
Review of Discretionary Compensation for Redundancy – Supporting Information

1. Background – statutory payments on redundancy

- 1.1 The cost of making local authority employees redundant is based on the redundancy payment (which may be enhanced beyond the statutory minimum) and any costs incurred by the pension fund for early retirement of those aged 55 or over.
- 1.2 Employees who lose their employment because of redundancy are entitled to a redundancy payment. The minimum statutory payment is based on a multiple of weekly pay; the number of weeks' pay is calculated based on age and length of service.
 - 0.5 week's pay for each full year of service while they were under 22
 - 1 week's pay for each full year of service while they were 22 or older, but under 41
 - 1.5 week's pay for each full year of service while they were 41 or older.
- 1.3 Employees can only count a maximum of 20 years' service and the 'weekly pay' is subject to an upper limit (£479 as at April 2016). Thus the maximum number of weeks' pay for a redundancy payment under the statutory scheme is 30 weeks.
- 1.4 Employees who are members of the Local Government Pension Scheme, and are 55 or over when made redundant, are entitled to immediate unreduced pension benefits, based on their service in the scheme. The Council must pay the pension fund a sum to cover the cost of the 'strain' to the fund of this early retirement.

2. Discretionary payments on redundancy

- 2.1 The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 (DCR) provide for local authorities to:
 - (1) Use an amount up to actual weekly pay rather than the statutory maximum for the purpose of calculating a redundancy payment; and
 - (2) Make lump sum compensation payments of up to 104 weeks' pay to employees whose employment ends by reason of redundancy or efficiency.
- 2.2 Local authorities are required to develop and publish a policy that sets out how they will use the discretions available to them. Any changes to the policy must be published at least one month before they take effect.
- 2.3 Almost all local authorities¹ exercise their discretion to use actual week's pay in the redundancy payment calculation. Many use their discretion to pay up to 104 weeks' pay by multiplying the number of statutory weeks' pay that an employee is entitled

¹ Early Retirement and Redundancy Compensation Survey by LGA 2013

to (this avoids potential claims for age discrimination, because it is based on a statutory calculation).

- 2.4 West Berkshire Council uses actual weekly pay in its redundancy calculations. Until October 2011, it used a multiplier of three times the statutory number of weeks' pay. The Personnel Committee then made a decision to reduce the multiplier to twice the statutory payment. The multiplier has remained at two since October 2011. This means that the maximum payment is 60 weeks' pay.
- 2.5 In October 2015, Personnel Committee considered a report recommending a change in policy, to reduce the redundancy multiplier to 1.5 from 1st December 2015, and to remove the multiplier (i.e. pay only statutory weeks) from 1st December 2016. This was not approved, and Personnel Committee requested that further research should be carried out to look at practice in other local authorities so that we could compare WBC policy with that of others.
- 2.6 In addition to the DCR, there is provision under Regulation 31 of the Local Government Pension Scheme Regulations 2013 for the employer to award 'additional pension' of up to £6,500 to employees who are made redundant and are aged 55 or over. West Berkshire Council has chosen not to exercise this discretion.
- 2.7 This report brings information from a recent survey (spring 2016) of local authority policies and makes proposals in the light of these, and in the context of new legislation which will be introduced in 2016 to address exit payments to public sector employees. It proposes a change to the redundancy multiplier to 1.5, to take effect from 1st September 2016.

3. Legislative changes in 2016

- 3.1 During 2016 the Government intends to introduce legislation affecting payments made to public sector employees upon the termination of their employment. The Council needs to be mindful of these changes when making decisions about the 'redundancy multiplier':
 - (1) A cap of £95,000 on the aggregate value of exit payments made to most public sector workers. This includes pension scheme compensation for those over the age of 55, and changes to the Local Government Pension Scheme will need to be made to ensure that the £95k cap can be achieved. An implementation date of October 2016 is expected.
 - (2) Recovery of exit payments made to 'high earners' (earning over £80k per annum) in the public sector who are re-engaged in the public sector within a period of 12 months. Draft regulations were due to take effect from April 2016, but it appears that this has been delayed until July 2016.
 - (3) A wider review of how public sector exit payments (discretionary compensation) may be calculated. These proposals are open for consultation until 3rd May 2016.
- 3.2 It is possible that any changes to legislation introduced as a result of the consultation on reform of public sector exit payments will require a further review of our own policy, but as the consultation outcome has not yet been announced, this is

not a good reason for delaying a decision which the Council wants to introduce from 1st September 2016.

