

CANNOCK CHASE COUNCIL

COUNCIL

9TH AUGUST 2006

REPORT OF THE CHIEF EXECUTIVE

CHANGES TO PENSION SCHEME AND REDUNDANCY PROVISIONS

1. Purpose of Report

- 1.1 To advise Members of the implications arising from the proposals for changes in the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 and the Local Government Pension Scheme (Amendment) Regulations 2006 and to seek approval to changes to council policy in respect of these areas.

2. Recommendations

- | | |
|-----|--|
| 2.1 | That Members note the revocation of the existing local policy in respect of Regulation 15 of the Local Government Pension Scheme, which permits an employee to cease contributions to the pension scheme once 40 years membership has been attained. |
| 2.2 | That Members agree to waive back payment of contributions for those employees that are no longer entitled to cessation of contributions having attained 40 years of membership of the pension scheme (Regulation 15 Of LGPS regulations). |
| 2.3 | That Members note the changes to the Local Government pension scheme, which specifically affect Councillor members. |
| 2.4 | That members note the proposed changes in respect of early termination of employment and the timetable for the end of the consultation period and publishing of the final version of the legislation. |

3. Key Issues

- 3.1 As a consequence of the implementation of the age discrimination legislation there have been a number of significant changes made to the local government pension scheme regulations and redundancy provisions. It should also be noted that a number of aspects are still subject to national consultation although they are programmed to become law with effect from 1 October 2006.
- 3.2 Although not all of the relevant legislation is yet finalized it was felt that members should receive an update and overview of the changes with a full and detailed report once the consultation is complete and the regulations are published.
- 3.3 However, as some of the changes in law have already come into effect the Council are required to make a decision in respect of the removal of the 40 year contribution limit (Regulation 15), details of which are set out in the body of the report in Section 2 at enc 5.6

- 3.4 As stated above a further report will be brought to members once the national consultation exercise has been completed and the final regulations published.
- 3.5 Although most of the changes affect only employees there are some specific changes that affect Members as well and these are detailed in Section 2 on enclosure 5.6
- 3.6 The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 which affect the amount of compensation that employers may pay for early termination of employment are subject to consultation until 31st July and will be published in September 2006. They will be effective from 1st October 2006.
- 3.7 The Local Government Pension Scheme (Amendment) Regulations 2006 are subject to consultation until 3rd July 2006 and will be published once the consultation is completed.

REPORT INDEX

Background	Section 1
Details of Matters to be Considered i.e. Options Considered, Outcome of Consultations etc.	Section 2
Contribution to CHASE	Section 3
Section 17 (Crime Prevention) Implications	Section 4
Human Rights Act Implications	Section 5
Data Protection Act Implications	Section 6
Risk Management Implications	Section 7
Legal Implications	Section 8
Financial Implications	Section 9
Human Resource Implications	Section 10
List of Background Papers	Section 11

Section 1

Background

There have been a number of recent changes to key pieces of legislation affecting the employment of Cannock Chase District Council employees, which become effective at various dates during 2006.

Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006

These regulations are currently in draft form and are under consultation until 31st July 2006. If agreed they will be published in September 2006 and take effect from 1st October 2006. The regulations apply to any person who is employed by the local authority, who is eligible to join the pension scheme (regardless of whether they have, in fact, joined), and is facing early termination of their employment on the grounds of redundancy, in the interest of the efficient exercise of the employers functions or when a job share ceases as a result of one partner leaving employment. The revised regulations apply to anyone ceasing employment under these circumstances on or after 1st October 2006.

- The regulations give employers discretion to ignore the ceiling on a weeks' pay used in redundancy calculations and to use instead the individual's own weekly rate of pay – which, in many cases, will result in a higher level of redundancy pay than outlined in the redundancy legislation. This is already a practice adopted by Cannock Chase Council and there will be no change to our arrangements in this respect.
- In addition the revised regulations remove the employers discretion to award added years for pension purposes and instead provide employers with discretion to award employees a one-off lump sum of up to two years (104 weeks) pay where employment is terminated early on the grounds described above and where the employee is not entitled to an additional period of membership in the pension scheme ('augmented years' - as set out in regulation 52 of the LGPS Regulations). Any statutory redundancy pay that the employee is entitled to is deducted from the 104 weeks pay prior to payment of the lump sum. Note: the cost of the lump sum is *not* met out of pension scheme funds but out of the employer's own funds. This provision will be brought to the attention of Members for consideration in greater detail once the results of the consultation are known and a final version of the regulations has been published.

