

Notice of Meeting

Personnel Committee

Monday, 19 March 2007 at 3.30pm

In the Members' Boardroom, Market Street Offices

Date of Despatch of Agenda: 09 March 2007

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact David Cook, Policy Executive on (01635) 519475
e-mail: dcook@westberks.gov.uk

Further information and Minutes are also available on the Council's website at www.westberks.gov.uk

Agenda – Personnel Committee to be held on 19 March 2007 (continued)

To: Councillors Barbara Alexander, Phil Barnett, Paul Bryant, Denise Gaines, Quentin Webb

Agenda

Part I

- | | | Page No. |
|----|--|------------------|
| 1. | Apologies for Absence
To receive apologies for inability to attend the meeting (if any). | |
| 2. | Minutes
To approve as a correct record the Minutes of the meeting of the Committee held on 15 February 2007. | 1 |
| 3. | Declarations of Interest
To receive any declarations of Interest from Members. | |
| | | Reference |
| 4. | Review Of The Council's Severance Policy
<i>Purpose: To comply with the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 covering discretionary severance payments to employees.</i> | PC1360
2 |
| 5. | Smoking Policy
<i>Purpose: To recommend the adoption of the Council's Smoking Policy.</i> | PC1435
8 |

Sue Curtis Davison
Head of Policy and Communication

PERSONNEL COMMITTEE

**MINUTES OF THE MEETING HELD ON
15 FEBRUARY 2007**

Councillors: Barbara Alexander (P), Phil Barnett (P), Paul Bryant (P), Denise Gaines (P), Quentin Webb (P)

Also present: Robert O' Reilly, David Cook

PART I

24. APOLOGIES.

There were no apologies for absence received.

25. MINUTES.

The Minutes of the meeting held on 11 January 2007 were approved as a true and correct record and signed by the Chairman.

26. DECLARATIONS OF INTEREST.

There were no interests declared.

27. EXCLUSION OF PRESS AND PUBLIC.

RESOLVED that members of the press and public be excluded from the meeting for the under-mentioned item of business on the grounds that it involves the likely disclosure of exempt information as contained in Paragraphs 1 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information)(Variation) Order 2006. Rule 9.10.4 of the Constitution also refers.

PART II

28. FUNDING FOR POSSIBLE EARLY RETIREMENT OF AN EMPLOYEE.

(Paragraph 2 -information identifying an individual)

The Committee considered an exempt report (Agenda Item 5) concerning the award of added years of pensionable service to an employee who is leaving the Council on the grounds of redundancy.

RESOLVED that the Personnel Committee agreed the recommendations as set out in the exempt report.

29. FUNDING FOR POSSIBLE EARLY RETIREMENT OF AN EMPLOYEE.

(Paragraph 2 -information identifying an individual)

The Committee considered an exempt report (Agenda Item 6) concerning the award of added years of pensionable service to an employee who is leaving the Council on the grounds of redundancy.

RESOLVED that the Personnel Committee agreed the recommendations as set out in the exempt report.

(The meeting commenced at 8.25nd closed at 9.00pm)

CHAIRMAN

Date of Signature:

Title of Report:	Review Of The Council's Severance Policy	Item 4
Report to be considered by:	Personnel Committee	
Forward Plan Ref:	PC1360	

Corporate Plan Priority:	D4 – Stronger governance
The proposals contained in this report will help to achieve the above Corporate Plan priority by: <i>Providing an affordable and effective severance policy that complies with government regulations.</i>	

Purpose of Report:

To comply with the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 covering discretionary severance payments to employees.

Recommended Action:

Implement policy set out in report.

Reason for decision to be taken:

To meet the requirements of the Discretionary Compensation (DC) Regulations 2006.

List of other options considered:

Retain existing policy. Rejected because South East Employers advise that the existing policy must change to comply with age discrimination legislation and the new DC Regulations 2006.

Key background documentation:

- The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (S.I. 2917)
- Review of the Severance policy. Report to Executive 4th May 2006.

Portfolio Member:	Councillor Anthony Stansfeld
Tel. No.:	01488 658238
E-mail Address:	astansfeld@westberks.gov.uk

Contact Officer Details	
Name:	Robert O'Reilly
Job Title:	Head of HR
Tel. No.:	01635 519358
E-mail Address:	roreilly@westberks.gov.uk

Implications

- Policy:** The policy for discretionary severance payments for employees of WBC set out in this report will replace the severance policy agreed by the Executive on 4th May 2006.
- Financial:** The financial implications of the policy are to increase the potential redundancy payments for employees and end the awarding of 'added years' to the severance packages of employees over 50.
- The overall effect will depend on the level of redundancies in the future but is likely to be less expensive than the current severance policy. An analysis of the last seven redundancies in WBC shows that the proposed new policy would have reduced the cost to the Council of the combined severance payments by £7,715.
- Personnel:** The certainty of a fixed amount for redundancy payments will be included in the management guidance for managing redundancy and will assist in organisational change processes.
- Legal:** The Council's severance policy must comply with DC Regulations 2006. The regulations do not cover teachers.