4. Current WBC policies related to redundancy

- 4.1 The Council has an Organisational Change policy under which employees who are risk of redundancy are supported to seek redeployment wherever possible rather than be made redundant.
- 4.2 The Council has an Employer Statement of Policy on how it will exercise its discretions to enhance redundancy payments.
- 4.3 Both of these documents are available on the Council's intranet. A summary is provided at Appendix C.

5. Comparative data

- 5.1 In spring 2016, HR conducted a survey of other local authorities to compare their policies on redundancy compensation. The authorities surveyed were chosen for either their geographical proximity and/or their similarity (e.g. unitary authorities) to WBC, to ensure that we were comparing ourselves against authorities facing similar issues with staffing.
- 5.2 As well as discretionary redundancy compensation, the authorities were also asked if they used their discretion under the Local Government Pension Scheme regulations to award additional pension for those being made redundant. WBC does not award additional pension.
- 5.3 33 local authorities were invited to respond to our survey; 20 local authorities responded. The full table of responses is shown at appendix D.
- 5.4 Most LAs used actual week's pay in the calculation of the redundancy payment; only two capped it, and then at a much higher rate than the statutory maximum. Two used their discretion to enhance the number of weeks used in the calculation only for volunteers; one used it only where the individual had no right to an immediate unreduced pension. Two LAs used a flat rate of 1.5 weeks per year of service, rather than a multiple of statutory weeks. One LA used a multiplier of 2 but capped payment at 52 week's pay. These responses were excluded from the calculation of the mean average multiplier as they are not directly comparable to the WBC policy.
- 5.5 Of the 13 authorities that use actual weekly pay and a multiplier of the statutory number of weeks, 7 use a multiplier of 1, 1 uses a multiplier of 1.5, and 5 use a multiplier of 2. The mean average multiplier for this survey is 1.42 times the statutory number of weeks' pay.
- 5.6 Most responding authorities had a policy not to award additional pension. Those that had retained the discretion to award additional pension under the LGPS regulations did not do so in practice.

6. Points for consideration

- 6.1 The cost to the Council of the compensation paid to the pension scheme for the early release of the pension can be high, especially for those closer to 55 who have

long pension service (as it is based on actuarial calculations). It follows that if the Council decides to reduce the multiplier to 1.5 there will still be some redundancies which are high cost, albeit they will be less expensive than if the multiplier remained at two.

- 6.2 For example, in 2015/16, the Council paid a total of £127,237 in redundancy payments to 17 employees, and £28,458 to the pension fund (total £155,695) in respect of four of those employees. If the multiplier had been 1.5 instead of 2, the costs would have been £98,886 and £28,458 (total £127,344). This represents a potential saving over the year of £28,351 (18% of the total cost). If there had been more older employees (55 and over) in this group the proportionate savings would have been lower.
- 6.3 It should be noted that the entitlement to enhanced redundancy compensation is not contractual – the authority has the power to make changes to its policy provided that it provides at least one month's notice of the change.
- 6.4 The current multiplier of two means that staff in a redundancy 'pool' are more likely to volunteer for redundancy which obviates the need for a selection process and compulsory redundancy. This reduces organisational conflict and leads to a more positive employee relations environment. However, this benefit needs to be set alongside the financial position of the Council and the potential savings that could be made by a reduction in the multiplier.
- 6.5 Employees aged 55 and over who are members of the pension scheme will continue to have access to an immediate pension, and so the change in policy will have less impact on their total 'package'.
- 6.6 The comparative data shows that WBC is generous using a multiplier of two. The comparative data suggests that a reduction to 1.5 can be justified, and will still be more generous than many comparable authorities.

7. Proposals

- 7.1 It is proposed that West Berkshire Council reduces the multiplier it uses to calculate redundancy compensation payments from 2 to 1.5 times the statutory number of weeks' pay. This should continue to apply to all redundancies, whether or not the individual is a volunteer or is entitled to an immediate unreduced pension.

8. Conclusion

- 8.1 Reducing the redundancy multiplier will save the Council money on redundancy costs and bring its policy into line with the average paid by other councils with similar policies.

9. Consultation and Engagement

- 9.1 The trade unions will be consulted on these proposals after the report has been considered at Operations Board.

