

## TAUNTON DEANE BOROUGH COUNCIL

EXECUTIVE – 7 February 2007

**Report of Strategic Human Resources Consultant (Lisa Wyatt-Jones)**  
**This matter is the responsibility of Executive Councillor T Hall (Portfolio Holder for Resources)**

### PENSION CHANGES AND THE IMPLICATIONS FOR TDBC

#### EXECUTIVE SUMMARY

As a result of the recently introduced Age Discrimination legislation, the way in which TDBC is able to pay redundancy compensation and retirement in the Interest of Efficiency packages has changed. The options have been outlined in the report and a recommendation for the Executive has been identified. CMT has formally reviewed the options and supports the recommendation.

Staff Side and Unison have been consulted on the changes to the pension scheme and the contents of the report since July 2006. Unison also intend to include a paper in advance of the Executive meeting.

#### 1. Background

1.1 The Age Discrimination legislation came into force on the 1<sup>st</sup> October 2006 and this has had a direct effect on the way in which we are able to make discretionary payments for employees whose employment terminates early, either on the grounds of redundancy or early retirement in the Interest of Efficiency. Therefore, the Government has published Regulations, which are in force from the 29<sup>th</sup> November 2006 and have a retrospective effect from the 1<sup>st</sup> October 2006.

The implications are as follows:

1.2 As of the 31<sup>st</sup> March 2007, the payment of Compensatory Added Years on pensions will be revoked. However, as a transitional measure, redundancy or retirement in the Interest of Efficiency packages that are agreed and honoured by the 31<sup>st</sup> March 2007 can **either** include the compensatory added years **or** an agreed alternative method of enhancing the early termination package.

1.3 The LGE (Local Government Employers) has advised that granting augmented service (albeit payable at any age) should not be inherently age discriminatory (compensatory added years for pensions are currently only paid to those age 50+). Augmented service should therefore be applied consistently to all ages on loss of employment through redundancy or retirement in the Interest of Efficiency.

- 1.4 Employees aged under 18 and over 65 will now be eligible to receive a redundancy payment, as long as they have a minimum of 2 years service.

Therefore we have no choice, but to find an alternative to the Compensatory Added Years.

## **2. Alternatives to Compensatory Added Years**

### **2.1 Option 1 – Remove all enhancements to the redundancy package**

- 2.1.1 TDBC could choose to pay only the Statutory Redundancy rate based on actual pay, and no other compensation.

2.1.2 *This would be cost saving and non-discriminatory, but there would be a significant drop in the package for employees 50+ who have been used to redundancy plus up to 6 2/3rds added years. This would make voluntary redundancy more difficult to achieve with the over 50's.*

### **2.2 Option 2 – Pay a fixed enhancement to the redundancy payment**

- 2.2.1 TDBC could decide to pay the same lump sum to everybody regardless of age, length of service or salary, e.g. £2,000 fixed sum.

2.2.2 *This would be disproportionate and could mean that a 25 year old with 4 years service on SCP 20 would be entitled to the same payment as a 55 year old with 30 years service on SCP 50.*

### **2.3 Option 3 – Multiply redundancy package to enable either a larger cash sum or augmented pension**

- 2.3.1 TDBC could use the statutory redundancy tables (based on actual weeks pay) as a means of calculating double or triple the statutory level of redundancy payments for all employees up to a maximum multiplier of 3.46: which equals 104 weeks pay (3.46 x 30 weeks Maximum statutory redundancy pay).

2.3.2 Alternatively other multipliers can be used to calculate the compensatory lump sum. To calculate the best fit, the 16 Redundancy and Retirement in the Interest of Efficiency packages for 2004/05 and 2005/06 have been pulled together in Appendix A. The total cost of the packages has been compared to the cost of using varying multipliers. The total cost of the 16 packages was £637,590.09, and when this is compared to the cost of multiplying the total redundancy payment plus the immediate pension cost, the total cost almost matches 3 times the redundancy package.

2.3.3 In general the number of Augmented year's service that can be bought with the enhanced payment will be a little less than the previous maximum of up to 6 2/3<sup>rd</sup> years added pension (See examples in

Appendix B), but an employee under 50 can now purchase augmented years.

- 2.3.4 The proposal is to use a multiplier of 3, which would provide a fair level of compensation to employees over 50 years old, without being significantly generous to employees under 50 years old.
- 2.3.5 Scheme members could also be given the choice of receiving the compensatory lump sum or using it to purchase augmented service with the proviso that this doesn't buy more service than the scheme member would have gained if they had worked until they were age 65.

