

NHS Wales

Model Voluntary Early Release Scheme

Revised February 2021

Contents

1. Introduction
 2. Nature of the VER Scheme
 3. Scope of the Scheme
 4. Eligibility
 5. Compensatory Payment
 6. Notice
 7. Approval Process
 8. Application Process
 9. Settlement Agreement
 10. Access to pension following compensatory payment
 11. Re-employment
 12. Appeal
- Appendix 1 – Model VER Application Form

1. Introduction

NHS Wales continues to be subject to a challenging period of profound and sustained change.

This scheme has been designed as an enabling tool to support the flexibility of NHS Wales organisations in addressing the demands of rapid change and service re-design.

It is not intended to replace existing terms and conditions or policy agreements but rather to supplement the range of options open to individual members of staff and their organisations in meeting the changing circumstances ahead.

The Voluntary Early Release Scheme has been designed to assist staff in taking a personal decision regarding their future employment and enable staff who may wish to leave their employment with NHS Wales to do so with an appropriate compensatory payment.

2. Nature of the VER Scheme

VER is a scheme where it is of mutual benefit, to both an employee and their organisation, for an individual to voluntarily choose to leave their employment, with the agreement of that organisation, in return for a severance payment.

VER is not a contractual entitlement and is not a redundancy, compulsory or voluntary, as covered by section 16 of the NHS terms and conditions of service handbook.

3. Scope of the Scheme

- Access to the Scheme is at the discretion of the relevant employing NHS organisation.
- Employees do not have a right to access the Scheme.
- Subject to the above and the eligibility criteria in section 4, application to the scheme may be made by any member of staff.
- The employing NHS organisation is responsible for the costs associated with any agreed compensatory severance payments.
- The Scheme is entirely voluntary and there is no legal obligation on the part of the employing NHS organisation to accept any individual application nor an obligation for any employee to apply for the scheme or accept voluntary early release.
- Each application will be considered on its own merits and there is no guarantee that voluntary early release will be approved.

- The Scheme remains open until further notice but may be withdrawn at any time.
- VER is a scheme under which an individual employee, in agreement with their employer, chooses to leave employment in return for a severance payment.
- As there may be significant financial and lifestyle implications for the employee, NHS organisations should support the decision making process by assisting individuals with their understanding of these factors. However, employers are not in a position to offer independent financial advice to their staff.

4. Eligibility

To be eligible for a compensatory payment under this Scheme, applicants must have been employed within the NHS in Wales for a minimum of one year, and:

- have not resigned or have accepted another post within NHS Wales or DHSS at the time of application.
- have not given formal notice of their intention to retire prior to the date when applications are formally sought
- have not been notified of the date of termination of their contract of employment for any other reason
- must not be undergoing a performance management procedure to address poor performance
- must not be under notice of a Disciplinary Hearing into their conduct

5. Compensatory Payment

The compensatory payment is a **‘one off’** payment and will be calculated as follows:

- One month’s pay for each completed year of reckonable service with the NHS, with a maximum of 12 months’ pay.
- The calculation of an employee’s reckonable service for the purposes of a VER payment, is calculated on the basis of the service up to the leaving date, and will comprise continuous full-time or part-time employment with the present or any previous NHS employer but with the following additions:

- where there has been a break in service of 12 months or less, the period of employment prior to the break will count as reckonable service;
 - at NHS organisation's discretion, any period or periods of employment with employers outside the NHS, where these are judged to be relevant to NHS employment, can be included in reckonable service.
- The following employment will not count as reckonable service:
 - employment that has been taken into account for the purposes of a previous redundancy, or loss of office payment by an NHS employer;
 - previous NHS service, which has already been recognised for payment of a redundancy payment or retirement pension
- This payment may be increased by up to three months to take into account any notice period agreed under paragraph 6 below, subject to an overall total of not more than 15 months' pay.
 - The maximum annual salary that may be taken into account for calculation purposes is £150,000.
 - A month's pay will be defined as the current substantive basic salary and any contractual elements of pay excluding pension. An employee's seconded salary will only apply if they have been seconded in that role for more than 4 continuous years.
 - The first £30,000 of any compensatory payment will be tax free, and any remaining amount will be subject to tax and national insurance deductions.
 - Where, however, such payment includes an element of pay in lieu of notice, this will be separately identified and netted off from the compensation calculation and will be subject to tax and national insurance deductions in line with the Post Employment Notice Pay Regulations. Useful link below:-
<https://www.gov.uk/government/publications/changes-to-the-treatment-of-termination-payments-and-post-employment-notice-pay-for-income-tax/changes-to-the-treatment-of-termination-payments-and-post-employment-notice-pay-for-income-tax>

6. Notice

- Any early release will mean that employment will come to an end by mutual agreement. While there is no requirement for either party to give notice, a

notice period or a payment in lieu of notice of up to three months may be mutually agreed.

