

**MANCHESTER CITY COUNCIL
REPORT FOR RESOLUTION**

COMMITTEE: PERSONNEL

DATE: 13 NOVEMBER 2007

**SUBJECT: THE LOCAL GOVERNMENT (EARLY TERMINATION OF
EMPLOYMENT) (DISCRETIONARY COMPENSATION)
REGULATIONS 2006; and
THE LOCAL GOVERNMENT PENSION SCHEME
REGULATIONS 1997**

REPORT OF: THE CITY TREASURER

PURPOSE OF REPORT

To set out proposals for the adoption of discretionary powers to be used in circumstances where employment with the City Council is terminated on the grounds of redundancy or efficiency.

RECOMMENDATIONS:

The Committee are recommended to agree that:

1. The City Council adopts a policy to exercise the following discretionary powers in circumstances where employment with the City Council is terminated on the grounds of redundancy or efficiency:-
 - a) to base calculations for statutory redundancy payments on an employee's actual weekly rate of pay;
 - b) to award a discretionary lump sum payment of three weeks' actual rate of pay for each complete year of service - this payment to be inclusive of any statutory redundancy payment made and limited to a maximum of 30 weeks' pay;
 - c) as an alternative to awarding a discretionary lump sum payment, to increase the total membership of an active member of the Local Government Pension Scheme (LGPS) where he/she is eligible to access his/her pension benefits at the point of leaving.
2. The policy contains a provision that consideration may be given to severance payments in excess of 30 weeks in cases of extreme hardship, or where it would be in the financial or legal interests of the City Council. Such payments would

require the approval of the Personnel Committee, in the case of Strategy Directors, or the City Treasurer in consultation with the Executive Member for Finance and Human Resources, in other cases; and

3. The policy be published in accordance with the Local Government Pension Scheme Regulations.

FINANCIAL CONSEQUENCES FOR THE REVENUE AND CAPITAL BUDGET

It is not proposed to change existing City Council policy which requires each case to be justified in terms of cost and to be approved by the Personnel Committee in the case of Strategic Directors and the City Treasurer, in consultation with the Executive Member for Finance and Human Resources, in other cases.

CONTACT OFFICERS

Richard Paver, City Treasurer (Tel: 0161 234 1444)
e-mail: r.paver@manchester.gov.uk

Jon Redfern, Head of Corporate Personnel (Tel: 0161 234 1800)
e-mail: j.redfern@manchester.gov.uk

Penny Carter, Principal Personnel Officer (Tel: 0161 234 1849)
e-mail: p.carter@manchester.gov.uk

Pat Court, Pensions Manager (Tel: 0161 805 1691)
e-mail: p.court@manchester.gov.uk

BACKGROUND DOCUMENTS

WARDS AFFECTED

All

IMPLICATIONS FOR KEY COUNCIL POLICIES:

ANTI POVERTY EQUAL OPPORTUNITIES ENVIRONMENT EMPLOYMENT

No

Yes

No

No

1. INTRODUCTION

1.1 Following the introduction of new legislation on age discrimination in October 2006 and the proposed introduction of a 'new look' Local Government Pension Scheme (LGPS) by 2008, the Government has taken the opportunity to revise the powers available to local authorities to:

- (i) make discretionary one-off lump sum payments to employees; or
- (ii) increase membership of active members of the LGPS

where their employment is terminated early by reason of redundancy or in the interests of efficiency.

1.2 The Local Government (Early Termination of Employment) (Discretionary Compensation) 2000 Regulations ("the 2000 Regulations") which provided these discretionary powers have now been replaced by the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 ("the 2006 Regulations").

1.3 The 2006 Regulations came into force on 29 November 2006 with retrospective effect from 1 October 2006 and employing authorities are required to publish a policy on how it will exercise its discretionary powers under these Regulations.

2. Background

2.1 Employment is terminated early by reason of redundancy when, as a result of a closure of a particular workplace or a diminished need for employees to carry out work of a particular kind, a post ceases to exist and is therefore disestablished.

2.2 Where employment is terminated early by reason of redundancy, employees are entitled to a statutory redundancy payment based on age and length of service (up to a maximum of 20 years' continuous service) as follows:-

- 0.5 week's pay for each full year of service where age during year less than 22;
- 1 week's pay for each full year of service where age during year is 22 or above, but less than 41;
- 1.5 weeks' pay for each full year of service where age during year is 41 or over.

There is a limit on the amount of a week's pay that can be taken into account when calculating this statutory payment. This limit is currently £310 per week.

2.3 The City Council always seeks to secure alternative employment for employees as an alternative to redundancy and suitable alternative duties are sought through the mechanism of the City Council's Redeployment Procedure.

2.4 There are circumstances, other than by reason of redundancy, where an early termination of employment may be considered to be in the interests of the efficient discharge of the Authority's functions. For example where a job requires new

skills or competencies which the postholder does not possess and where training or investment in further development would not be appropriate or yield proportionate benefit.

3. DISCRETIONARY POWERS ADOPTED BY THE CITY COUNCIL UNDER THE 2000 REGULATIONS

3.1 Under the 2000 Regulations the City Council adopted a policy to exercise the following discretionary powers:-

- (i) to remove the weekly pay ceiling placed on statutory redundancy payments. Redundancy payment calculations are currently based on an employee's actual week's pay (see para. 2.2 above);
- (ii) to award a one-off lump sum payment of generally up to a maximum of 30 weeks' pay based on a length of service and age-related formula.