Background Papers:

[The Local Government \(Early Termination of Employment\) \(Discretionary Compensation\) Regulations 2006](#)

[Local Government Pension Scheme Regulations 2013](#)

Subject to Call-In:

Yes: ☒ No: ☐

Wards affected: All**Strategic Aims and Priorities Supported:**

The proposals will help achieve the following Council Strategy aim:

☒ **MEC – Become an even more effective Council**

The proposals contained in this report will help to achieve the following Council Strategy priorities:

☒ **MEC1 – Become an even more effective Council**

The proposals contained in this report will help to achieve the above Council Strategy aims and priorities by reducing the cost of dismissing staff due to redundancy and bringing WBC policy into line with other similar authorities.

Officer details:

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Appendix B

Equality Impact Assessment - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity.

Please complete the following questions to determine whether a Stage Two, Equality Impact Assessment is required.

Name of policy, strategy or function:	Discretionary Compensation Regulations (Employer Statement of Policy) – amendment to reduce ‘multiplier’ from 2 to 1.5
Owner of item being assessed:	Robert O'Reilly
Name of assessor:	Katie Penlington/Jane Milone
Date of assessment:	October 2015/May 2016

Is this a:		Is this:	
Policy	Yes	New or proposed	No
Strategy	No	Already exists and is being reviewed	Yes
Function	No	Is changing	Yes
Service	No		

1. What are the main aims, objectives and intended outcomes of the policy, strategy function or service and who is likely to benefit from it?	
Aims:	The Policy Statement sets out how the Council will use the discretions available to it under the terms of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006, in cases where the employee's service is terminating on the grounds of redundancy or efficiency
Objectives:	To set out the payments that will be made to employees whose employment is terminated on grounds of redundancy or efficiency.
Outcomes:	Publication of a clear statement of policy.
Benefits:	Payments can be calculated and paid in accordance with the policy statement.

2. Note which groups may be affected by the policy, strategy, function or service. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this.
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Group Affected	What might be the effect?	Information to support this
Age	Younger employees will receive a lower redundancy payment than older employees	The statutory calculation for redundancy compensation increases with age as well as service.
Sex	<p>Women may receive lower payments on average than men.</p> <p>Women may have less opportunity to accrue the same length of continuous service as caring responsibilities are more frequently taken on by women than men.</p> <p>Women have lower incomes on average than men and are therefore likely to receive lower payments.</p>	<p>There is an acknowledged 'pay gap' between men and women in the UK; the same factors will operate on the Council as on other employers (e.g. fewer women in senior positions).</p> <p>Of redundancies made by the Council between 06/01/13 and 31/08/15 66 people were made redundant; 10 of these were men, 56 women.</p> <p>The men, on average, had 14 years service, whereas women had an average of 13 years service (both rounded down to the nearest year).</p> <p>The average weekly salary of all those made redundant was £340.39. The average weekly salary of women was £328.05, the average for the men was £409.44</p>
All other strands	As the policy relates only to payment on termination of employment due to redundancy or efficiency it is unlikely to affect other groups either more positively or more negatively than others.	
Further Comments relating to the item:		
None		

3. Result

Are there any aspects of the policy, strategy, function or service, including how it is delivered or accessed, that could contribute to inequality?

Yes

Please provide an explanation for your answer:

Redundancy compensation payments made under the Council's policy vary according

to the age and length of service of the employee. This will mean that older employees receive a higher number of week's pay per year of service than younger employees; it may also mean that men receive higher payments than women, as women are likely to accrue shorter continuous service as they are more likely to take breaks for caring responsibilities, and have lower average earnings.

However, it is important to note that payments within the Council's scheme are based on the statutory calculation of redundancy payments. There is an exemption under the Equality Act 2010 from unlawful age discrimination where an organisation's redundancy pay provisions are linked to length of service where they mirror the statutory scheme. Therefore there is an objective justification for this policy.

The proposed change in the 'multiplier', from 2 to 1.5 times the statutory number of weeks' pay, will make no difference to the relative impact of the discretionary compensation payments policy on people of different ages or on men and women.

Will the policy, strategy, function or service have an adverse impact upon the lives of people, including employees and service users?

No

Please provide an explanation for your answer:

If your answers to question 2 have identified potential adverse impacts and you have answered 'yes' to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage 2 Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the Equality Impact Assessment guidance and Stage Two template.

