

PENSIONS COMMITTEE - 1 NOVEMBER 2006

LOCAL GOVERNMENT PENSION SCHEME (LGPS) – AUGMENTATION POLICY

SUMMARY

This report seeks to update the Council's current policy on the augmentation of Local Government Pension Scheme membership and to delegate authority to agree to future cases to the Deputy Chief Executive and Director of Finance and Business Services in consultation with the relevant Director.

RECOMMENDATIONS That:

1. the proposed augmentation policy outlined in Section 4 and Appendix A of this report be adopted as the Council's revised policy; and
2. the Deputy Chief Executive and Director of Finance and Business Services, in consultation with the relevant Director, be given delegated authority to grant augmented service in line with this policy, as detailed in Section 5.

1. Introduction

The Local Government Pension Scheme (LGPS) Regulations 1997 gave Members the discretion to increase a scheme member's total period of membership, known as augmentation. Members agreed to use the discretion:-

- on termination of employment (for a scheme member who leaves employment voluntarily or by reason of redundancy or in the efficient exercise of the authority's functions) - only where there is clear financial or operational advantage to the council, or compassionate grounds are appropriate; or
- for new members - only where exceptional difficulties are experienced in recruiting staff.

Each case was to be the subject of Member approval.

Only one case has been put to Members for agreement at termination of employment. This was agreed in 1999 for an employee who left voluntarily under the 'Rule of 85'. Members also agreed to augment scheme membership for eight IT Net employees who transferred back to the Council in January 2004 and whose membership fell short of what it would have been if they had remained with the Council. As a result, four employees took up the option to have their service augmented on the basis that they made payments to the fund to meet the cost.

Under the LGPS (Amendment) Regulations 2006 there are a number of changes to the augmentation provisions which suggests that the Council should update its policy.

2. Compensatory 'Added Years'

The Council has had a policy to grant 'added years' which allowed the Council to award additional service to employees when they were made redundant or their employment was terminated on the grounds of the efficient exercise of the authority's functions. This power was derived from the Local Government Early Termination of Employment (Discretionary Compensation) (England and Wales) Regulations.

The Compensation Regulations gave discretion to award up to a maximum of 10 'added years'. In 1984 Policy and Resources Committee agreed the granting of added years on a sliding scale of 2 months service for each completed year of membership up to a maximum of five added years. 'Added years' were granted to employees with over five years service who were over the age of 50 (and who were therefore entitled to immediate payment of pension benefits).

Under draft revised Regulations, this provision is expected to be removed with effect from 1st October 2006. No alternative has been proposed although there are provisions within the LGPS Regulations to enhance pensionable service through 'augmentation', as described above.

'Added years' have been seen as a valuable tool in managing organisational change and a key factor in achieving what have largely been voluntary redundancies and terminations on the grounds of the efficient exercise of the authority's functions in the past by encouraging volunteers for redundancy. The number of 'volunteers' that have come forward since it was known that the ability to pay added years was to be withdrawn has further reinforced this view.

Volunteers for redundancy have facilitated the majority of expenditure reductions and organisational changes which would otherwise have involved complex and time-consuming HR procedures. The risks of dispute and legal challenge to the Council's actions are significantly reduced where volunteers are available.

The ability to augment service in similar circumstances, using existing provisions with the LGPS, would therefore be a useful alternative to 'added years' to facilitate organisational change in the future.

3. The Power of Employing Authority to Increase Total LGPS Membership

The only power the Authority now has to increase an employee's membership derives from the LGPS (Amendment) Regulations 2006 which have been updated to reflect new responsibilities under age discrimination.

Previously, for augmentation on termination of employment, the Regulations stipulated that a decision to augment service could only be made in the period

one month before the date of leaving and ending six months after the day of leaving. This restriction has been removed and there are greater flexibilities to consider augmenting service at any time during employment – provided the individual is an active member of the scheme.

A summary of the provisions is as follows:

- An employing authority may resolve to increase the total membership of an active member.
- A member's total additional membership (including additional membership in respect of different employments) must not exceed the shorter of:–

6 2/3rds years; or

the period which the Member has remaining to age 65

The cost of augmentation must be fully funded by the employing authority in order that there is no additional cost to the pension fund.

4. Proposed Future Policy

In determining future policy with regard to augmentation of pension service, Members should be aware that a report is due to be submitted to General Purposes Committee in January 2007 with proposals for a revised severance scheme. Revisions are required to the existing severance scheme following changes to the Compensation Regulations (as detailed under Section 2) and new scheme proposals now need to be free of age bias. It is therefore likely that any new scheme will apply to all relevant terminations, regardless of the age of the employee. The opportunity to offset severance against pension lump sum for those in receipt of pension will be explored. Firm proposals have yet to be drawn up due to uncertainty over the final regulations and lack of clarity around age discrimination law. Like many other local authorities further advice and clarification is needed before proposing a revised severance scheme.

Despite this uncertainty there remains a need to update the Council's policy in respect of augmentation to reflect the revised LGPS Regulations. In addition, Members may wish to consider building in more flexibility around the use of augmentation and improve the range of options that are available to facilitate organisational change, particularly as the provision to award compensatory 'added years' has recently been removed.

Future policy considerations are:-

i) Under what circumstances will augmentation be considered?

For new Scheme members: The current policy is to make use of the discretion only where exceptional difficulties are experienced in recruiting staff. (This has never been used).

No changes to this policy are proposed.

