

**TO:** EMPLOYMENT COMMITTEE - 8<sup>TH</sup> NOVEMBER 2006

**SUBJECT:** CHANGES TO LGPS REDUNDANCY REGULATIONS

**FROM:** CORPORATE PERSONNEL SERVICES/FINANCE

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**1. PURPOSE OF THE REPORT**

- 1.1 To inform the Employment Committee of the changes to the Local Government Pension Scheme (LGPS) from 1<sup>st</sup> December, and options to implement these changes at Warwick District Council.

**2. BACKGROUND**

- 2.1 The LGPS (England and Wales) Compensation Regulations that allow added years to be granted in redundancy situations are scheduled to be changed from 1<sup>st</sup> December 2006. Under the current Discretionary Compensation Early Termination of Employment Regulations 2000, employers can provide up to ten added years to employees aged over 50 with five years service whose employment is terminated as a result of a redundancy/efficiency process. Warwick District Council currently provides for up to a maximum of 6 2/3<sup>rd</sup> years in instances of redundancy and a maximum of five years in instances of efficiency of the service.
- 2.2 Where an employee is not entitled to immediate pension benefits, usually because they are below the age of 50, local authorities, since 1994, have also had discretionary power to make one-off **severance payments**. The maximum payment that they have been able to make has been based on a formula that includes age and length of service and provides up to 66 weeks' pay. This severance payment has been inclusive of any statutory redundancy payment that the employee might be entitled to. The payments under this scheme are currently heavily skewed to those in the 42 to 49 age bracket.
- 2.3 The Government has now taken the view that the Employment Equality (Age) Regulations 2006, that came into effect on 1<sup>st</sup> October 2006, render the existing discretionary powers to grant 'added years' and severance payments unlawful.
- 2.4 In place of the provision to 'give' added years in redundancy and efficiency of the service instances and the 66 week severance scheme, the new Regulations as currently drafted allow the employer to grant up to two years' pay (104 weeks). A week's pay may be based on the statutory minimum (£290) or an actual week's pay. The number of weeks pay per year may be increased so long as it is linked to the statutory multiplier. A revised scheme should be in place for 1<sup>st</sup> December 2006.
- 2.5 Independent of, and in addition to, the 2000 Compensatory Added Years Regs, the rules of the LGPS (Regulation 52 - Augmentation of Benefits) allow employers to grant up to 6 2/3 added years to any active scheme member (irrespective of age). This can be used to provide added years to employees in redundancy (or other) situations. It can also be a separate policy that is not linked to a redundancy situation.
- 2.6 CONSULTATION**
- 2.6.1 Representatives of GMB/MPO and UNISON have been asked if they have any views at this stage they would like considered. None forwarded as yet. Further consultation will take place and their views included in subsequent reports.

2.6.2 Representatives from Finance have seen copies of this report and been consulted in relation to the options available

2.7 Further details of the changes are given in Appendix 1.

2.8 A comparison of Warwick District Council's current policies and potential option is given in Appendix 2.

### 3. **Policy and Budget Framework**

3.1 The revisions to the Early Retirement on the Grounds of Redundancy and Efficiency of the Service will ensure that the new regulations are implemented.

3.2 The schemes are valuable tools for managing the Council's workforce. If the Council decides, in formulating a new policy not to exercise any the discretions available to it, staff reductions due to service rationalization or budget reductions may ultimately have to rely on compulsory redundancy.

3.3 The impact of the costs of a new policy are yet to be determined and will depend on the options chosen.

### 4. **Recommendations**

4.1 Members of the Employment Committee are requested to note the changes to the Local Government Pension Scheme (LGPS) from 1<sup>st</sup> December, and options to implement these changes at Warwick District Council.