Local Government Pension Scheme (Amendment) Regulations 2006

The Local Government Pension Scheme has been amended in light of the Employment Equality (Age) Regulations 2006 and the Finance Act 2004. Whilst the Scheme has been revised and was issued in March 2006 the Government committed to consider further amendments pending the outcome of additional talks between the trade unions and local government employers. The exact nature of any further amendments to the regulations is under continuing consultation until at least 3rd July 2006 and will not be finalised until after this date. It should be noted that the purpose of this report is to raise awareness of the proposals and to gain agreement specifically on those areas for which consultation has ended.

The key changes to the Local Government Pension Scheme are as follows:

- From 1st October 2006 there is a proposal to abolish the '85 year rule' which permitted an employee to retire if over the age of 50 with the employers consent where the employees age

added to their length of service totalled 85 or more. The '85 year rule' is deemed to be discriminatory under the Employment Equality (Age) Regulations 2006. As the new regulations stand at present the '85 year rule' will be abolished with effect from 1st October 2006 and transitional arrangements put in place in respect of employees who would be 60 and satisfy the rule of 85 by 31st March 2013. This is probably the most contentious of the changes and one that remains subject to ongoing consultation. The current proposal is that the '85 year rule' should remain in place for existing scheme members until 31st March 2008 and this proposal is under consultation until 3rd July 2006. In addition it is suggested that the transitional arrangements be extended to 2016. A further report will be submitted to Members once the consultation has ended and any amendments published.

- Under Regulation 52 of the pension scheme the amount of augmented scheme membership that an employer may grant to a scheme member will be subject to a maximum of 6 2/3 years. Regulation 52 is generally used as a means of encouraging individuals to leave employment in that it allows scheme member to be credited with membership of the pension scheme over an above the time that they have actually been members. This has the potential to increase the amount of pension and lump sum that the individual is entitled to. The employer has discretion in the application of this rule and is required to have a policy on this. The employer can augment membership by the shorter of 6 2/3 or the period up to the age of 65. There is no longer any 40 year limit on membership. Any additional cost to the pension scheme arising from the granting of augmented membership is charged to the employer. This regulation needs to be considered side by side with the discretion to pay compensation for redundancy equivalent to 104 weeks pay as described earlier in this report and which remains under consultation. A further report will be submitted to Members once the consultation has ended and any amendments published
- The earliest age for receipt of pension benefits on efficiency or redundancy grounds will be 50, although this minimum age will increase to 55 by the year 2010. Members are asked to note this amendment.
- From 6th April 2006 employees will be permitted to commute some of their pension into a lump sum on top of the normal retirement lump sum (Regulation 20 (3a) to (3d)). Until the effective date of the change the pension lump sum has been worth approximately 15% of the total pension fund that any individual has accrued. For benefits drawn after 6th April 2006 the changes in the pension scheme arising from the Finance Act 2004 mean that individuals can now have a lump sum equivalent to 25% of the capital value of their pension fund. The pension lump sum is tax free up to this limit. For each £1 of pension commuted a lump sum of £12 will be provided. It should be noted that employees would *not* be permitted to transfer part of their lump sum into monthly pensions. Members are asked to note this amendment.
- From 6th April 2006 the concept of 'flexible retirement' has been introduced. Flexible retirement allows an employee to receive pension benefits under a specific set of circumstances – namely that they are over the age of 50, have the consent of their employer to access benefits and take a reduction in hours or grade. The amount of the reduction that a person must take is not defined in the legislation. An actuarial reduction will apply if the scheme member has not accrued sufficient years membership to receive the full pension – but employers have the discretion to not apply the reduction. Clearly an employer that uses this discretion will incur a cost associated with the early retirement and the Council will need to make a decision on whether to allow this and in what circumstances. This has significant implications in terms of the Council's attitudes and approach to older workers, to retirement and succession planning and also for re-deployment of staff. A further

report will be submitted to Members once the consultation regarding the pension scheme has ended and any amendments published.

