

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

CABINET - 23 NOVEMBER 2006
ADMINISTRATION COMMITTEE - 6 DECEMBER 2006

REPORT BY THE EXECUTIVE DIRECTOR FOR FINANCE,
INFORMATION SYSTEMS AND PROPERTY

LOCAL GOVERNMENT PENSION SCHEME POLICY AND COMPENSATION FOR EARLY TERMINATION OF EMPLOYMENT

New Local Government Pension Scheme (LGPS) regulations this year introduced a number of changes, the majority of which are mandatory, but there are some discretionary provisions, which mean that the Council must amend its current policy. New regulations, to comply with age discrimination legislation, have also been introduced¹, which also affect some of the policies relating to pensions and compensation for early termination of employment.

The Cabinet in July 2006 set up a working party to look at the implications of the revised regulations and to make recommendations for changes to the policy. The main recommendations are to apply the statutory redundancy scheme age / service matrix as the general level of compensation in all redundancy cases, subject to a minimum of two years service. This replaces the previous policy, which was based on a presumption that added years would be awarded in the case of early retirement on either redundancy or efficiency grounds. It is also recommended to permit flexible retirement where there is a clear business case.

Matters relating to staff terms and conditions cannot be decided by the executive so the Pensions Working Party recommendations, which are reported here, and proposed revised policy as a result, will be decided by the Administration Committee. These are being reported to the Cabinet for their comments, as part of the consultation process that includes trade unions and scheduled bodies.

1. INTRODUCTION

¹ The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006. (SI 2914) effective from 1 October 2006

- 1.1 Our current policies need to be reviewed in the light of the new age discrimination legislation, which applies to pensions from 1 December 2006. Transitional arrangements allow the continuation of the current regulations until 31 March 2007.
- 1.2 The Government has abolished the powers under which added years have been paid on early retirement, after the age of 50. Existing powers to augment service can have a similar effect but as augmentation can apply when employment is terminated *at any age*, this potentially creates the possibility of challenge under the age discrimination legislation. The Council's current policy for the award of added years bases it on 50 per cent of the prospective additional service that an employee could have achieved at the age of 60, had they not had their employment terminated on redundancy or efficiency grounds. For example if they retire at 58 with two years to age sixty they are awarded one added year of service.
- 1.3 Members have expressed a desire to review the current policy, which creates a presumption that most early retirements on redundancy or in the interest of efficiency will attract added years. Relevant issues are the cost to the taxpayer, the exposure to risk of the pension fund and the need to run an efficient organisation.
- 1.4 The early retirement policy set in 2002 represented a considerable tightening of previous arrangements. The current position is highlighted in **Appendix 1**. This shows that fewer retirements have been allowed and also that discretionary added years have fallen from 50 per cent of the total cost to around 20 per cent
- 1.5 The Pensions Working Party, comprising Councillors Moylan (Chairman), Fairhead, Cox, Lightfoot, Buckmaster, Campion and Cunningham, considered a range of policy options and made a number of recommendations.
- 1.6 Any revised policy will come into effect one month from the date of publication.

2 REGULATORY FRAMEWORK

- 2.1 From 1 October 2006 the Government withdrew the existing regulations allowing additional discretionary compensation where employment is being terminated on the grounds of redundancy or in the interests of the efficiency of the service. These regulations cover all local authority employees other than teachers and youth workers, for whom there are separate arrangements that are also being

revised.

2.2 The main provisions of the *existing* regulations allowed councils to:

- use actual weekly pay to calculate redundancy payments, rather than the statutory figure - currently £290 per week
- pay additional lump-sum compensation for termination of employment of **up to 66 weeks pay** in total (including the statutory basic 30 week maximum), using a pre-determined formula based on the employee's age and length of service
- as an alternative to additional lump sum compensation, grant eligible employees aged 50 and over, with five or more years service, up to ten compensatory added years (producing an annual and a lump sum compensation payment).