As a Retention Measure: On occasions there may be exceptional circumstances when it would be beneficial to the organisation to be able to augment scheme membership at some other point during employment. For example to encourage a key employee to stay who might otherwise choose to leave at times of uncertainty or once they reach voluntary retirement age.

Members have already made the decision to consider augmentation in respect of recruitment and it seems appropriate, as the Regulations now provide for it, to widen the policy to allow consideration for augmenting service for retention purposes.

It is proposed that consideration will only be given to the use of augmentation in these circumstances:-

- during times of uncertainty or re-organisation; and
- where a valuable worker on a key project needs to be retained who might otherwise leave; and
- where retention of the employee would ensure stability in times of a reducing workforce.

Agreement to the use of augmentation is likely to be rare as there are other retention measures that can be used.

On Termination of Employment: The current policy, on termination of employment, is to make use of this discretion only where there is a clear financial or operational advantage to the Council or compassionate grounds are appropriate.

No changes to this policy are proposed.

ii) By how much will service be augmented?

The amount by which scheme membership can be augmented is limited by the Regulations as detailed in Section 3 of this report. In line with the previous decision Members took in respect of 'added years', it is proposed that this be limited to a maximum of 5 years. It is expected that this maximum amount would only be awarded in rare circumstances.

It is proposed that the amount of augmented service be determined on a case-by-case basis depending upon the individual circumstances and with due consideration to the operational and financial advantage to the Council.

Criteria will be developed to support the application of augmentation as advice around age discrimination legislation becomes clearer. i.e. for decisions at termination, to restrict its use to those with at least 5 years service and only where the employee has volunteered for redundancy, early retirement, or termination on the grounds of the efficient exercise of the authority's functions so as to facilitate organisational change.

It is also proposed that cases are monitored to ensure that this policy is applied fairly and equitably and that its application does not fall foul of anti-discrimination legislation. Details of cases where augmentation has been agreed will be reported to this committee as part of the annual report on the numbers, costs and savings of early retirements.

iii) The method of funding

The LGPS Regulations state that the cost of augmentation will be borne by the employing Department and not by the pension fund.

It is intended that costs will be funded in the same way that 'added years' are currently ie all costs will be fully funded by the employing department. This will cover both any initial lump sum entitlement as well as additional annual costs.

A draft revised policy based on these proposals is attached as Appendix A.

5. Delegation

Redundancy and early retirement decisions regarding non-member level appointments have been delegated to the relevant Designated Officer (usually Assistant Directors) in consultation with the Deputy Chief Executive and Director of Finance and Business Services. Members have retained decisions relating to member level appointments.

Arrangements need to be in place to ensure that decisions around augmentation of LGPS service balance the interests of the pension fund with the financial and operational needs of the Council. With this in mind it is suggested that the Deputy Chief Executive and Director of Finance and Business Services is well placed to make judgements in this respect for all levels of post except for those posts which are subject to Member level appointment, where a Member decision will still be required.

It is therefore recommended that the Deputy Chief Executive and Director of Finance and Business Services, in consultation with the relevant Director, be given delegated authority to agree to augmentation of LGPS pensionable service in accordance with the policy described above except for those posts which are subject to Member level appointment, where a Member decision will still be required.

6. Equal Opportunities/Access Issues

The augmentation policy proposed in this report will be applied, as appropriate, to all employees regardless of race, gender, age, disability, or level in the organisation. This information will be monitored to ensure that no discriminatory practices exist.

7. Summary of Financial Implications

The cost of augmentation will vary depending on the circumstances of each individual case. The funding arrangement outlined in Section 4 (iii) will ensure that no costs fall on the pension fund as required by the Regulations.

Local Government Act 1972 – section 100d List of background documents

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DRAFT REVISED POLICY

AUGMENTATION OF LOCAL GOVERNMENT PENSION SCHEME MEMBERSHIP

Under the provisions of the Local Government Pension Scheme the Council may resolve to increase the total membership of an active member. A member's total additional membership (including additional membership in respect of different employments) must not exceed –

- (a) 6 2/3rds years; or
- (b) the period by which the member's total membership falls short of the total membership the member will have if he continues as an active member until he is 65; whichever is the shortest.

The Deputy Chief Executive and Director of Finance and Business Services, in consultation with the relevant Director, has delegated authority to agree to augmentation of LGPS pensionable service, (except for those posts which are subject to Member level appointment where a Member decision will still be required) in accordance with the following policy:-

For new Scheme members

Only where exceptional difficulties are experienced in recruiting staff.

As a Retention Measure

In exceptional circumstances when it would be beneficial to the organisation, for example to encourage a key employee to stay who might otherwise choose to leave at times of uncertainty or once they reach voluntary retirement age. Consideration will only be given to the use of augmentation in these circumstances:-

- during times of uncertainty or re-organisation; and
- where a valuable worker on a key project needs to be retained who might otherwise leave; and
- where retention of the employee would ensure stability in times of a reducing workforce.

On Termination of Employment

Only where there is a clear financial or operational advantage to the Council or compassionate grounds are appropriate.

If a decision to augment scheme membership is agreed, the amount of service that will be awarded will be limited to a maximum of 5 years.

The amount of augmented service to be awarded will be determined on a case-by-case basis, depending upon the individual circumstances, and with due consideration to the operational and financial advantage of the Council. Only in extremely rare cases will the maximum be awarded.

The cost of augmentation will be borne by the employing Department and not by the pension fund.