4.2 A further report is put to Employment Committee in December making recommendations as to which options to adopt.

Corporate Personnel Manager  
Financial Services Manager

## **BACKGROUND PAPERS**

**None**

**Any relevant papers:** None

**Areas in District Affected:** None

**Key Decision:** No

**Included in Forward Plan:** No

### **For further information about this report please contact:**

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## **The Regulation Changes**

The existing Compensation Regulations contain three key discretionary powers with regard to Early Retirement/Redundancy/Efficiency of the Service, and the impact of the 2006 Regulations on each of these is described in the paragraphs below.

### **1. The power to increase statutory redundancy payments**

- A). In the circumstances of redundancy, the statutory redundancy payment ceiling (maximum 30 weeks based on age and service x £290 currently) can be enhanced to a maximum of a week's pay x up to 30 weeks (using a matrix deriving from the Employment Rights Act based on age and service to arrive at the number of weeks). The Council currently bases payment on actual pay.
- B). The 2006 Regulations retain the discretionary power to waive the weekly pay ceiling placed on statutory redundancy payments and therefore calculate redundancy payment on up to a week's actual pay.
- C). The Government intention in the 2006 Regulations is to continue to calculate redundancy pay based on the statutory formula of age and length of service.

### **2. The power to give discretionary (lump sum) compensation for redundancy**

- A). Under existing Regulations, discretionary compensation for redundancy can be awarded in lieu of added years and inclusive of any redundancy payment. This is a payment based on actual pay multiplied by a maximum of 66 weeks, using a more generous formula based on age and length of service.
- B). The new Regulations replace the above with a power to compensate staff whose employment is terminated with a payment that must not exceed 104 weeks' pay. Authorities will have more flexibility to determine an appropriate level of compensation, as there is no prescribed method of calculation based on age and service.

### **3. The power to award a credited period (added years) by way of compensation, in lieu of a discretionary lump sum**

- A). Under existing Regulations, a maximum of 10 compensatory added years can be awarded, constrained to the age of 65 and a maximum of 40 years service inclusive of the added years. Warwick District Council limits its maximum award to between 0 and 6 2/3rds years based on age and length of service.
- B). The 2006 Regulations do not include the power to pay added years. Both the Government and the LGE point out however that authorities can continue to award additional years of pension on termination by means of the augmentation provisions in the LGPS Regulations.
- C). As a result of the advice of Government and the LGE, it is possible to review the Council's policy on augmentation, to allow for the award of added years under the LGPS where appropriate

## **IN BRIEF**

The following outlines the provisions that are permitted under the Age Discrimination legislation and relevant Local Government Regulations.

- 1 The statutory terms can be improved by:
  - (i) raising or removing the statutory cap on a week's pay - current £290;
  - (ii) increasing the number of weeks pay per year of service providing this mirrors the statutory age bands and the increase is pro rata. So the multiplier for the statutory redundancy scheme is:

18-21	-	½ week per year
22-40	-	1 week per year
41 and above	-	1½ weeks per year

This could be increased to:

18-21	-	1 week
22-40	-	2 weeks
41 +	-	3 weeks

ie. the statutory multiplier is doubled;

- (iii) Multiplying the total amount resulting from the decisions taken on (i) and (ii).
- 2 Authorities can award extra cash (under the new Regs awaiting implementation up to 104 weeks' pay). Again the means for allocating this should be unrelated to age or service other than those multipliers exempt from the regulations.
- 3 Authorities can still award added years (under Augmentation of benefits Reg 52 instead of the 2000 Regs). This means for allocating this award should be unrelated to age or service. The maximum an individual can be awarded is 6 2/3rds added years.

## **IN SUMMARY**

1. You can pay £290 or actual week's salary as redundancy pay
2. The number of weeks payable can go up to 104 but must be linked to statutory redundancy formula
3. The non statutory element of the redundancy payment can be used by the employee to buy augmented pensionable service.
4. Authorities can augment pensionable service by up to 6 2/3<sup>rd</sup> years – this can be linked to the redundancy/early retirement/efficiency of the service – or based on totally separate criteria.

The revised policies need to avoid any discrimination (whether direct or indirect on the grounds of age, sex, race, disability, belief, sexual orientation) and authorities must carry out equality impact assessments.