2.3 Changes to the regulations on compensation for early termination of employment² provide an alternative means of dealing with both compensation for early retirement (i.e. those aged 50 and over), and redundancies for the under 50s. This offers a method of compensation for all employees, with a reduced risk of age discrimination challenge.

2.4 The new compensation regulations, designed not to be discriminatory, allow the payment of additional discretionary compensation and include the following main features:

- retention of the discretion to use sums up to and including actual weekly pay to calculate redundancy payments, rather than the statutory limit
- withdrawal of the formula for making additional payments (above the statutory scheme level) based on age and length of service, and its replacement with a "blanket" provision for additional lump sum payments of up to **104 weeks pay** to any employee, inclusive of any statutory redundancy payment
- the withdrawal of the "compensatory added years" provisions for employees over 50
- at the council's discretion, allowing the employee to buy augmented service in the pension scheme from any termination compensation awarded, over and above the statutory amount.

² Normally only used in cases of redundancy but they can also apply to efficiency of the service terminations

2.5 In effect the regulations transfer to the Council the responsibility for ensuring that the calculation method, and amount of any payments, are not age discriminatory. The statutory scheme itself is still based on an age/service matrix, which has not changed (see **Appendix 2**). But, within the overall 104-week cap the Council can decide various ways of paying additional compensation. These are:

- **Using the same formula as the national redundancy scheme of age and length of service criteria**

This would appear to be relatively low risk in terms of age discrimination since it mirrors a national scheme. The Government has decided to retain age and length of service as the basis of statutory redundancy. It believes that this approach, whilst taking account of age is justifiable in terms of rewarding loyalty and in reflecting the greater difficulty that older employees will encounter in obtaining future employment.

To give employers access to the same justification, the Government included a provision in the Age Discrimination legislation (Regulation 33) which allows employers to enhance **redundancy** payments to employees provided that

- a) they do so by means of consistently multiplying elements of the statutory payment (either the number of weeks, or the total payment due, or both); and
- b) they do so consistently for every employee who has access to additional compensation.

Thus an employer could choose always to multiply the number of weeks due under the statutory formula by (say) two or three, before multiplying this by a week's pay. Since the maximum pay that can be awarded is now **104 weeks** this implies a maximum multiplier of **3.46** of the statutory scheme (which is based on a 30-week maximum), compared with the existing 2.2 multiplier (maximum 66 weeks).

- **Case by case basis**

The teachers pension scheme remains on the basis of payment of "sufficient sum as is required to secure the resignation of the employee" within the statutory maximum permissible. Such an approach avoids the need to come up with a non-discriminatory formula. However, it has a higher risk of inconsistency in application and does not address the need to be consistent in the treatment of individual cases.

- **Use of a flat rate payment**

There could be a "flat rate" payment for all qualifying employees (e.g. everyone gets 20 or 104 weeks pay, or any

amount in between, *regardless of their age or length of service*). On this basis an employee with just over two years service and one with 30 years service would be treated the same in terms of the cash amount of compensation.

- **Based on another age/service related formula**

Any other age/service-based formula can be used, within the overall 104 weeks maximum. Enhancing the statutory payment in some other way, not a multiple of statute but still based on age and length of service, would mean that the onus will be on the Council to objectively justify the enhancement, increasing risk of challenge.

3 MANAGING AN EFFECTIVE AND EFFICIENT ORGANISATION: COMMENTS OF THE HEAD OF PAID SERVICE

3.1 Terminations of employment arise for a number of reasons. These include:

- Re-organising the form of service delivery structures, that create redundancies. The current proposals for Edenham are one example, but there can be lesser scale changes, such as the wind down of the mainframe computer. This Council has a longstanding position that it will make every effort to avoid compulsory redundancy as required by law, by seeking redeployment opportunities for employees. However this may not always be possible .
- 'In the interests of the efficiency of the organisation'. For example, this can involve members of staff who, in many cases, have given loyal service to local government, but whose skills no longer match the requirements of the particular service. It can arise where the needs of the service change. Such termination is normally a consensual agreement, where dismissal is not considered appropriate.

