

Report to the Cabinet

Report reference: C/114/2007-08.

Date of meeting: 19 February 2007.



**Epping Forest
District Council**

Portfolio: Finance, Performance Management and Corporate Services.

Subject: Review of the Severance Policy for Redundancy and Early Retirement.

**Officer contact for further information: Bob Palmer (01992 – 564279).
Tony Tidey (01992 – 564054).**

Democratic Services Officer: Gary Woodhall (01992 – 564470).

Recommendations/Decisions Required:

- (1) That the changes to the framework for early retirement and redundancy compensation contained in the Local Government (Early Termination of Employment)(Discretionary Compensation)(England and Wales) Regulations 2006 be noted;**
- (2) That in cases of redundancy Option 3 (paragraph 7) be adopted as the basis for redundancy payments to be made to employees whose employment is terminated by reason of redundancy (whether the individual is eligible to receive payment of early retirement benefits or not);**
- (3) That, under the 2006 Regulations, compensatory added years may not be paid in any cases of early retirement (ie neither on grounds of redundancy nor efficiency of the service) be noted;**
- (4) That, in the interests of the efficiency of the service, Option 7 (paragraph 7) be adopted in cases of retirement as the basis for early retirement benefits to be paid to individuals;**
- (5) That the above changes be implemented with effect from 1 March 2007, without a transitional period between the old policy and these proposals; and**
- (6) That the ongoing wider review of the Local Government Pension Scheme be noted, and will be the subject of a further report when the proposals are confirmed.**

Background:

1. At its meeting on 10 July 2006 the Cabinet received a report concerning the Local Government Pension Scheme Amendment (Regulations 2006) and noted that a further report would be submitted when further regulations and guidance on these had been issued. This is still awaited. However, in the meantime the Department for Communities and Local Government (DCLG) has published other regulations, which provide for changes to the Severance and Early Retirement Scheme, effective from 1 October 2006. These changes are required following the introduction of age discrimination legislation from this date which in many cases precludes the making of payment based on age and length of service. The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (hereafter referred to as 'the Regulations') provide Local Government employers with revised powers to make compensation payments to employees whose employment is terminated early by reason of redundancy, in the interests of the efficiency of the service, or in the case of a joint appointment because the other holder

of the appointment has left it. The regulations came into force on 29 November 2006 and have retrospective effect from 1 October 2006.

2. The Regulations no longer provide local government employers with powers to award compensatory added years to an individual's accrued pension entitlements in cases of redundancy or early retirement, but provide employers with powers to consider making a one-off lump sum payment to an employee, which must not exceed 104 weeks pay.

3. The Regulations also contain transitional provisions to the end of the 2006/7 financial year whereby an employer may choose to use either the existing provisions or the new Regulations for a person whose employment with them commenced before 1 October 2006 and whose termination date is on or after 1 October 2006 and before 1 April 2007. This means that an employer may make an award of compensatory added years to an individual's accrued pension entitlements where an employee's employment is terminated before 1 April 2007. Given that there are probably no staff who are likely to be in this position before 1 April 2007, it is recommended that this transitional provision be not applied.

4. Cabinet will be aware that there has been a national debate on the future of Public Sector pension schemes. The changes set out in this report arise from the changes needed because of age discrimination and do not form part of the outcomes from that debate. As a separate measure the Department for Communities and Local Government is also carrying out a statutory consultation exercise to introduce a regulatory framework to provide a new look Local Government Pension Scheme (LGPS) with effect from 1 April 2008. The Government's objectives are to ensure that measures to reform the scheme are affordable, viable and fair and that the scheme itself should be as flexible and accessible as possible to provide a modern, equality-proofed range of defined benefits. These changes will be the subject of a further report to Cabinet once clarification has been received.

The Council's Current Policy:

5. The Council has a longstanding policy of making use of the previous discretions available to offer enhancement to the levels of payment made in cases of redundancy and early retirement. That said, there have been relatively few cases of redundancy and/or early retirement in recent years. The main elements of the existing policy are now set out:

The current policy on the award of added years to staff over 50 leaving (ie retiring) on grounds of redundancy or efficiency.