Supporting Information

1. Background

The Government has published the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 (the "DC" Regulations). The regulations do not cover teachers. The DC Regulations 2000 have been repealed and this means that the Council's current severance policy must change by 31st March 2007 when the permitted period of transition ends. The Council's new severance policy must be published and kept under review.

1.2 The new regulations include the following provisions for local authorities:

- Retain the discretionary power to waive the weekly pay ceiling placed on statutory redundancy payments and to calculate redundancy payments on pay up to an actual week's pay.
- Provide a discretionary power to award a one-off lump sum payment of up to 104 week's pay, inclusive of any statutory redundancy payment.
- Remove the power to award added years (although additional membership can still be awarded through the augmentation provisions of the Local Government Pension Scheme [LGPS].)

1.3 The Council is required to develop and publish its policy on the award of discretionary payments under the new DC Regulations, including the criteria to be taken into account. Any such policy will have to comply with age discrimination legislation. This report recommends an approach which awards a lump sum to all eligible employees who are made redundant based on an agreed formula. From a HR perspective this approach gives clarity in advising managers on the costs of organisational change. The lump sum will come from the revenue budgets and will avoid long term compensation payments to the pension scheme. However, under regulation 26 of the LGPS, employees aged 50 or over whose employment terminates on the grounds of redundancy (including efficiency of the service) are entitled to receive the immediate payment of their pension (unenhanced).

1.4 The Council currently calculates redundancy payment on the employee's actual week's pay. It is recommended that this policy should continue under the new DC Regulations.

1.5 The Council's current severance policy is for employees aged over 50 who retire early as a result of redundancy or efficiency of the service to be awarded added years at the discretion of the Personnel Committee following a recommendation by the Head of HR. The Council will no longer be able to award added years under the DC Regulations 2006 to employees aged 50 or over. However the Council can continue to award up to 6 2/3 added years under regulation 52 of the LGPS (the augmentation provisions), regardless of the age of the employee, to employees who are in membership of the LGPS. Any decision to award added years under the augmentation provisions must be made before the employee's termination date with the Council. The Council could decide to award added years to employees aged 50 or over (as at present) but this is discriminatory under age discrimination legislation unless it could be objectively justified. The lawfulness of awarding benefits only to members of the LGPS may also be challengeable under general anti-discrimination legislation on the grounds of indirect discrimination. A survey of local authorities in January 2007 found that 21 of 23 had decided not to use the augmentation provisions in their revised severance policy.

1.6 The Council's current severance policy is for compensation payments to be granted under the '66 weeks' provisions of the DC Regulations 2000, in cases of redundancy where the employee is aged under 50. Given that the formula for statutory redundancy payments based on age and length of

service is deemed by the Government to be permitted under the EU Directive on Age, as per regulation 33 of the Age Discrimination Regulations, it is recommended that the Council should link compensation payments to the Department of Trade and Industry's redundancy pay calculator. The Council could then use a multiplier to multiply the number of week's pay the employee would be entitled to under the statutory formula by an agreed factor. As the DC Regulations 2006 allow a maximum severance payment (inclusive of statutory redundancy) of 104 weeks, the maximum permitted factor for multiplication would be 3.45 (i.e. 30 (weeks) x 3.45 = 103.5). Such an approach is considered by South East Employers to be the safest option in terms of avoiding legal challenge as it follows the Government's practice on statutory redundancy payments. The resulting compensation payment would include the statutory redundancy payment. It is recommended that the Council use a multiplier of three (i.e. pay employees three times the statutory redundancy payment on actual week's pay). This recommendation will increase the level of payment for employees under 50 from the current maximum 66 weeks to 90 weeks and for employees over 50 the maximum is increased from 30 weeks to 90 weeks, however this increase is offset by the loss of access to compensatory added years.

1.7 The legal protection that the Government says that regulation 33 of the Age Discrimination Regulations affords in cases of redundancy will not apply to efficiency cases. The linking of compensation in efficiency cases to age and service would need to be objectively justified. This may prove problematic. To reduce the possibility of legal challenge and to give the Council the flexibility to deal with individual cases it is recommended that each case of cessation of employment on the grounds of efficiency of the service should be considered by the Personnel Committee on its merits (this accords with the Audit Commission's advice on such payments).