3.2 It is clear that early retirement, with its attendant costs, is not a substitute for dealing with poor performance, where the Council's capability procedures should apply. We are putting energy and resources into ensuring managers can confidently tackle poor performance, as one of the main strands of our management development programme. Nevertheless capability procedures may not cover the full range of cases where termination can be in the interests of the organisation – especially where jobs require different skills mixes going forward than they have in the past, or where it is desirable to achieve speedy change.

- 3.3 The interests of the taxpayer will be most readily understood as indicating the least cost option. Taxpayers may be expected to discount collateral or indirect costs such as industrial action or the effect on workforce morale if redundancy settlements are perceived as harsh. However taxpayers can be expected to be interested in the corrosive effect on service quality of organisational structures that persist because of a management decision not to create change. Change effected by a call for volunteers, rather than an unpopular compulsory redundancy programme, motivated by severance arrangements that are seen to be fair compensation, can be an important part of life cycle renewal for organisations and ultimately protect taxpayers from gradual erosion of value for money and effectiveness.
- 3.4 The organisation may wish to have an agile workforce, able to hire talent, to engage and disengage people as jobs change, and with a reputation as a good employer that has a value in a competitive market. I would therefore be reluctant to see a policy framework that offered no flexibility or discretion to treat different cases on their merit.
- 3.5 The Council may wish to base its termination policy on the statutory 'ready reckoner' (based on age and service - see **Appendix 2**), without automatic presumption of augmented service on retirement. In cases where the individual is over 50 they will continue to be entitled to immediate payment of their pension benefits. I would, however, wish to continue to have the discretion in exceptional circumstances, to propose special termination payments in excess of this level, to groups or individual members of staff, potentially up to the maximum permitted (104 weeks), in order to secure a desired service outcome for the Council.
- 3.6 Any such decision would of course remain subject to consultation with:
- The Cabinet Member responsible for the service
 - The Cabinet Member for Finance and Property
 - The Cabinet Member for Corporate Services.

I will seek the approval of the Administration Committee in any cases where it is proposed to make compensation payments using a higher multiplier than permitted under the Council's general policy, or where the payment exceeded an agreed threshold of cost.

POLICY PROPOSAL

3.7 The Pensions Sub-Committee, having considered the above issues **recommends** that compensation, in the case of termination of employment on redundancy grounds, should:

- a) be based on the age/service matrix in the statutory scheme with a multiplier of 1 (i.e. exactly equal to the statutory scheme)
- b) use actual pay
- c) apply after a minimum of two years service
- d) be based on continuous service with any of the bodies listed in the Modification Order

3.8 It is **recommended** that in exceptional cases, where the Town Clerk and Chief Executive considers it necessary to use a higher multiplier than the general policy permits, this should be subject to the approval of the Administration Committee.

3.9 The Pensions Sub-Committee **recommends** that no discretionary compensation should be payable in the case of termination on the grounds of efficiency of the service since there is generally no saving with the post being re-filled. It should be noted that termination of employment, for employees over the age of 50, on either redundancy or efficiency grounds would result in their immediate payment of pension entitlement.

3.10 The Pensions Sub-Committee **recommends** that the council should not generally exercise the discretion to enable employees to purchase augmented service in the pension scheme in event of any additional discretionary compensation being awarded.

3.11 The Pensions Sub-Committee **recommends** that all early retirement decisions, which result in additional strain on the Council's Pension Fund, be approved by the Administration Committee and that its terms of reference be amended accordingly.

4. FLEXIBLE RETIREMENT

4.1 From 6 April 2006 government changes allow pension schemes to facilitate flexible retirement. The Department for Communities and Local Government (DCLG) introduced flexible retirement provisions into the Local Government Pension Scheme (LGPS) from this date. They provide a new option whereby an employer may consent to allow an employee, aged over 50, to reduce his/her hours and receive payment of pension benefits under the main scheme regulations.