- From 6th April 2006 any scheme member who wants to purchase additional years membership of the scheme is limited to purchasing no more than 6 2/3 years.
- From 6th April 2006 the 40-year limit on pension contributions has been abolished. This means that a person can now accrue more than 40 years of membership in the scheme and gain additional pension benefits as a result. The impact of this is that any employee that had previously achieved 40 years membership and had been permitted to cease paying contributions has now been required to re-commence payment into the pension fund. The Council will need to decide whether to require such employees to pay back contributions for the period when they were not required to pay. It should be noted however that there is no actual benefit to the employee to do so as membership of the scheme during the period when the employee was not required to pay is still counted for pension purposes.
- From 6th April 2006 employees and Councillor Members are permitted to pay up to 100% of their salary into the pension scheme in order to accrue bigger benefits from the scheme and enjoy tax relief on the full amount. There is an implication for national insurance in that this is deducted before superannuation but after tax so if a person elects to pay 100% of their pay into the scheme an alternative means of paying national insurance will need to be arranged.
- From 6th April 2006 employees over the age of 65 and eligible Councillor Members are permitted to pay contributions into the pension scheme and accrue benefits, although pension benefits must be drawn before the 75th birthday. Any employee currently employed who is over 65 (except casual workers) must be automatically brought into the pension scheme (unless they specifically opt out).
- The normal retirement age for Councillor members will reduce from 70 to 65. Members are asked to note this amendment.

Section 2

Details of Matters to be Considered

Removal of The 40-Year Contribution Limit

As described earlier in this document there is now no limit to the number of years that a person can pay into the pension scheme. This means that any employee who had ceased to pay contributions to the scheme (due to having 40 years membership) has now had to recommence paying. Members are asked, in line with the amendment to the pension scheme, to formally revoke the current agreement in respect of Regulation 15 which states that employees with 40 years membership may cease paying contributions into the pension scheme.

Employing authorities have the discretion to require employees to pay arrears of contributions to the scheme for the period when they were not required to pay. It should be noted that there is no benefit to the employee in so doing as this does not impact on their accrued pension benefits. The continuous period of membership is counted for pension purpose even if they were not paying contributions for some of the time. It is understood that there is only one employee in this situation and they have only been in this position between May 2005 and March 2006. As a consequence, Members are asked to

waive the requirement for this individual to pay arrears of contributions, and the financial implications of this decision are set out in section 9 of the report.

Redundancy Discretions and Augmentation of Pension Scheme Membership

As described earlier in this report employing authorities have discretion to pay up to 104 weeks (2 years) salary to employees as compensation for redundancy. This payment cannot be made to someone who qualifies for augmentation of pension scheme membership under regulation 52 of the Local Government Pension Scheme. The application of regulation 52 is also discretionary

The Council is required to have a policy on how (if at all) it will implement these discretions and this must be forwarded to the Pensions Administrator at least one month before the implementation date.

Further information on these discretions will be forwarded to Members for consideration once the national consultation period is ended and finalised regulations are issued.

Section 3

Contribution to CHASE

The proposed changes do not contribute directly to the achievement of the CHASE objectives. However, the decisions taken as a result of this report and the approach we take as an organisation towards retirement will have an impact on the overall pay and remuneration package available to employee as part of their employment with Cannock Chase District Council.

Section 4

Section 17 (Crime Prevention) Implications

There are no identified implications in respect of section 17 arising from this report.

Section 5

Human Rights Act Implications

There are no specific implications in respect of the Human Rights Act

Section 6

Data Protection Act Implications

There are no specific implications in respect of the Data Protection Act

Section 7

Risk Management Implications

There are no specific implications in respect of risk management.

Section 8

Legal Implications

Given that the consultations are yet to be completed on a number of issues raised within the report it is considered that the legal implications are sufficiently covered in the body of the report.

Further consideration will need to be given to these matters once the outcome of the consultations are known.

Section 9

Financial Implications

Only one employee is affected by the decision in regulation 15. If the recommendation is approved there will be no further financial implications for the Council.

Section 10

Human Resource Implications

The changes detailed in this report are significant and wide-ranging. A number of policies will need to be reviewed or written once the outcomes of statutory consultations are finally known.

Section 11

List of Background Papers

None