- An employee's proposed leaving date will be subject to negotiation and mutual agreement between the employer and employee.

7. Approval Process

Governing Principles

In considering individual applications for early release, organisations must:

- employ robust corporate governance principles
- be mindful of the need to show responsible use of public monies
- be able to demonstrate value for money
- take into consideration the impact, in both the short and long term, on the effectiveness of the organisation and its remaining employees.

Developing the case for early release

A business case must be made for each application, demonstrating:

- how the work undertaken by the applicant can be redesigned, re-assigned, or undertaken in a different way, and
- that the saving from the post, or an equivalent amount, will be removed on a recurrent and auditable basis
- that the cost of the individual's release will be recovered through a payback period of no more than one year. This may be extended where an employee receives a payment in lieu of notice.
- that consideration is given to the risk of the loss of skills and experience, and to the potential impact on remaining employees
- that patient safety, quality and efficiency can be maintained or enhanced as a consequence of the release.

A business case which includes a payback period of longer than one year may be submitted providing there is a clear demonstration that approval of such VER payment or payments would facilitate wider workforce redesign and/or skill mix change. The business case must include a cost benefit analysis to demonstrate the profile and timescale during which savings will be realised.

The approval process

Once an application for release has been jointly considered by the Directors of Workforce & OD and Finance and the business case has received their support, it must be approved by the organisation's Remuneration and Terms and Conditions Committee.

Where, however the Chair of the Audit Committee is not a member of that committee, the endorsement of the Audit Committee should also be sought.

Obtaining Welsh Government Approval for ex-gratia payments

Payments under a VERS scheme are classified as 'ex gratia' payments and they therefore need to be managed in accordance with the losses and special payments procedure detailed in a Welsh Office Health Department document, Manual of Guidance (Wales) produced in December 1998, currently under review.

Under this guidance payments currently over £50k require WG approval. This must be obtained prior to the employee being notified of the outcome of their application.

8. Application Process

A model application form for application for VER is attached as Appendix 1.

9. Settlement Agreement

By agreeing to early release, employees will be required to waive all rights to redundancy or compensatory benefits associated with redundancy, premature retirement, or any other employment related claims through the courts or an Employment Tribunal and must, therefore, enter into a settlement agreement drawn up by a suitably qualified independent adviser. The Agreement will set out the financial and all other terms on which the employment relationship will end.

Where the employee seeks such advice from an independent and qualified legal adviser, the NHS organisation will meet reasonable costs, up to a maximum of £250 plus VAT, provided a valid settlement agreement is entered into.

10. Access to Pension following compensatory payment

This Scheme is voluntary and where the employee has opted to receive a compensatory payment they may, subject to the relevant pension scheme rules, seek access to their pension. The NHS organisation will **not** be responsible for the payment of any pension enhancements. It is recommended that individuals wishing to explore any such options seek advice from the NHS Pensions Agency and/or the relevant Payroll Department.

11. Re-employment

It is a condition of any early release that successful applicants will not seek to return to employment within the NHS (in Wales) or the DHSS (in Wales) within a

period equal to the duration of the compensatory payment plus three months, subject to a minimum period of 4 months.

Examples: 4 months after 1 year's service
5 months after 2 years' service
6 months after 3 years' service
7 months after 4 years' service,

Increasing thereafter up to **15 months** after 12 years' service.

Employment within NHS Wales or the DHSS will be deemed to include:

- employment with a primary care contractor
- services provided by the employee as a bank, locum or agency worker or independent contractor.
- the provision of consultancy services to the NHS or DHSS

Any compensatory payment must be declared by an employee to any future NHS employer.

12. Appeal

There is no right of appeal against the decision not to grant Voluntary Early Release.

Model
Voluntary Early Release Scheme
Enquiry Application Form
 For completion by the employee.

Division & Ward/Department			
Full Name:		Date of Birth:	
Job title:		Band/Grade:	
Assignment Number/Payroll Number			
NI Number:		Gross Annual Salary	
NHS Start Date		Organisation Start Date:	
Preferred Contact Details:	E-mail:		
	Phone:		
	Address:		
<p>I confirm that I have been employed by the NHS Wales for a minimum of 12 months </p> <p>I can confirm that I have not resigned or accepted another post within NHS Wales/DHSS </p> <p>I confirm that I have not given formal notice to retire </p> <p>I can confirm that I am not currently subject to ongoing performance or conduct procedures.....</p> <p>I wish to apply for the Voluntary Early Release Scheme. I understand that the information above will be validated and the outcome of my application will be communicated to me in writing. I understand that there is no guarantee my application will be successful and that completing this enquiry application puts me under no obligation to accept an offer if suitable.</p>			
Date:			
Signed:			