STAFFORDSHIRE PROBATION BOARD

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

Discretion to Award Additional Pension Benefits

1. PURPOSE OF REPORT

To determine level of award regarding pension benefits on retirement following changes in legislation which remove the facility for employers to make an award of Compensatory added Years, although employers can still use the augmentation provisions under regulation 52 of the Local Government Pension Regulations.

To bring to the attention of the Board the changes regarding redundancy payments including the effect on pension added years.

2. RECOMMENDATIONS

That Board consider the adoption of the change to redundancy payments as outlined. The changes should take effect from 1 December 2009.

3. BACKGROUND

Effect on Additional Pension/Augmentation

a) New Regulations (as above) came into force on 29 November 2006 but which take effect from 1 October 2006 mean that the discretion to award added years is removed (previously up to 10 years were allowed, although Staffordshire Probation Board have not invoked any enhancements, some had been offered by the Finance Committee).

b) In conjunction with new redundancy Regulations the alternative will be to offer the employee before termination on grounds of redundancy or efficiency the option of purchasing additional LGPS membership that could be purchased in the LGPS by the amount by which an enhanced redundancy payment exceeds the statutory element of the redundancy payment (ie only the non-statutory element of the redundancy payment can be used by the employee to buy augmented service).

c) The period appropriate to the recovery of costs may need to be outlined in documentation.

d) There are two considerations which need to be borne in mind:

- Because of age discrimination legislation, it would probably be unlawful to restrict a new arrangement to persons over age 60;

- It is now necessary under the new legislation to cap the maximum level of augmentation at 6 $^{2}/_{3}$ years.

Changes to Redundancy/Compensation

As outlined in 3(a), on 8 November the Department for Communities and Local Government issued the Regulations governing the compensation that authorities can award to an employee whose contract ends on the grounds of redundancy or efficiency. The Regulations came into force on 29 November 2006 but are retrospective to 1 October 2006. Briefly the main provisions:

- Remove the facility to make a one off lump sum payment of up to 66 weeks pay based on a formula and replace this with a provision to make a payment of up to 104 weeks pay;

- Continue to allow authorities to base compensation payment on an actual week's pay;

- Remove the facility for employers to make an award of Compensatory Added Years (CAY), although employers can still use the augmentation provisions under regulation 52 of the Local Government Pension Regulations.

It is proposed that we allow an arrangement which is set out in Appendix 2 and gives up to 104 weeks pay maximum.

It is also proposed to offer a person whose employment is terminated by reason of redundancy a lump sum compensation payment of up to a maximum of 104 weeks pay. The method of calculation ill be to enhance the statutory redundancy payments by use of a multiplier of 3.46, this being a specific exception in the Age Regulations for redundancy payments.

4. EQUALITY, DIVERSITY AND HUMAN RIGHTS IMPLICATIONS

The DWP has now amended the Age Discrimination Regulations to exempt most redundancy pension enhancements from the need to change. The proposed linear arrangement would, if adopted, be age discrimination compliant ie: at age 65 an employee will receive more than an age 50 employee. Under the existing arrangements both receive the 66 week maximum which could not be objectively justified.

The revised policies need to avoid any discrimination (whether direct or indirect on the grounds of age, sex, race, disability, belief, sexual orientation) and equality impact assessments should be carried out.

5. FREEDOM OF INFORMATION ACT IMPLICATIONS

This is a public document.

6. FINANCIAL IMPLICATIONS

Each case will be receive on its own implications relation to appropriate savings/efficiency to the organisation.

List of Appendices/Background Papers

Appendix 1 – Proposed Amendments to Letter to Employees Outlining Policy on Early Termination Payments

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APPENDIX 1

Proposed Amendments to our Letter to Employees Dated 11 January 2005

Outlining Policy on Early Termination Payments

Currently the criteria adopted with added years, where granted, is on a sliding scale once 5 years membership is obtained. In future there will be no provision to award added years but an augmentation payment will be permitted to cover a period of membership as follows:

Scheme Membership *(Whole Years)	Additional Period (Years)
5-8	1
9-12	2
13-16	3
17-20	4
21-24	5
25-28	6
29+	6 $^{2}/_{3}$

**Provided at least five years employment with Staffordshire Probation Service*

This amends the maximum service under the new basis from the previous 76 years maximum to a new maximum of 6 $^{2}/_{3}$ years.

In practice, we will be governed by the period which can be purchased by the maximum figure available (ie the amount by which enhanced redundancy payment exceeds the statutory redundancy payment).

RTS
13 Oct 09