Continuous Years of Local Government Reckonable Pension Services	Redundancy Cases Added Pension Years	Efficiency Cases Added Pension Years
More than or equal to 30	Up to 6	Up to 4
More than or equal to 25 but less than 30	Up to 5	Up to 3
More than or equal to 20 but less than 25	Up to 4	Up to 2
More than or equal to 15 but less than 20	Up to 3	Up to 1
More than or equal to 10 but less than 15	Up to 2	Nil
More than or equal to 5 but less than 10	Up to 1	Nil
Less than 5	Nil	Nil

6. The above discretionary amounts could be supplemented, based on total years service with this Authority in accordance with the following table:

Number of Total Years Service with EFDC		
More than or equal to 20	Up to 2	Up to 2
More than or equal to 10 but less than 20	Up to 1	Up to 1

7. Where appropriate, for part time employees, the total added years granted will be reduced pro-rata to full time equivalent.

Employees (under the age of 50) whose employment ends through redundancy or efficiency of service

8. In these cases a lump sum compensation payment of up to 66 weeks may be paid subject to the scale maxima conditions set out below. Column A sets out the statutory payments the Council is required to make, whilst Column B sets out the Council's adopted scheme, which improves on the statutory position:

	A	B
	Statutory Redundancy Payment	Maximum Discretionary Compensation – applied by EFDC
Age on Leaving	Numbers of weeks pay	
18 to 19	½ weeks pay per year of service from age 18	½ weeks pay per year of service from age 18
20 to 22	½ weeks pay per year of service from age 18	½ weeks pay per year of service from age 18 to 19 and 1 weeks pay per year of service from age 20
23 to 40	½ weeks pay per year of service from age 18 to 21 and 1 weeks pay per year of service from age 22 to 40 and 1 ½ weeks pay per year of service from age 41	2 weeks pay per year of total service from age 18 plus 3 weeks pay per year of service from age 41 (maximum 66 weeks pay)

9. Notes to the above table:

(a) The amount of any statutory redundancy payment must be deducted from any compensation award.

(b) An overall limit of 66 weeks pay applies, inclusive of the statutory redundancy payment.

(c) The discretion to award lump sum compensation payments for over 50s has the following conditions:

(i) any such payments awarded on the basis that the “up to 66 weeks” scale is used for redundancy cases only, with an “up to 45 weeks” scale being used for “efficiency of the service” cases as set out above; and

(ii) any such payments may be awarded as an alternative to any award of added years and/or possible statutory redundancy payment.

(d) It is also Council policy to use the actual weekly pay in statutory redundancy payment calculations where this exceeds the limits prescribed by the Employment Rights Act 1996.

Discretions now available to the Council under the new Regulations:

10. The table below sets out the policy options available to the Council:

(a) REDUNDANCY (Where the employee is aged over 50 (or 55 from 2010) payment of pension without actuarial reduction based on accrued benefits will also be made on termination of employment)		
		Comments
Option 1	Up to 30 weeks pay at statutory limit – currently £290 p.w	<ul style="list-style-type: none"> *Major reduction in level of payments. *Major impact on all staff - variable depending on salary range – 64% reduction @ £27,000 p.a. and 88% @ £55,000 p.a. *Major impact on employee relations. *Major constraint on flexibility in managing change. *Major impact on reputation as employer of choice.
Option 2	UP to 30 weeks pay at actual salary	<ul style="list-style-type: none"> *As above – 34 % to 55% reduction in level of payments.
Option 3	Up to 45 weeks pay (1.5 X statutory entitlement)	<ul style="list-style-type: none"> * Marginal reduction in level of payments and costs in cases of redundancy and retirement. *Up to 34% reduction in level of payments and costs in cases of redundancy only. *Retains some flexibility in managing change.

Examples of potential savings in worked examples for option 3:		
Example 1		
Salary - £25,000 (on retirement)		
Service - 5 years		
Age - 59		
New redundancy payment - £5,387.93		
Old redundancy payment - £7,183.95		
Saving - £1,796.02 (25%)		
Example 2		
Salary - £40,000 (on retirement)		
Service - 40 years		
Age - 59		
New redundancy payment - £33,333.18		
Old redundancy payment - £50,574.71		
Saving - £17,241.53 (34%)		
Option 4	Up to 60 weeks pay (2 X statutory entitlement)	*31% increase in levels of payments for redundancy and retirement with 7% increase in costs. *22% reduction in levels of payment in cases of redundancy only.
Option 5	Up to 104 weeks pay (3.5 X statutory entitlement)	*untenable increases in levels of both payments and costs.

