

Human Resources Committee

15 June 2007



Early Retirement Scheme Review of Restriction on Added Years

Report of Stuart Crowe, County Treasurer and Kim Jobson, Head of Human Resources

Purpose of the Report

- 1 To review one of the detailed provisions of the Early Retirement Scheme. In particular this report focuses on a proposal that in circumstances of early retirement on the grounds of redundancy or efficiency, compensatory added years should be restricted so that, when accrued service is taken together with added years, the total service is capped at 40 years as a maximum.

Background

- 2 The Human Resources Committee of 25 September 2006 approved a revised Early Retirement Scheme (the 'Scheme'). This report, and the revised Scheme are attached for members information. The key drivers for revising the Scheme were as follows:
 - (a) There was a statutory requirement to review the Scheme in the light of age discrimination legislation which took effect on the same date as the revised Scheme, i.e. 1 October 2006. The provisions of the Scheme are empowered by statutory Compensation Regulations related to employee severance arrangements. The Compensation Regulations were replaced with effect from 1 October 2006, and from that date, added years could only be granted using the powers in the Local Government Pension Regulations (LGPS).
 - (b) To generally review the compensatory benefits available to facilitate staff reductions and service rationalisation, and in this regard the main change was to reduce the maximum compensatory added years which could be offered from 6 $\frac{2}{3}$ years down to 4.

Current Position

- 3 At a recent Early Retirement Sub-Committee, some members queried the current policy with regard to an early retirement case where an award of added years would result, because of the length of service of the applicant, in the total number of years taken into account in the pension calculation exceeding 40. Members were correct in their view that the previous Scheme had restricted the total service that could be achieved in an early retirement situation to 40. This was in line with the statutory Compensation Regulations which were in force prior to 1 October 2006. As pointed out above however these regulations were replaced on 1 October 2006.

- 4 As stated above one of the key requirements in drafting the revised Early Retirement Scheme was to ensure compliance with the Age Regulations 2006. There is no restriction related to 40 years service in the LGPS regarding the award of augmentation (added years), and it is possible if not probable that the imposition of such a restriction in our Scheme would amount to indirect Age Discrimination, because those employees who have more service tend to be older.
- 5 It is best to use an example to explain the point here. If 2 members of staff, one with 36 years pensionable service and the other with 40 years service were potentially redundant, and a service is looking to agree a voluntary severance arrangement, the new Scheme allows both employees to be offered up to a maximum of 4 added years. However if a 40 year restriction is imposed in the Scheme, the member of staff with 36 years could be offered up to a maximum of 4 years but the other (probably older) member of staff could not be made an offer.
- 6 Not only is this potentially discriminatory but it may inhibit rationalisation proposals if it proves difficult as a consequence to reduce the staff complement by voluntary means, therefore increasing the possibility of compulsory redundancy.
- 7 Here it should be emphasised that the scale of added years prescribed in the Scheme states the maximum that can be awarded. The Early Retirement Sub-Committee has the flexibility to address any concerns in this regard on a case by case basis as it is not required to award the maximum in every case. It could therefore be argued that there is no need to impose such a restriction to the Scheme when not required by regulation.
- 8 Members have made the point, with justification, that some employees with 40 years accrued service may in any event be prepared to leave voluntarily without enhancement. Others may not, however, and here it should be borne in mind that 40 years service could be achieved by an employee at age 58, and those in this position could otherwise accrue a pension of 47 years if they remain in pensionable employment to age 65.
- 9 It should be noted that the 40 year membership limit that previously existed in the LGPS was also removed by Government with effect from 6 April 2006. This was to take advantage of the flexibilities allowed by the new pension tax regime. As there is no longer a 40 year limit applied to membership earned by the LGPS members, it could be argued that it is not appropriate to introduce to our Scheme a 40 year restriction in the context of added years.

Concluding Remarks and Recommendation

- 10 Members are asked to consider whether they wish to amend the County Council's Early Retirement Scheme to ensure that, when taken together with accrued service, an award of added years does not result in 40 years being exceeded.
- 11 In coming to a view on this members need to consider the age discrimination issue, and also the flexibility that is currently available in the Scheme to consider each case on its merits.

12 The Committee's views are requested.

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