

REVIEW OF EARLY TERMINATION DISCRETIONARY COMPENSATION

To: **Cabinet**

Date: **16th March 2010**

From: **Corporate Director: People, Policy and Law**

*Electoral
division(s):* **All**

Forward Plan ref: **2010 / 026**

Key Decision: **Council
decision**

Purpose: **The purpose of the report is to recommend a change in the current application of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (SI 2914) by Cambridgeshire County Council following the completion of a review of these provisions.**

Recommendation: **Cabinet is recommended to support a change of policy to remove the 50% enhancement currently being applied to redundancy payments made under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (SI 2914) by Cambridgeshire County Council and to endorse that this policy change be submitted for decision at the next meeting of the Full Council**

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1.0 BACKGROUND

- 1.1 The County Council currently operates a redundancy policy in accordance with the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations. These regulations enable the County Council to consider compensation payments to employees whose employment is terminated early by reason of redundancy.
- 1.2 The last review of the application of these discretions was undertaken in 2006. As a consequence of this prior review of the application of these discretionary regulations, Cambridgeshire County Council amended the provisions of its redundancy policy to the following:
- To award an overall lump sum of 1 ½ times the redundancy payment to all employees with 2 or more years' continuous employment with Cambridgeshire County Council;
 - Not to award compensatory added years (CAY) for redundancy cases, unless covered by the transitional protection arrangements set out within the Local Government Pensions Scheme (LGPS) Regulations;
 - Employees aged 50 and over would still receive immediate payment of their pension benefits (*Cabinet is reminded that due to further LGPS regulatory changes in this respect, that from April 2010 this changes to age 55*).
- 1.3 In reviewing and adopting such a policy in 2006, Cambridgeshire County Council recognised that redundancies would be considered a last resort and that actions would be taken to mitigate taking such a course where possible, i.e. through the use of redeployment, but that where redundancies occurred then compensation for loss of employment would be made in an appropriate, non-discriminatory and affordable manner to the authority.
- 1.4 In November 2006, when these provisions and their application in respect of the Council's redundancy policy were last considered, it was formally agreed that a further review of the application of these entirely discretionary regulations would be undertaken in due course. Consequently, a further review of the application of the discretionary compensation regulations has been undertaken and this report sets out a proposed change to the Council's policy in this respect. This recent review not only considered the County Council's current policy provisions in this regard, but equally researched the provisions adopted by other local authorities across England. This research and benchmarking exercise indicated that a number of local authorities were seeking to make similar changes to those now proposed for Cambridgeshire County Council, or had already determined such amendments to their LGPS employer discretions.

2.0 PROPOSED POLICY AMENDMENT

- 2.1 Based upon the completion of the agreed review of the Council's policy in this area and having given due consideration to the information received from other local authorities, it is proposed that the current discretionary provision exercised in 2006, that agreed to award an overall lump sum of 1 ½ times the redundancy payment to all employees, should be removed. This discretionary lump sum creates, in effect, a 50% increase to the actual redundancy payment received by an individual. By removing this discretion, the County Council would reduce the redundancy payment received by individuals, but would equally ensure that the general principles of providing appropriate, affordable and non-discriminatory compensation for loss of employment, as originally agreed in 2006, would be preserved following this further review.
- 2.2 In reviewing the application of this discretion, Cabinet is advised that the discretion is currently applied on a universal basis to all employees on local government terms and conditions of employment who receive a redundancy lump sum, regardless of actually being a member of the LGPS or not. Consideration to applying the discretion on a case by case basis was previously given in 2006 and was duly discounted due the requirement to ensure fair and equitable application of the discretion by the authority. Equally, in undertaking this further review and recommending the removal of the discretion, consideration was again given to retaining the discretion for application on a case by case basis. The principles of fairness and equity again make clear that such individual application of the discretion should not be applied because this would potentially treat some individuals less favourably than others and may leave the authority open to challenge. On that basis, the proposed removal of the discretion is a universal removal from all employees on local government terms and conditions of employment that receive a redundancy lump sum, regardless of being a member of the LGPS or not.

3.0 POLICY SCOPE

- 3.1 The proposed change to the County Council's application of the discretionary compensation LGPS regulations and the consequent amendments to the Council's redundancy policy would be applicable to direct employees of Cambridgeshire County Council employed on local government terms and conditions of employment.
- 3.2 In addition, as the Local Education Authority/Children's Service Authority, Cambridgeshire County Council also exercises and determines these discretions for non-teaching employees based in schools, including foundation schools. Given that the County Council is also the budget holder for schools in this regard, i.e. for redundancy purposes, it is considered important that the Council equally determines policy in this respect; otherwise it faces potential additional financial pressures arising from school based staff redundancies. This element of the policy amendment would therefore need to be the subject of further discussion via the Schools Forum.

4.0 TIMETABLE FOR IMPLEMENTING THE NEW POLICY PROVISIONS

4.1 The proposed removal of the current discretionary compensation enhancement to the redundancy policy requires a formal change in the employer discretions applied by Cambridgeshire County Council as an employing authority. On that basis, the process that is required to be followed is as follows:

- A formal report recommending the change to be submitted to Cabinet. Cabinet will need to recommend the change in discretions to Full Council, since this decision cannot be delegated.
- Full Council will receive a report recommending the changes at its meeting on 30th March 2010.
- Subject to the receipt of Full Council approval of the change, a transition period of 3 months is proposed, in-line with our legal requirements relating to changes to the terms and conditions of employment of more than 90 employees.
- Following the 3 months notice of the change to the Council policy, the revised Redundancy Policy provisions would be implemented with effect from 1 July 2010.

5.0 CONSULTATION

5.1 The non-teaching trade unions have been informed about the contents of the proposed amendment to LGPS employer discretions and the implications for the County Council's Redundancy Policy, via the Corporate Joint Panel meeting on 18th February 2010. No response to this proposed change has been received to date.

6.0 SIGNIFICANT IMPLICATIONS

Resources and Performance

- 6.1 The financial implications of the proposed changes to the application of discretionary compensation regulations in the Council's redundancy policy will vary according the actual number, length of service and salary of any individuals that become redundant in line with these revised policy provisions, whether on a voluntary or compulsory basis.
- 6.2 Cabinet is advised that changing the redundancy policy provisions within the timescales outlined will mean that any substantial redundancies, whether voluntary or compulsory, as currently projected to be made during the period covered by the recently approved Integrated Plan, would not be expected to incur the same costs of change for the authority, as it seeks to transform services.
- 6.3 Failure to remove the current discretionary compensation element contained within the Council's redundancy policy for employees eligible to join the LGPS does have the potential to perpetuate a lack of parity between these

employees and those centrally employed teachers within the County Council's direct workforce. Teachers do not have any discretionary compensation elements built into their terms and conditions of employment as a result of their membership of the separate Teachers Pension Scheme, which does not provide any such discretion.

Statutory Duties Requirements and Partnership Working

6.4 See paragraph 1.1.

Climate Change

6.5 There are no significant climate changes implications as a result of this report.

Access and Inclusion

6.6 See paragraph 2.2.

Engagement and consultation

6.7 See paragraph 5.1

Source Documents	Location
Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006. (SI 2914).	Corporate Director's Office, Shire Hall, Cambridge.
County Council's Redundancy Policy.	