(b) TERMINATION OF EMPLOYMENT IN THE INTERESTS OF THE EFFICIENCY OF THE SERVICE (only applies if employee is aged over 50, or over 55 from 2010. In such circumstances an employee may draw their pension without actuarial reduction, based on their accrued benefits.)		
		Comments
Option 6	Release of pension benefits with no discretionary payment	Would still incur cost of financial strain on pension fund. Retains flexibility to use this facility in appropriate cases. Little impact on employee relations.
Option 7	Release of pension benefits with a discretionary payment from options 1 – 5	It is recommended that this discretion be exercised in tandem with Option 2 above ie the individual would receive release of pension benefits plus a lump sum payment of up to 30 weeks actual pay, based on length of service.

11. The Cabinet will note that there are five options for redundancy and early retirement and two options for retirement in the interests of the efficiency of the service. In evaluating the options it is important to consider the following:

- (a) in cases of early retirement (with or without redundancy) the largest proportion of the cost to the Council is the strain on the pension fund, whereby a charge is made to compensate the fund for the early release of pension benefits;
- (b) the withdrawal of the discretion to award compensatory added years will produce an immediate reduction in ongoing costs, with a continuing reduction over time as existing commitments are fulfilled;
- (c) Options 1 and 2 introduce a reduction in the levels of payment to staff in cases of redundancy just at the point at which it is possible that these may be required;
- (d) Options 3, 4 and 5 are based on using discretion to make payments over the statutory limits using multipliers of the statutory entitlement. It is understood that this approach in determining levels of compensatory awards will be compliant with the age discrimination legislation. It is recommended that option 3 be adopted, as it provides a balance between a fair level of compensation and the associated costs to the Council;
- (e) Options 6 and 7 relate only to retirement in the interests of the efficiency of the service. Whilst there are relatively few cases in this category it does offer a cost effective solution to some cases. It is recommended that Option 7 is adopted as the preferred option in these cases together with a termination payment calculated using Option 2; and
- (f) it is recommended that the changes be implemented from 1 March 2007 with no transitional arrangements.

The Position Taken by Other Authorities in Essex:

12. Essex County Council has decided to implement option 3 and option 6 from the above table. Option 3 is in line with the proposals contained in this report. However, it is considered that option 6 does not provide the flexibility required to make staff changes of a certain nature. On occasions it maybe in the Authority's best interests to allow a member of staff to retire early on efficiency grounds, particularly where no clear redundancy situation exists and a costly and time consuming restructuring exercise is to be avoided.

13. Without a suitable incentive of this nature it is unlikely that an early retirement could be achieved in some cases, reducing the flexibility of management to bring about change where it is needed. Although only likely to be used on rare occasions, Option 7 provides a greater and more appropriate incentive.

14. An informal survey of other Essex District Councils indicated that a similar approach was to be taken by others, but the final position is not yet clear.

Statement in Support of Recommended Action:

15. The Council has experienced difficulties with its pension fund for a number of years in terms of the level of additional payments required to support commitments. The removal of added years in cases of early retirement will in the long-term reduce the strain on the pension fund. By choosing Option 3 for cases of redundancy compensation the proposal seeks to maintain payments at a reasonably comparable level to existing arrangements. It is considered that this approach is fair and equitable to both employees, the Council and Council Tax payers.

Other Options for Action:

16. The Council could choose another Option, which is more, or less generous to that proposed in this report.

Consultation Undertaken:

17. The recognised trade unions, via the Joint Consultative Committee on 25 January 2007.

Resource implications:

Budget provision: No on-going budget provision exists – each case is considered individually.

Personnel: As set out in this report.

Land: Nil.

Community Plan/BVPP reference: N/A.

Relevant statutory powers: Discretionary compensation regulations.

Background papers: File papers in Human Resources and Finance Services.

Environmental/Human Rights Act/Crime and Disorder Act Implications: N/A.

Key Decision reference (if required): N/A.