a work method alters leaving the individual lacking the competencies to perform their job effectively; For example, following the introduction of new technology, changes in legislation or new organisational or professional standards
- where an employee has a particular medical condition which, while not considered by the Council's Occupational Health Adviser to justify retirement on the grounds of ill health, significantly impedes proper job performance
- when an employee has particular personal or domestic circumstances, which are not work related but overwhelming to the extent that the interests of the service suffer
- where, through a reorganisation or other reasons, the scope and content of the duties and responsibilities have diminished to the extent which, while not justifying redundancy, adversely affect the efficiency of the organisation
- where a combination of circumstances, both in the job and the individual, are adversely affecting efficiency, but where these

circumstances do not involve wilful, inadequate performance to justify disciplinary or capability action

7.24 **Circumstances in which efficiency retirement is not appropriate:**

- if the employee has a medical condition ill-health retirement should always be explored first
- if a role changes significantly, the change management procedure is the usual process to follow, with the employee being given redeployment, redundancy etc rights, as appropriate
- efficiency retirement must not be used as an alternative to, or substitute for, disciplinary action or managing capability
- the employee should not be within 12 months of their NRA
- if an employee has a disability the Council must first explore whether reasonable adjustments can be made to enable the employee to perform their duties, in accordance with the Equality Act 2010

8. Dismissal under other employment policies

8.1 An employee's contract of employment may also be terminated by reason of dismissal under one of the following employment policies¹:

- Disciplinary
- Capability
- Managing Sickness Absence
- Probation

8.2 Dismissal will usually be with notice, unless gross misconduct has been committed, in which case an employee will be summarily dismissed.

9. Death in Service

9.1 The death of an employee will, naturally, terminate their contract of employment. Arrangements will be made to ensure that any final payments and pension rights are dealt with promptly.

9.2 Consideration must be given to the most sensitive means of dealing with outstanding issues, e.g. letters of sympathy, the return of personal property and informing the next of kin about pay and pension entitlements.

9.3 Thurrock's Employee Assistance Programme offers advice to managers in dealing with matters including bereavement and hardship.

¹ Dismissals can also occur for 'some other substantial reason' or if it would be illegal for an individual to continue in their work (eg someone employed as a driver who is disqualified from driving). These are rare occurrences. Please speak to your HR Adviser if you believe that either may apply.

Colleagues of the deceased employee should also be reminded of the availability of this service.

10. Leaving arrangements

Annual leave

- 10.1 Employees continue to accrue annual leave until the date that their contract of employment terminates.
- 10.2 The Council expects that employees will take any outstanding annual leave they have accrued before their contract of employment terminates. Similarly, any TOIL or flexitime credit must be taken before the termination of the contract.
- 10.3 In exceptional circumstances it may not be possible (due to a genuine business need) for the employee to take their accrued annual leave, TOIL or flexi-time credit before their contract terminates. In these circumstances any outstanding leave will be paid in the final salary payment.

Exit questionnaires

- 10.4 When an employee is leaving the Council, they will be asked to complete an on-line exit interview questionnaire which will be generated on oracle cloud when the resignation information is submitted.
- 10.5 They also have the right to request a one-to-one exit interview with either their manager or an HR Adviser.

Outstanding debts to the Council

- 10.6 The Council will seek to recover any debts which are outstanding when an employee's contract of employment terminates (e.g. travel loans, overpayment of salary, non-return of Council equipment).
- 10.7 Where debts are outstanding on termination, this will be recorded on the employee's personal file.

11. Returning to Thurrock Council

- 11.1 An employee who leaves the Council's employment with a termination payment will be ineligible to return within two years of leaving in any capacity, without the prior authority of the Director of HR, OD and Transformation.