4. Identify next steps as appropriate:

Stage Two required	NO
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	
Stage Two not required:	

Name: Jane Milone

Date: 2nd May 2016

Please now forward this completed form to Rachel Craggs, the Principal Policy Officer (Equality and Diversity) for publication on the WBC website.

Appendix C

West Berkshire Council redundancy policy – summary

Process summary:

1. Identify requirement to reduce number of posts and consult staff and unions on proposals.
2. Finalise proposals, and seek volunteers for redundancy.
3. If necessary, consult on selection criteria for compulsory redundancy.
4. Select staff for redundancy.
5. Seek estimates of costs for 1) redundancy payment and 2) pension fund costs (if applicable) for redundant employees.
6. Continue to seek redeployment to avoid compulsory redundancies.
7. Seek approval for overall costs from Chief Executive or the Executive as appropriate (see below).
8. Issue notice of termination of employment by reason of redundancy,
9. Make redundancy payment to employee and (as appropriate) compensate the pension fund for the cost of early retirement.

The table below shows the use of the Council's discretions under the Discretionary Compensation Regulations and the approval process for the total costs to the Council for each individual redundancy.

	Current policy	Proposed policy from 1/9/16
Week's pay	Actual pay	Actual pay
Multiplier (of statutory redundancy weeks to pay)	2	1.5
Approvals under £10k cost	Chief Executive in consultation with Leader and Shadow Leader	Chief Executive in consultation with Leader and Shadow Leader
Approvals £10k cost and over	Executive	Executive

Appendix D

Summary of responses to survey of redundancy compensation policies – April/May 2016

	Local Authority	Type of authority	Additional pension awarded under Reg. 31 LGPS?	Week's pay used in calculation	Number of weeks paid
1.	Southampton	Unitary	No	Actual capped at top of grade 13	1.25 x statutory for voluntary only
2.	Poole	Unitary	Possible but not paid in practice	Actual	1.5 weeks for each year
3.	South Oxfordshire and Vale of the White Horse	District	No	Actual	1.5 weeks for each year
4.	Hertfordshire	County	No	Actual	Statutory
5.	Bournemouth	Unitary	No	Actual	Statutory
6.	Bristol	Unitary	Possible but not paid in practice	Actual capped at £726	2 x statutory
7.	Basingstoke	District		Actual	2 x statutory
8.	Swindon	Unitary	Possible but not paid in practice	Actual	Statutory
9.	South Gloucestershire	Unitary	Exceptional circumstances only	Actual	2 x statutory
10.	Oxfordshire	County	No	Actual	2 x statutory
11.	Bath and North East Somerset	Unitary	Exceptional circumstances only	Actual	2 x statutory
12.	East Hants	District	Possible but not paid in practice	Actual	Statutory
13.	Havant	District	Possible but not paid in practice	Actual	2 x statutory
14.	Brighton and Hove	Unitary	No	Actual	About to change from 2 x statutory to 1.5 x statutory for voluntary only
15.	Portsmouth	Unitary	No	Actual	Statutory
16.	Royal Borough of Windsor and Maidenhead	Unitary	No	Actual	Statutory
17.	Slough	Unitary	Where a benefit to the Council	Actual	1.5 x statutory
18.	Reading	Unitary	No	Actual	2 x statutory (up to 52 weeks)
19.	Wokingham	Unitary	No	Actual	Statutory
20.	Bracknell Forest	Unitary	Possible but not paid in practice	Actual	Statutory for those with immediate pension 1.75 x statutory with no pension

Responses included in calculation of mean average multiplier in main report

Local authorities surveyed and reason for inclusion:

Neighbours adjoining		Near unitaries		Near districts	
Name	Type	Name	Type	Name	Type
Reading	U	Swindon	U	West Oxon	D
Slough	U	Brighton and Hove	U	South Oxon	D
Bracknell Forest	U	Central Beds	U	Vale of White Horse	D
Windsor and Maidenhead	U	Bedford	U	Basingstoke and Deane	D
Wokingham	U	Southampton	U	Test Valley	D
Bucks	C	Portsmouth	U	Winchester	D
Surrey	C	Bournemouth	U	Hart	D
Hants	C	Poole	U	East Hants	D
Wilts	U	Bristol	U	Oxford	D
Oxon	C	BANES	U	Havant	D
Herts	C	South Glos	U		
		Isle of Wight	U		