1.8 It is recommended that in efficiency cases consideration should be given by the Personnel Committee to making a one-off payment, based on the merits of each individual case, up to the maximum permitted under the new regulations (i.e. 104 weeks' pay calculated on a sum using the employee's actual week's pay). Only in exceptional cases would the payment exceed the maximum available under the Council's severance policy for redundancy cases. The arrangements for the Personnel Committee to consider each case would be as under the current policy. Factors to be taken into account in awarding compensation would include:

- Overall reasonableness, including benefits to the Council tax payer by the employee leaving the Council's service.
- Direct financial savings to be incurred by the employee leaving the Council's service.
- Employee relations considerations.

1.9 The Council's proposed new policy with effect from 1st April 2007 in relation to the exercise of discretion under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 is as follows

(a) In **redundancy** cases

- to calculate the compensation and statutory redundancy payment on the employee's actual week's pay.
- to link compensation payments (to include any statutory redundancy payment) to the Government's statutory redundancy payment calculator using a multiplier of three.
- not to make use of the augmentation provisions under regulation 52 of the LGPS.
- not to offset the statutory redundancy payment against pensions or lump sums which are paid from the LGPS.

(b) In **efficiency** cases

- consideration be given by the Personnel Committee to making a one-off payment, based on the merits of each individual case, up to the maximum permitted under the new regulations (i.e. 104 weeks' pay calculated on a sum up using the employee's actual week's pay) Only in exceptional circumstances would the payment exceed the maximum payable under the redundancy provisions of this policy.
- not to make use of the augmentation provisions of regulation 52 of the LGPS.

2. **Costs and Financial Management**

Under the current policy the service unit is required to meet all costs associated with the severance decision over a five year period. The costs in a redundancy case will be the enhanced redundancy payment and a compensatory payment to the LGPS if the employee is over 50 and under 65. As redundancy has a statutory definition it is not the same as 'efficiency of the service'. It is therefore recommended that the current requirement on service units to make a minimum 33% saving on the cost of the post for the following five years is removed in cases of redundancy.

It is recommended in cases of 'efficiency of the service' severance payments which trigger an early retirement for an employee aged over 50 and under 65 that the current arrangements regarding the 33% savings are retained as in the current policy.

Appendices

None

Consultation Responses

Local Stakeholders: N/A
Officers Consulted: Corporate Board on 30th January 2007
Trade Union: Copy of policy sent to trade unions for comment on 31st January 2007.



Item 5

Smoking Policy

Document Ref:	Smoking Policy	Date Created:	20/02/2007
Version:	1	Date Modified:	
Revision due	20/02/2008		
Author:	Sally Johnson	Sign & Date:	
Chief Executive	Nick Carter	Sign & Date:	
Director CS	Teresa Bell	Sign & Date:	
Director C&YP	Margaret Goldie	Sign & Date:	
Director E	John Ashworth	Sign & Date:	
Head of HR	Robert O'Reilly	Sign & Date:	

CONTENTS

Page

1. Introduction.....	3
2. Statement of Intent.....	3
3. Scope.....	3
4. Standards.....	4
5. Responsibilities.....	4
6. Implementation.....	6

1. INTRODUCTION

- 1.1 Smoking remains the single biggest cause of ill-health and premature death in this country killing approximately 106,000 people every year. One in five deaths is smoking-related.
- 1.2 Following a free vote by MPs in February 2006, legislation making all workplaces and enclosed public places smoke-free will be introduced in England from summer 2007. West Berkshire Council supports this move and, as the authority that will be responsible for enforcing the law in local businesses, recognises the need to introduce an appropriate smoke-free policy in all council owned premises from 26th March 2007.
- 1.3 **Local Area Agreement 2006 – 2009 Outcome 13: second hand smoke.** The Local Area Agreement target for Health and Wellbeing Strategy states: "All NHS and LA sites to be completely smoke free, including building and grounds, by the end of 2006. Increase the number of smoke free work places with >20 workforce. Decrease the proportion of pregnant women who smoke".

2. STATEMENT OF INTENT

- 2.1 West Berkshire Council is committed to providing a safe and comfortable working environment within all its buildings for employees and visitors. It will do as much as possible to ensure the health of its employees is not put at risk, even in the homes of service users. It aims to reduce the exposure of non-smokers to tobacco smoke at work and will implement control measures to create a safe and healthy environment for any person employed by West Berkshire Council or others who may be affected by its undertakings. However, the Council also accepts that smoking is a legal activity and a matter of personal choice. Therefore, the policy is not concerned with *whether* individuals smoke; it is concerned with *where* and *when* smoking takes place.
- 2.2 The Council also acknowledges that smoking is a highly addictive habit and is willing to provide assistance to employees who smoke who wish to stop.