**Example**

**Redundancy**

Redundancy package = £10,000

x this by 3 (the proposed multiplier) = £30,000

Employee can either take the £30,000 as a lump sum OR take £10,000 Redundancy and give £20,000 to the pension fund to augment into added years. Employees will not be able to mix and match, they will have to choose one or the other.

- 2.3.5 Employees who retire in the Interest of Efficiency will have their package calculated on the basis of the redundancy package and this will be multiplied by the agreed multiplier minus 1, because they will not receive the redundancy payment, just the enhancements which will be tax free up to £30K. They will have the option of converting the lump sum to augment into pensionable years).

**Example**

**Retirement in the Interest of Efficiency**

Enhancement calculated on the redundancy package = £10,000

x this by 2 (the proposed multiplier minus 1) = £20,000

Employee can either take the £20,000 as a lump sum OR give £20,000 to the pension fund to augment into added years.

- 2.3.6 *The benefit of this approach is that it is quick to implement, easy to calculate & legally compliant (i.e. completely free of any possibility of a discrimination claim because it is consistent as it is based on an increase to the statutory provisions). An older employee with longer service would still receive a higher payment but it would be objectively justified.*

### **3. Conclusion**

#### **3.1 The following must take place:-**

- Stop paying compensatory added years for those redundancies / efficiency retirements, which take effect after 31<sup>st</sup> March 2007.
- The Executive are asked to make a decision on an alternative to the compensatory added years.
- The Redundancy policy must be amended to accommodate these changes (See Appendix D which would be an Appendix to the Redundancy policy).
- A Retirement Policy must be produced which accommodates these changes and the Age Discrimination legislation.
- Under the new regulations, any new policy must be workable, affordable and reasonable to prevent loss of confidence in the public service

#### **3.2 Consider taking a joint approach with the other SCC pension fund employers (See Appendix C).**

Sedgemoor DC are recommending a multiplier of 3, as is Somerset CC and Mendip DC (however, SCC and MDC only currently allow for 2/3rds of the added years for Retirement in the Interest of Efficiency, whereas TDBC allows for full added years).

SCC have agreed to use the Compensatory Added Years until the 31<sup>st</sup> March 2007, and from 1<sup>st</sup> April 2007 multiply the redundancy package by 3.

### **4. Recommendations**

#### **4.1 The Executive is requested to:-**

- a) consider and support the Option 3 proposal to enhance the redundancy and retirement in the Interest of Efficiency packages by applying a multiplier of 3 to the redundancy lump sum and give staff the choice to augment the additional payment into augmented pensionable years. Following discussions with the Section 151 Officer, Shirlene Adam has confirmed that the proposed multiplier is within our current budgets.
- b) implement the proposed redundancy multiplier for all redundancies and retirements in the Interest of Efficiency, which take effect from the 1<sup>st</sup> April 2007, in line with SCC.
- c) Approve the Compensation policy (Appendix D) and support work on a new retirement policy.

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Strategic Human Resources Consultant

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## APPENDIX A

### Total Pension & Redundancy Costings for 2004/5005 & 2005/2006

#### Calculation x 16 employees

#### Total cost

Historic redundancy payments plus pensionable added years including the redundancy cost to the Council

£637,590.09

The Redundancy cost element of the total cost

£136,639.21

#### Projected Pensions costs based on the total redundancy cost

<b>New enhancements</b>	<b>Redundancy plus enhancement</b>	<b>Immediate pension cost</b>	<b>Total Cost</b>	<b>Difference</b>
Redundancy cost x 1.5 multiplier	£204,958.82	228270.38	£433,229.20	-£204,360.90
Redundancy cost x 2 multiplier	£273,278.42	228270.38	£501,548.80	-£136,041.29
Redundancy cost x 2.5 multiplier	£341,598.03	228270.38	£569,868.41	-£67,721.68
Redundancy cost x 3 multiplier	£409,917.63	228270.38	£638,188.01	£597.92
Redundancy cost x 3.466 multiplier	£473,591.50	228270.38	£701,861.88	£64,271.79

## APPENDIX B

### Example of Redundancy packages

Example - Under 50		Current Arrangements	Proposed Arrangements (Multiplier of 3)	
Personal Details			Cash lump sum	Equivalent Augmented Years
salary	£33,540.48			
Age	42			
length of service	23 years			
Number of weeks pay	20.5			
<b>Redundancy payment - based on length of service and salary</b>		<b>£13,186.43</b>	<b>£39,559.29</b>	
Number of added years		0	0	<b>5.52</b>
Cost of pension to TDBC		£0.00	£0.00	
<b>TOTAL COST</b>		<b>13,186.43</b>	<b>£39,559.29</b>	

