

EDUCATION EMPLOYMENT SUB-COMMITTEE
16 JANUARY 2007

**REVIEW OF THE COUNCIL'S EARLY RETIREMENT AND
SEVERANCE POLICIES FOR TEACHERS**
(Director of Education, Children's Services and Libraries – Human Resources)

1 INTRODUCTION

- 1.1 As a result of the Age Discrimination legislation introduced on 1 October 2006 the Council are reviewing the arrangements for access to unreduced pension for teachers prior to the normal retirement date.
- 1.2 The Council operates a system for allowing access to unreduced pension for teachers in the following circumstances:
 - I) Where the teacher is over the age of 58 and is made redundant from their teaching post.
 - II) Under the Early Retirement Policy a teacher over the age of 58 can apply for early retirement on the grounds of efficiency. An application is only considered where this is supported by the governing body and where there are either clear financial savings or on the grounds of organisational effectiveness.
- 1.3 This operation remains an area of significant uncertainty and, in the absence of any relevant current case law, is challengeable under the Age Discrimination legislation.
- 1.4 The Employment Committee have reviewed the Redundancy Severance Policy for the Council as detailed at 4.5

2 RECOMMENDATIONS

It is recommended that, with immediate effect, the following arrangements are introduced:

- 2.1 **Teachers who are made redundant and have unreduced access to their pension will have the redundancy calculated at the statutory (30 week maximum) redundancy calculator.**
- 2.2 **Teachers who are made redundant who do not have unreduced access to their pension will have the redundancy severance calculated at x2.5 statutory redundancy calculator upto a maximum of 104 week's payment.**
- 2.3 **Use actual weekly pay for all redundancy payments.**
- 2.4 **The Early Retirement Policy for teachers allowing teachers to apply to be released under efficiency grounds from age 58 would cease to operate.**

3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

3.1 Borough Treasurer

Nothing to add to the report.

3.2 Borough Solicitor

The statutory pension scheme rules which allow access at a particular age are subject to an exemption under paragraph 11 of the Age Discrimination law but location variations to the statutory rules have to be substantiated under an objective justification defence and it is by no means certain that the Council are able to do so with the current approach.

3.3 Equality impact assessment

The impact is neutral on gender, race, religion and disability issues. The statutory redundancy payments calculator does use age and length of service in calculations but employers are specifically allowed to use this form of calculation as it provides greater financial assistance to those older workers who may be assumed to have more difficulty in finding suitable employment in the current socio-economic circumstances.

4 SUPPORTING INFORMATION

4.1 Early Retirement at age 58

4.11 The Council has operated the arrangements where a teacher can apply for early retirement without any reduction to their pension since September 1999. An application would be considered on the grounds of clear financial savings or on the grounds of organisational effectiveness. Where an application is granted the associated costs of the early retirement are paid centrally and not from the schools budget.

4.12 The current arrangements under the Teachers Pensions scheme for existing employees allow early retirement to be granted by the employer from the age of 50 to 59 years. The retirement age of 58 is a Bracknell Forest interpretation of the Teachers Pensions arrangements for which employers have been able to exercise prior to the introduction of the age discrimination regulations.

4.13 Bracknell Forest is one of a minority of authorities which offers teachers the opportunity to retire early at age 58. The most common approach is for authorities only to allow early retirement where the teacher leaves under the actuarially reduced benefits arrangements. This is a permanent reduction in benefits and has no direct cost for the authority.

4.2 Severance Payments

There are two types of severance payment currently available for teachers:

- (i) Redundancy payments for employees with no access to their pension
- (ii) Redundancy and early retirement payments for employees with access to their pension.

4.3 The basic rules of redundancy/severance payments

Under the Local Government (Discretionary Compensation) Regulations 2006 the Statutory Redundancy Payment calculators can still be used even though they take age and length of service into account. Schemes which use multiples of the Statutory Redundancy calculator can still be used, but any other calculations based on age and length of service are deemed potentially discriminatory. The Government has therefore proposed new rules which set a maximum payment level, but leave it to individual authorities to decide the basis on which the new payments would be applied. It is important that the policy agreed should avoid the risk of costly challenge on Age Discrimination principles. Retaining the Council's existing policy is not an option as the Regulations on which it is based will be phased out by 1 October.

4.4 Current policy

4.4.1 The Council's current policy for those with access to pension is:

- A statutory redundancy payment of up to 30 weeks pay based on actual weekly pay.
- There is no pension enhancement for teachers being made redundant.

4.4.2 The Council's current policy for those with no access to pension is:

- Up to 66 weeks at actual weekly pay.

This policy, agreed in 1999, aimed to give a fair and proportionate but not over generous settlement to employees, and accounts for the sound industrial relations context around severance situations in the past few years and the ease with which major re-organisations are implemented. The logic of the position was that those with access to pension had a tax free lump sum to fall back upon, whilst those without did not, and therefore some discretion was exercised in their favour to give them a reasonable severance package.

4.5 Future policy

The Employment Committee have reviewed the Pensions and Severance Policy for the Council and have resolved the following will apply:

4.5.1 Use actual weekly pay for all redundancy payments

4.5.2 Use the statutory (30 week maximum) redundancy calculator for all redundancy payments for those with access to their pensions.

4.5.3 Use a x2.5 statutory redundancy calculator for all redundancy payments for those with no access to their pensions to a maximum of 104 weeks payment.

4.6 Teachers Pensions

4.6.1 There are arrangements in place for teachers to access their pension before normal retirement date including a new arrangement for a phased retirement from the age of 55.

- 4.6.2 Phased retirement is a new discretion where a teacher can access part of the pensionable benefits whilst continuing to work in a reduced capacity. This arrangement is available where there is a reduction in pensionable salary by at least 25% for a minimum period of 12 months.
- 4.6.3 Actuarially Reduced benefits are available for teachers over 55 years and under normal pension age. As this is early access to pension benefits there is a permanent reduction in the pension benefits payable.
- 4.6.4 There are arrangements in place to consider ill health retirement under the Teachers' Pensions arrangements.

4.7 **Regular Review**

It is recommended that policy statements be reconsidered regularly, and as and when circumstances change.

Background Papers

None.

Contact for further information

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