4.2 If the employee would suffer an actuarial reduction in the pension and lump sum due to the early payment, the regulations confer a further option for the employer to waive that reduction in any particular case, with the employer paying an additional sum to the Pension Fund to cover the actuarially calculated cost of exercising

this waiver.

- 4.3 With increasing life expectancy, a lower birth rate in recent years, and the “baby-boomer” generation heading for retirement, the UK faces the real prospect of a greatly increased retired population being dependent on a reduced active workforce. Rethinking the financial consequences of this is only part of the solution because addressing the workforce issues is also important.
- 4.4 One approach is to raise the retirement age and, for State Pension purposes, this is one of the recommendations of the Turner Commission taken on board by the government. An alternative solution would be to create conditions where gradual, or phased retirement is possible and to allow paid work during retirement without financial penalty.
- 4.5 The Employers Forum on Age (EFA) favoured the introduction of flexible retirement and the EFA study stated “flexible retirement could boost the economically active population by 3 million, which could raise GDP by £50 billion or more per year”.
- 4.6 For employers (especially those experiencing recruitment and retention difficulties and skills shortages) the older workforce is a resource just waiting to be tapped into. The obstacles to this had been the all or nothing mentality of the “cliff edge of retirement” and historical Revenue rules regarding just what constitutes retirement for the purposes of drawing pension scheme benefits.

LGPS Scheme Changes

- 4.7 The regulations have been amended to enable a scheme member, who has attained the age of 50, to draw their retirement benefits (both pension lump sum) even though they had not retired providing that:
 - a) the employer has consented, and
 - b) there has been a reduction in hours, or
 - c) a reduction in gradeNote that employer consent is required to the release of benefits, not just the reduction in hours or grade.
- 4.8 If the payment of benefits occurs before age 65 the benefits are reduced in accordance with Government Actuary guidance. There is additional protection for those covered by the transitional arrangements for the removal of the 85-year rule.
- 4.9 If the employee would suffer an actuarial reduction in the pension and lump sum due to the early payment, the regulations confer a further option for the employer to waive that reduction, in full or in part, in any particular case, with the employer paying an additional

sum to the Pension Fund to cover the actuarially calculated cost of exercising this waiver.

- 4.10 In the case of employees **under age 60**, the Council would almost always incur a capital cost payable to the pension fund due to the strain of the earlier payment of pension and it being paid over a longer period.
- 4.11 In the case of those over age 60, scheme members can retire on a voluntary basis. Those who do not meet the 85-year rule suffer a percentage reduction in their benefits if they opt to retire prior to their 85-year rule date up to age 65. The employers' contribution rate already assumes that employees will retire at the date at which they meet the 85-year rule or age 65 if this is later. In most cases therefore there is no additional capital cost due from the employer to the pension fund, unless the waiver is exercised.
- 4.12 The alternative of re-employing a pensioner who has retired outside of the flexible retirement provisions is an option but is hampered by the pension clawback provisions that reduce the pension if the total of the pension plus salary exceed the employee's previous salary level.

Justification for allowing flexible retirement

- 4.13 There may be some exceptional circumstances where it may be to the advantage of the Council to use the flexible retirement provisions. Some examples are:
 - a) We might allow an employee to be paid a pension but be moved to a suitable lower level 'hard to fill' job, where otherwise an efficiency retirement might have been a consideration, due to their performance in their previous role. This would facilitate succession planning to take place for the retiring person's role if this were desirable. It would also avoid any potential early termination compensation being necessary.
 - b) Once employees reaches the age of 60 they can retire without consent, at no additional cost to the Council. There may be reasons why the Council might want to retain them in a different capacity (e.g. on a reduced grade or part time on a job-share), rather than let them retire and take on a new person, or use temporary agency staff. This might be a particularly attractive option if the work required is of a project nature, or with a limited time span, and the employee's previous experience is valued.
 - c) It may be a beneficial to retain, on a part-time basis, an employee over the age of 60, who can opt to retire without consent, to provide an overlap for a smooth transition for their successor.

Previously this has only been possible by re-employing people through third-party agencies, and not as an employee of the authority.