Example - Over 50		Current Arrangements	Proposed Arrangements (Multiplier of 3)	
Personal Details			Cash lump sum	Equivalent Augmented Years
salary	£32,361.01			
Age	58			
length of service	over 30 years			
Number of weeks pay	28.5			
<b>Redundancy payment - based on length of service and salary</b>		<b>£17,687.68</b>	<b>£53,063.04</b>	
Number of added years		6years 112days	0.00	<b>4.36</b>
Cost of pension to TDBC		£71,774.98	£15,232.88	
<b>TOTAL COST</b>		<b>89,462.66</b>	<b>£68,295.92</b>	

**APPENDIX C**

**Comparative Alternatives to the Compensatory Added Years (CAY)**

<b>Local Authority</b>	<b>CAY Alternative provision</b>																					
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## APPENDIX D

### Taunton Deane BC - Draft New Compensation Policy

1.	<p>The following policy on Compensation Payments applies to redundancies and early retirements on the grounds of efficiency of the service, which take effect <b>after 31<sup>st</sup> March 2007</b>.</p>
2.	<p>The calculation of redundancy payments is on the basis of actual salary.</p>
3.	<p>The Council exercises discretion under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006, to make compensatory payments to employees being made redundant based on a multiplier of <b>three times</b> the number of weeks an employee would be entitled to under the statutory redundancy formula, inclusive of any statutory redundancy payment, up to a maximum of 90 weeks' pay.</p>
4.	<p>The Council requires that the full cost of any redundancies is recovered within a period not exceeding five years or by the normal retirement age, whichever is sooner.</p>
5.	<p>Employees who are eligible to be paid a compensation payment on being made redundant, and who are members of the Local Government Pension Scheme, are given the option of converting their compensation payment (excluding the statutory redundancy payment) into augmented pensionable service. <u>Augmentation is not an option where the compensation payment (excluding the statutory redundancy payment) purchases more pensionable service than the maximum allowable at age 65.</u></p>
6.	<p>No compensation payments are made to employees who are allowed to retire early on the grounds of interests of efficiency of the service, following a voluntary request from the employee.</p>
7.	<p>Where early retirements in the interests of efficiency of the service are management instigated, the Council awards a lump sum compensation payment, which is based on the enhanced compensatory element (excluding the statutory redundancy payment) awarded on redundancy. (For example: 2 x Stat Red = Interests of efficiency)</p>
8.	<p>Employees who are eligible to be paid a compensation payment on early retirement in the interests of efficiency of the service (as in paragraph 6 above), and who are members of the Local Government Pension Scheme, are given the option of converting their compensation payment into augmented pensionable service. <u>Augmentation is not an option where the compensation payment purchases more pensionable service than the maximum allowable at age 65.</u></p>

Ian McCulloch

20 December 2006

Mr T Hall  
Executive Member ( Resources )  
Taunton Deane Borough Council  
The Deane House  
Belvedere Road  
Taunton  
TA1 1HE

Dear Councillor Hall,  
The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 (Draft)  
The Employment Equality Regulations 2006

Pension changes & the implications for Taunton Deane Borough Council

Following recent discussions with the Authority concerning the above proposal, Unison wish to submit the following for consideration, retain Taunton Deane's ability to award 6 & 2/3<sup>rd</sup> Compensatory Added Years on redundancy of staff over 50 years of age (subject to Reg. 52, The Local Government Pension Scheme (LGPS) Regulations)

In the South West, local authorities are major employers of staff. Taunton Deane is one of those authorities, therefore it is of great concern to Unison that staff over 50 & who are made redundant will have overwhelming difficulty securing employment & remuneration of a similar level to their qualifications & skill set. Removal of added years compensation will compound their insecurity at a time of great concern to the individual; at a time not of their choosing, adding to the feeling of uncertainty for the future.

Unison believe that, contrary to the advice given by the Local Government Employers, the Employment Equality Regulations do not make added years illegal, they require them to be justified in certain circumstances.

The Government has decided to retain age & length of service as the basis for statutory redundancy. It believes that this approach is justified because it reflects the greater difficulty older employees will encounter in obtaining future employment.

Given the difficulty of re-employment outlined above, Unison asserts that this Authority would be able to amply demonstrate justification for retaining augmented compensatory added years in these cases.

Clearly, a payment of 3 times the redundancy package, as referred to in the proposed paper, is nothing like equivalent to 6 & 2/3<sup>rd</sup> added years.



