

RETIREMENT GRATUITIES

1. Regulations governing the payment of gratuities were contained in the Local Government (Discretionary Payments) Regulations 1996 (“the 1996 Regulations”). They were revoked by the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011 which came into force on 16 January 2012.
2. The majority of town, parish and community councils cannot now pay a gratuity. However, the Government’s view (with which NALC is in agreement) is that they can pay a gratuity if there was an extant contractual obligation to do so before repeal.

What is an extant contractual obligation?

3. There will be an extant contractual obligation if the contract of employment was entered into before the repeal of the 1996 Regulations and contains an entitlement to be paid a gratuity. It is insufficient for the contract to refer to the discretionary payment of a gratuity as does the NALC/SLCC model contract contained in the 2004 National Agreement on Salaries and Conditions of Service of Local Council Clerks in England and Wales (see NALC website for 2011 NALC/SLCC model contract).
4. If councils consider that retiring employees may have an extant contractual obligation to a gratuity, they should contact NALC’s legal department for advice. For more information see E07-11 Repeal of the Local Government (Discretionary Payments) Regulations 1996 and E01-12 Repeal of the Local Government (Discretionary Payments) Regulations 1996 – NALC and SLCC model employment contract.

LTN	Title	Relevance
15	Legal Proceedings	Sets out the circumstances in which councils could find themselves susceptible to claims for Judicial Review e.g. where they exceed their statutory powers.
79	Staff Pensions	Confirms that the 1996 Regulations were revoked in January 2012 and confirms the present and future pension arrangements that apply to local councils.

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