The Regulations gave the City Council a discretionary power to award a lump sum payment of up to a maximum of 66 weeks' pay. However, the City Council's policy is only to award more than 30 weeks' pay in cases of a) extreme hardship or b) where it would be in the financial or legal interests of the City Council;

- (iii) to award compensatory added years to a person aged 50 or over - up to a maximum of $6\frac{2}{3}$ years or the period between the termination date and the employee's 65th birthday, whichever is the shortest.

3.2 As an adjunct to awarding compensatory added years under these Regulations, a similar power to grant additional membership under Regulation 52 of the Local Government Pension Scheme Regulations 1997 was adopted by the City Council in August 2005.

4. PROVISIONS OF THE 2006 REGULATIONS

4.1 In summary the new Regulations:

- (i) retain the discretionary power to remove the weekly pay ceiling placed on statutory redundancy payments and to make the basis for calculation of statutory redundancy payments on an employee's actual week's pay;
- (ii) provide a discretionary power to award a one-off lump sum payment of up to, but not exceeding, two years' pay (104 weeks), inclusive of any statutory redundancy payment made; the Regulations do not restrict or provide guidance on the way such payment is calculated;
- (iii) remove the power to award compensatory added years (although additional membership can still be awarded under Regulation 52 of the LGPS 1997 – see paragraph 2.2 above). A lump sum payment in excess of a statutory redundancy payment cannot be made if LGPS membership is augmented.

- 4.2 The introduction of the Employment Equality (Age) Regulations 2006 mean that the current formula for calculation of lump sum payments set out in the 2000 Regulations is discriminatory as it is based upon an age-related formula.
- 4.3 Therefore the 2006 Regulations now give an employing authority the discretion to determine the basis of calculation for any lump sum paid.
- 4.4 There is an exception in the Age Regulations which allows employers to pay enhanced **redundancy** payments calculated using both age and length of service. There is no such exception for any approach adopted with regard to calculating lump sum payments in cases where employment is terminated in the interests of **efficiency**.
- 4.5 However, the Age Regulations do provide an exception with regard to benefits based upon length of service of up to five years. With regard to benefits based upon length of service above five years, the Regulations provide an exception if using the criterion of length of service fulfils a business need (an example of this might be that it would encourage the loyalty or motivation of employees or rewarding experience).

5. PROPOSED DISCRETIONARY POWERS TO BE ADOPTED UNDER THE 2006 REGULATIONS

- 5.1 In the absence of a prescribed formula, each authority is required to determine and publish a policy on its approach to the award and calculation of discretionary lump sum payments for terminations due to either redundancy or efficiency.
- 5.2 In formulating and reviewing their policy, the Regulations specify that an employing authority must:-
- have regard to the extent to which the exercise of their discretionary powers (in accordance with their policy), unless properly limited, could lead to a serious loss of confidence in the public service; and
 - be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.
- 5.3 It is therefore proposed that under the 2006 Regulations the City Council adopts a policy to exercise the following discretionary powers:-
- A to base calculations for statutory redundancy payments on an employee's actual week's pay; and
- B to award, in cases where employment is terminated due to redundancy **or** efficiency, a discretionary lump sum payment of three weeks' actual rate of pay for each complete year of service – this payment will be limited to a maximum of 30 weeks pay.
- 5.4 Where employment is terminated on the grounds of redundancy, this payment will be inclusive of a statutory redundancy payment.

- 5.5 The power to award a discretionary lump sum payment of three weeks' pay for each year of service in cases where employment is terminated due to redundancy or efficiency, achieves fairness and transparency and falls within the provisions of the Age Regulations.
- 5.6 The City Council, at its absolute discretion, may continue to consider making a severance payment in excess of 30 weeks' pay in cases of a) extreme hardship or b) where it would be in the financial or legal interests of the City Council. It is proposed that this would require the approval of the Personnel Committee in the case of Chief Officers, or of the City Treasurer, in consultation with the Executive Member for Finance and Human Resources, in other cases.

6. AWARDING ADDITIONAL MEMBERSHIP OF THE LGPS UNDER THE LOCAL GOVERNMENT PENSION SCHEME REGULATIONS 1997

- 6.1 It is proposed that the City Council will use its discretion to exercise the power to increase the total membership of an active member of the LGPS only when employment is terminated early due to redundancy or in the interests of efficiency.
- 6.2 The discretion to exercise this power will be used **as an alternative to exercising the discretion to award a discretionary additional lump sum** payment, in accordance with the 2006 Regulations (see Para. 4 above), and will only apply to employees who are aged 50 and over (and after 1 April 2010, aged 55 and over).
- 6.3 It is proposed that each case will be considered individually and be subject to the final approval of the City Treasurer In consultation with the Executive Member for Finance and Human Resources, applying the following criteria:-
- a) that there is an overall saving to the City Council;
 - b) that the employee's retirement will be in the pursuance of the efficient exercise of the Authority's functions, making full use of the City Council's Redeployment Policy; and
 - c) each application be considered on an equal basis in line with the Council's current policy which is to award one year for each five years of service with the City Council, up to a maximum of $6\frac{2}{3}$ years.

7. SENIOR OFFICER CONTRACTUAL ARRANGEMENTS

- 7.1 Contracts of employment for members of the Strategic Management Team and certain other Heads of Service differ in terms of arrangements with regard to discretionary compensation.
- 7.2 Where changes to the LGPS Regulations render existing contractual arrangements untenable, each of the officers concerned will be issued with a letter of clarification.

8. IMPLICATIONS FOR KEY COUNCIL POLICIES

8.1 The proposals in this report are intended to ensure that arrangements for releasing employees from the service of the City Council on grounds of efficiency or redundancy comply with the relevant equality legislation and pension regulations and are therefore compatible with the Council's policies on equality.