Indeed, the report acknowledges at para 2.4.3 that any purchase of augmented years via the proposed scheme will be less than the previous maximum achieved with up to 6 & 2/3rds years added.

When this event is being forced on the member of staff concerned, it is unlikely they would 'give away' a portion of their package to buy extra pension.

Unison have previously discussed with the Chief Personnel Officer how removal of any form of added years will discourage staff over 50 from coming forward as volunteers for redundancy or retirement in the interest of efficiency. This will impact heavily on the Authority's ability to encourage early release when seeking to reduce staff numbers & make cost savings, due to the substantial reduction in the overall package proposed.

The Authority have indicated that retention in any form of augmented added years, would be uneconomic in cost terms, however no figures have been published to compare current costs with possible projected costs for augmentation.

It is Unison's opinion that unless Taunton Deane has plans to make large numbers of staff redundant, or to offer a similar number retirement in the interest of efficiency, then cost would be no greater than is currently expended in an average year.

The Department for Communities & Local Government (DCLG) have stated that any changes should be cost neutral, (ie no increase or no decrease to that currently in place), therefore Unison have requested a response from the Authority to show how the proposed change in the application of discretionary payments is not being used as a cost-saving measure?

To date, no reply has been forthcoming.

It is Unison's view that provided an Added Years policy is non-discriminatory, there should be no reason why Taunton Deane cannot continue to award augmented Discretionary Compensatory Added Years under Regulation 52 of the Local Government Pension Scheme (LGPS.)

Unison therefore urges Taunton Deane Borough Council to retain their ability under the LGPS Regulations & permit the discretionary award, based on the merits of each case, when requiring redundancy & early retirement in the interest of efficiency.

If you would like to discuss this further, I am able to meet you by arrangement.

Yours sincerely,

Ian McCulloch  
Branch Chair.  
Taunton Deane Unison.

**Councillor Terry Hall**

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January 2007

**Private & Confidential**

Ian McCulloch

Branch Chair

Taunton Deane Unison

Dear Ian

**Re: Pensions changes & the implications for Taunton Deane Borough Council**

This letter is in response to your letter dated 20<sup>th</sup> December 2006 and Lisa Wyatt-Jones contacted you previously to explain that there would be a delay in my response due to the finalisation of the total costs to the Council.

The Council have been in consultation with Unison regarding the report on the Pension changes and the implications for several months. In that time the guidance has changed and has now finally been confirmed. The final draft of the report has been sent to you for consultation and will be presented to the Executive on the 7<sup>th</sup> February 2007.

I have responded to your questions are as follows:

The Council are unable to retain the ability to award 6 & 2/3rds Compensatory Added Years on Redundancy of staff over 50 years of age, as this is discriminatory under the Age Discrimination legislation, which came into force as of the 1<sup>st</sup> October 2006. The DCLG have supported this view and have enabled the Council to continue to use the Compensatory Added years in the interim period before the 31<sup>st</sup> March 2007, but have made it clear that an alternative has to be found.

The proposed method of enhancing the redundancy package is based on a multiplier of the redundancy package, which still takes into account the age and length of service of an employee, but no longer discriminates against employees who are under 50. The package offered is still substantial and employees will have the option of augmenting part of the package into their pension if they wish.

The Council do not believe that employees will be disadvantaged by the change in the procedure and will continue to support employees that are made redundant, in finding suitable employment.

Our calculations show that the difference in obtainable added years for the over 50's is only marginally lower, but now gives a greater and fairer package to employees under 50.

The Council believe that the proposed package will still enable cost savings, but may encourage a different group of employees to volunteer to leave.

The report now does include a comparison of augmented years to Compensatory added years.

We can confirm that the proposal is now cost neutral as stated in the latest report. Appendix B shows an example of an employee who is over 50 would cost approx £21,166.74 less, but it also shows an example of an employee who is under 50 and would cost approx £26,372.86 more. Appendix A shows that by using the multiplier of 3 it actually costs the Authority £597.92 more. This complies with the DCLG requirement of 'cost neutrality'.

The Councils view is that the Compensatory Added Years policy is Age Discriminatory and does not feel able to justify the continuation of this policy.

If you have any further questions, please do not hesitate to contact Lisa Wyatt-Jones, Strategic HR Consultant or myself.

Yours sincerely,

Councillor Terry Hall

CC: Melissa Norval, Chief Personnel Officer  
Lisa Wyatt-Jones, Strategic HR Consultant  
Gwyn Carter, Staff Side