## **APPENDIX 2**

Existing Policy	Powers available after 1 <sup>st</sup> December 2006	Options Available
<b>Redundancy Payment</b> Enhance weekly statutory redundancy pay (currently £290) to actual pay	Enhance weekly statutory redundancy pay to actual pay.	1. Pay only statutory redundancy pay based on statutory formula 2. Pay actual week's pay using the statutory formula 3. Pay some other figure that does not exceed actual week's pay or, for example,

<p><b>Voluntary Severance Pay</b> Actual weekly pay enhanced by a multiplier based on age and length of service up to age 50, with a maximum of 66 weeks 18-19=0.5 weeks per year 20-22 = 1 week per year 23-41 = 2 weeks per year 42-49 = 5 weeks per year 50 with less than 2 yrs service 5 weeks pay</p>	<p>Discretionary enhancement to a maximum of 104 weeks</p> <p>Or</p> <p>Option to augment pension under LGPS Regulation 52</p>	<p>place a cap at SCP 35</p> <ol style="list-style-type: none"> <li>1. Pay only statutory redundancy pay based on statutory formula</li> <li>2. Pay actual week's pay using the statutory formula</li> <li>3. Pay some other figure that does not exceed an actual week's pay or, for example, place a cap at SCP 35</li> <li>4. Pay only statutory redundancy pay but use a multiplier in relation to the statutory formula</li> <li>5. Pay actual week's pay and use a multiplier in relation to the statutory formula (e.g 2x or 3x)</li> <li>6. give the option to purchase augmented years with discretionary payment (whether over or under 50)</li> <li>7. Option to augment pension (or not) in line with criteria agreed by Council</li> </ol>
<p><b>Early Retirement on the grounds of Redundancy</b> Added year awarded on the basis of age and length of pensionable service to maximum of 6 2/3<sup>rd</sup>.</p>	<p>No option to award added years</p> <p>Redundancy/severance pay as above</p> <p>Option to augment pension under LGPS Regulation 52</p>	<ol style="list-style-type: none"> <li>1. Redundancy payment based on one of the above options together with early payment of pension based on actual service.</li> <li>2. Option to buy augmented years with discretionary payment.</li> <li>3. Option to augment pension (or not) in accordance with criteria determined by Warwick District Council.</li> </ol>
<p><b>Early Retirement on the Grounds of Efficiency of the Service</b> Added year awarded on the basis of age and length of pensionable service to maximum of 5 years.</p>	<p>No option to award added years</p> <p>No entitlement to redundancy payment.</p> <p>Option to augment pension under LGPS Regulation 52</p>	<ol style="list-style-type: none"> <li>1. Early payment of pension based on actual service.</li> <li>2. Option to augment service (or not) in accordance with criteria determined by Warwick District Council.</li> </ol>

#### Statutory Formula

18-21	-	½ week per year
22-40	-	1 week per year
41+	-	1 ½ weeks per year

Maximum of 20 years to be considered.

**Mythical 55 year old married (man) with 30 years service final salary of £50,000**

The Pensions Department of the County Council have provided the following augmentation example. The cost of augmented years varies subject to the individual's circumstances, length of service, final pay. A 55 year old married man with 30 years service and a final pay of £50,000 is used in this example.

The total cost of early retirement with augmentation is £93,400.00

The cost of early retirement without augmentation is £78,000.00

Therefore, in the above circumstances the cost of awarding 1 years additional service, allowing for early retirement is £15,400.00

This is based on current factors etc which may be reviewed.

The additional year will provide pension of £625.00 per annum and lump sum of £1,875.00. If this option is made available to members of the pension scheme, the retired member would need to live for approx 21 years to make worthwhile.

$15,400.00 - 1,875.00 = £13,525.00 / 625.00 = 21.64\text{years}$ . This is a crude method and clearly does not take into account the effect of annual index linking.

The cost of augmentation for a member not receiving the immediate payment of benefits would be less.