3. SCOPE

- 3.1 This policy covers all premises (buildings and grounds) and vehicles where employees of West Berkshire Council work, whether they are full time, part time or temporary agency staff.
- 3.2 The policy covers all Council owned public buildings including libraries, theatres, leisure facilities etc.
- 3.3 The policy also covers care homes. However, exemptions may be given to residents who live in such establishments. Managers of such premises must take every possible measure to ensure that second-hand smoke exposure is kept to an absolute minimum for all staff and other residents. These exemptions will not apply to staff except in special circumstances where leaving the building is not acceptable i.e. Night Care Assistants.

- 3.4 Local Education Authority School Governing Bodies are strongly encouraged to adopt this policy or produce their own policy that as a minimum meets the standards in this policy. Consideration should be given to including outside grounds in the policy as well as all buildings. For further information on school smoking policies, schools should refer to the Berkshire Healthy Schools guidance on smoke-free schools at www.smokefreeberkshire.co.uk
- 3.5 The policy also covers premises where West Berkshire Council has a responsibility as landlords unless specific exemptions apply as agreed with the tenants.

4. STANDARDS

- 4.1 Smoking will be prohibited within all council owned premises and grounds, non residential buildings and vehicles. This does not include public footpaths, parks, roads etc.
- 4.2 All visitors and contractors will be notified of the policy via notices in Reception Areas.
- 4.3 Persistent contravention of this policy by employees will be regarded as a disciplinary breach and will be treated as misconduct under the Disciplinary Policy.
- 4.4 Smoking away from Council buildings and grounds will only be permitted in the employees own time, i.e. break times, and will not be permitted within working hours.
- 4.5 Notices reminding people they are in a smoke-free area will be displayed in prominent locations. These signs will comply with the requirements set out in the smoke-free legislation from summer 2007.
- 4.6 Means to assist employees to quit smoking will be provided. Employees can request up to 12 hours in total off of work to attend smoking cessation clinics.
- 4.7 Service Users will be requested not to smoke 30 minutes before and during visits to their home by West Berkshire Council employees.

5. RESPONSIBILITIES

- 5.1 The Human Resources Service will ensure full implementation of this policy by:
- 5.2 Ensuring that this policy is reviewed annually or sooner if legislation, approved codes of practice, or incident forms highlight deficiencies in the policy.
- 5.3 Provide advice and information on this policy to all employees of West Berkshire Council.
- 5.4 Offer advice and information on cessation programmes available for persons who wish to stop smoking.
- 5.5 Actively promote national no-smoking campaigns such as No Smoking Day (second Wednesday in March every year).

5.6 Ensure all job advertisements and descriptions state that West Berkshire Council operates a smoke-free policy

5.7 Corporate Directors will ensure full implementation of this policy by:

- Promoting awareness of this policy to all line managers.
- Setting a good example to employees.
- Making sufficient resources available to ensure implementation of the policy.
- Support and encourage employees who wish to quit

5.8 Line Managers will ensure full implementation of this policy by:

- Ensuring all workers co-operate to ensure the success of this policy using induction awareness.
- Monitoring compliance and act upon breaches of this policy. In the unlikely event of an employee not respecting the policy the line manager will attempt to resolve the situation informally in the first instance.
- Ensure that Service Users who smoke are aware of the policy
- Consider reasonable requests from staff who do not wish to enter the home of a service user who is a heavy smoker
- Support and encourage employees who wish to quit

5.9 Employees must:

- Co-operate to ensure the implementation of this policy
- Not smoke when undertaking home visits.
- Support and encourage colleagues who wish to quit

5.10 Facilities/Managers of establishments will

- Ensure the display of appropriate signs at all entrances and throughout all corporate buildings.
- Through their room booking facility, ensure all people booking rooms are aware of the standards in this policy.
- The West Berkshire Occupational Health Service supported by the West Berkshire Council HR Service will:
- Provide smoking cessation programmes for smokers who wish to quit.

- Support and encourage employees and colleagues who wish to quit

6. IMPLEMENTATION

6.1 From 26th March 2007

6.2 The policy will be widely circulated to all employees and Elected Members of the Council for implementation on 26th March 2007.

6.3 Details of this policy will be sent out to Service Users prior to first visits by officers and placed on the intranet and website.

6.4 Smoking cessation sessions will take place for employees and Elected Members who wish to give up.