

Report of	Meeting	Date
Corporate Director of Human Resources & Organisational Development (Introduced by the Executive Member for Resources)	Council	2 nd December 2008

LOCAL GOVERNMENT PENSION SCHEME AND REDUNDANCY DISCRETIONARY PAYMENTS

PURPOSE OF REPORT

1. To request that Members approve the recommendations outlined as a result of changes to the Local Government (Early Termination of Employment) Regulations 2006 – in particular those that relate to the discretions around early retirement and voluntary redundancy.

RECOMMENDATION(S)

2. That the Council be recommended to approve the following recommendations outlined within the report:
 - a) Not to introduce pensionable service augmentation for all employees
 - b) To continue to offer statutory redundancy payment based on actual salary
 - c) To note that enhanced severance payments are no longer paid to employees under the age of 50.
 - d) To approve the policy on late applications into the pension fund.

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

3. To ensure that the Council complies with its statutory obligations within the Local Government pension scheme, redundancy discretionary payments and ensures that costs related to these are contained.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

4. None considered

CORPORATE PRIORITIES

5. This report relates to the following Strategic Objectives:

Put Chorley at the heart of regional		Improved access to public services	
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economic development in the central Lancashire sub region			
Improving equality of opportunity and life chance		Develop the character and feel of Chorley as a good place to live	
Involving People in their Communities		Ensure Chorley is a performing Organisation	√

BACKGROUND

6. Since 1976 there have been discretions available to Councils to allow payments to employees whose employment is terminated early on the grounds of redundancy or efficiency of the service. In effect, these discretionary powers allowed Chorley Council to:
- Calculate redundancy pay on actual pay rather than on the ceiling in the Employment Rights Act
 - Pay up to 66 weeks pay as a one off lump sum payment based on a service and age related formula
 - Award of up to 5 added years service in the LGPS to eligible employees aged 50 plus and less than 65 years of age
 - Award of ½ weeks pay per years service in addition to statutory redundancy payment to eligible employees under the age of 50.

These benefits have been used to encourage volunteers for both redundancy and 'interests of efficiency' staff reductions in restructures as the Councils priorities have changed over the years.

ISSUES

7. From 1st October 2006, the Employment Equality (Age) Regulations took effect to comply with the age related provisions of the European Employment Directive.
8. The Governments position is that age and length of service related formula that governs the above payments will discriminate under the new Age Regulations. The existing regulations were therefore replaced with new regulations that required the Council to review and amend its policy relation to discretionary payments to employees whose employment terminates early on the grounds of redundancy or efficiency.
9. In summary the new regulations allow Councils to:
- Retain the power to calculate redundancy payments on actual pay
 - Remove the power to award added years
 - Discretion to award a one off lump sum payment of up to 104 weeks pay inclusive of any statutory redundancy payment made.
10. The Government did not intend to prescribe formula by which the award of up to 104 weeks pay should be made, it does however, require Local Authorities to formulate publish and keep under review their policy decision on how they intend to exercise their new discretionary power.
11. The regulations specify that any change to the policy must be published for one month before they can take effect. Any policy must have regard to any serious loss of confidence in public services and be satisfied that the policy is workable, affordable and reasonable having regard to foreseeable costs.

OPTIONS

12. To consider introducing pensionable service augmentation for all employees subject to ERVS regardless of age.

Awarding of added years ceased with effect from 31st March 2007, Under the LGPSR 1997 an employer can award extra membership to any active member of the LGPS known as augmentation. From April 2006 the maximum an employer can award is the least of 6 years or 243 days or the period between the date of leaving and age 65. Chorley Council does not offer added years to any employer and it is recommended to continue this practice, as any changes would have to be made to all employees regardless of age.

