

AGENDA ITEM 5

EAST HERTS COUNCIL

HUMAN RESOURCES COMMITTEE – 14 DECEMBER 2006

SUPPLEMENTARY REPORT OF THE LEADER OF THE COUNCIL

COMPENSATION ON REDUNDANCY

WARDS AFFECTED: ALL

1. This supplemental report is to be read in conjunction with the main report and appendices appearing at item 5 on the Committee's agenda. The reason for the report is to provide the Committee with additional information which has become available since the main report was completed.
2. The Committee will appreciate from the Unison submission appearing at pages 5.20 – 5.24 inclusive and from minute 27 of the Local Joint Panel meeting on 29th November 2006 (pages 9.3 – 9.8 inclusive) that the union seeks to retain augmentation for employees aged 50 and over when made redundant.
3. On the 1st December 2006 further amendments to the Age equality regulations came into force. DWP and DTI have since published Guidance (the draft of which was first seen by officers on 30th November). Specific advice had previously been sought from LGE (Local Government Employers, the national body) on two questions, which was received on 6th December. These were:
 - (a) Can the Council have a policy using both options in paragraphs 2.(a) and 2.(b) of the main report (page 5.6) with the redundant employee opting/choosing which to be used?
 - (b) Does augmentation under pension regulation 52 have to age non-discriminatory?
4. The reply from LGE to these questions is:
 - (a) This is possible, "the policy would have to be worded in such a way that 2.(b) of the main report would be the norm but the employee could request, before the date of leaving, for 2.(a) to apply".
 - (b) The amendments which came into force on 1st December 2006 allow augmentation of up to 6 years 8 months by reference to the number of years the employee would have been in membership up to normal pensionable age or by reference to a fixed age.

5. On the subject of whether augmentation must be non-age discriminatory, LGE advises that it is not clear that augmentation is an age related benefit for the purpose of the amended age regulations. If it is not, then the Council would have to objectively justify any award. If it is, then the amended exemption could be relied on in redundancy cases but not efficiency cases where the employee was not an active or prospective pension scheme member on 1st December 2006.
6. It follows from this that if the Committee on behalf of the Council is minded that the Council should have a policy including augmentation (additional pension scheme membership), it would be sensible for officers to seek independent advice and report back to the next meeting of the Committee on 25th January 2007. The advice to be sought would include whether the Council could stipulate that augmentation would only be an option for employees aged 50 and over at the date of redundancy. If that is the Committee's wish, it can either decide a new policy immediately and amend it on 25th January 2007 if then thought fit, or it can defer a decision until 25th January 2007.
7. However there is clearly little benefit in seeking the advice at the Council's cost if the Committee is minded to agree recommendations (A) and (B) on page 5.1 of the main agenda. The Committee is reminded that the reorganisation at 2nd tier officer level is about to start, and account needs to be taken of affected personnel knowing the Council's policy should they wish to seek voluntary redundancy and the Council be willing to agree.

Background papers

The Employment Equality (Age) (Amendment No.2) Regulations 2006.

DTI/DWP Guidance December 2006 "The impact of the Age Regulations on pension schemes" (pages 27/28).

Email 05.12.06 from LGE

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