13. To offer statutory redundancy payment at the maximum statutory level of £330 per week

The Government believes that the current statutory redundancy arrangements (subject to the removal of the upper and low age limits for redundancy payments) can be justified under Regulation 33 of the Age Regulations i.e. ½ weeks pay for service under aged 22, 1 weeks pay for service from aged 22 to 41 and 1 ½ weeks pay for service over 41 up to a maximum of 30 weeks pay. If the Council were to adopt the maximum statutory level of £330 per week option it would be unlikely to produce volunteers for redundancy and may provoke confrontation with the Trade Unions but it would be the lowest cost, it is therefore recommended not to adopt the statutory level of £330 per week.

14. To continue to offer a statutory redundancy payment based on actual salary.

This reflects the current position of the Council and uses the statutory tables as outlined above but the actual weekly salary of employees. It is recommended that in the spirit of positive employee relations this discretion be maintained.

Employees under the aged of 50 were previously awarded an additional ½ weeks pay per years service in recognition that they were unable to have immediate access to their pension, this is now not permissible to under 50s only on the grounds of age discrimination. Unison have been advised that this has been withdrawn at a previous LJCC and are in agreement that if the additional award is not offered to all employees regardless of age then it is discriminatory.

15. To offer enhance severance payments for staff subject to voluntary redundancy.

Under the revised regulations the Council may exercise discretion to award an additional severance payment up to 104 weeks (including the statutory redundancy payment). It is argued that using a multiplier using age and service can comply with the Age regulations and therefore the Council has discretion to offer a multiplier to either the number of weeks pay, the statutory redundancy amount or both up to a maximum of 104 weeks.

Employees can only receive a discretionary payment if they do not receive augmentation to pensionable service.

Voluntary severance costs have been a local agreement paid previously to those employees under the age of 50 who are not eligible for pension. This agreement has now ceased with the new age discrimination regulations.

16. Cash sum to convert into LGPS membership.

All authorities can now allow an employee to convert an enhanced payment up to 104 weeks pay into pensionable service, ensuring that any statutory payment has been made.

The impact of this option would vary by individual employees, is quite complex and if offered can only be used wholly, not in part.

17. Termination on the grounds of interests of efficiency.

The exception of the Age Regulations only applies to redundancy payments. If the Council were considering making payments for cases of IES the formula would have to be free from age discrimination. The recommendation from the Employers Organisation if we were to consider this option is to offer a 'one off' payment.

18. Late requests for transfer into the pension fund.

A policy is required in relation to the acceptance of transfers into the pension fund, where the member makes a request after the expiry of the first 12 months of active membership of the LGPS. New starters are provided with a comprehensive information pack on the LGPS and advised that the transfers of any pensions from other schemes will only be accepted in the first 12 months of service. After 12 months it is the Assistant Chief Executive (Transformation) discretion under delegated powers whether to approve the late transfer or not.

It is recommended that a policy be approved that takes immediate effect and is worded as follows:

Not to approve such requests unless the reason for the late request is either:

- a) That the member was not given the option to transfer as a result of an administrative error or
- b) That the initial request was received within the first 12 months of entitlement to membership of the scheme and there was an administrative delay in processing the request.

IMPLICATIONS OF REPORT

19. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	√	Customer Services	
Human Resources	√	Equality and Diversity	
Legal			

COMMENTS OF THE CORPORATE DIRECTOR HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT.

20. Contained within the report

COMMENTS OF THE ASSISTANT CHIEF EXECUTIVE (BUSINESS TRANSFORMATION)

21. The report sets out a variety of options in relation to severance and pensions all of which would mean additional costs to the Council. Our current approach is to offer no enhancements, other than the age related enhancement on severance paid at actual salary. The purpose of this approach has always been to contain costs. To date the Council has not

experienced any issues in attaining efficiencies through voluntary severance and no augmentation has been needed in recent times. Members should make their decision on the options with this in mind and the Council is always at liberty to alter policies if at any later stage a different approach is required.

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There are no background papers to this report.

Report Author	Ext	Date	Doc ID
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