4.14 The decision in any individual case is essentially two-fold:

- a) Is there a justification for allowing an employee to receive immediate payment of pension benefits, when there is an additional cost to the authority (if a 'no cost' case where the employee is over 60 then this is not a consideration).
- b) Is there a justification for continuing to employ that pensioner rather than recruiting someone else?

Policy Proposal

4.15 The Pensions Sub-Committee **recommends** that consent to retire flexibly, where there is an additional cost involved, be considered only where there is a robust business case and it can be shown that there are benefits to the Council. These instances are likely to be rare and the approval process should be that used for early retirement decisions, with the final decision being made by the Administration Committee.

4.16 Where there is no strain on the pension fund it is **recommended** that such flexible retirement arrangements should be approved at the discretion of the director of the relevant service, in consultation with the Director of Personnel and General Services. It is probable that the only 'no cost' cases likely be approved would be those where the employee was over 60 and they meet the 85-year rule. In these cases there would be no additional strain on the Pension Fund and no reduction in the employee's pension due to their retiring "early".

4.17 It is **recommended** that there should be no general waiver of the actuarial reduction, in cases where this applies.

5 OTHER DISCRETIONARY POLICY CHANGES

Children's Pensions

5.1 Under Regulation 44 of the main scheme regulations, a child's pension can be paid in respect of a child eligible, in respect of a scheme member, to receive a child's pension up to age 23 provided they remain in full time education or training. The regulation gives discretion to re-instate a pension where a break between two courses of education or training has occurred.

The Pensions Sub-Committee **recommends** delegating this decision to the Executive Director for Finance, Information Systems and Property

Write off of pension payments

- 5.2 Following the death of a pensioner, it sometimes occurs that a balance of residual pension is overpaid due to the time taken between notification of a death and the next a payment of monthly pension. If this period is greater than one month, the Pensions Administration Team will seek recovery of the overpayment. If it is less than one month the pension team would seek to write off the amount through the standard write-off procedure on compassionate grounds. The amounts are not material and have tended to be approved in every case previously.

The Pensions Sub-Committee **recommends** that the Council exercise its discretion to write off of amounts of pension overpayments, following the death of a pensioner, for periods of less than one month in future.

Calculation of Pensionable Remuneration

- 5.3 Under Regulation 13c of the main scheme regulations all salary, fees and other payments for the employees' own use are pensionable. In addition the regulations allow any other items stipulated in an employee's contract of employment to be included as pensionable pay. The regulation stipulates certain items that must be specifically *excluded*.

The Royal Borough's current practice is to include:

- Annual Bonus
- Employee benefits
- Professional fees and employee benefits

Clarification is required regarding the definition of the bonus used in the calculation of final pay for pension purposes. This should be the actual amount paid in the period but if more than one bonus has been paid within any 12-month period then it will be based on the higher bonus figure. Any additional (honorarium) payments made in respect of any part of the final pay period will not pensionable if a bonus has also been paid.

The Pensions Sub-Committee **recommends** approving the above clarification of the treatment of bonuses and honoraria in the calculation of pensionable pay.

Serious Ill-Health

- 5.4 If the Council is satisfied that an employee retiring on ill-health grounds has a life expectancy is less than one year, following the receipt of a report from their independent medical adviser, there is discretion to pay a lump sum equal to five times the amount by which the annual rate of the retirement pension exceeds the guaranteed minimum pension. This replaces the death grant that would otherwise be payable. Once the lump sum is paid there is no further liability for any pension payment.

It is **recommended** that the Council pay the commuted pension at the employee's discretion.

Complaints - Internal Dispute Resolution Procedure (IDRP)

- 5.5 The present policy needs to be clarified regarding the 2-stage procedure of the IDRP, before a case may be referred to the Pensions Ombudsman. It is proposed that the following wording should replace that in the existing policy:

"The Head of Financial Services will be the nominated person for all Stage 1 appeals and the Executive Director for Finance Information Systems and Property for all Stage 2 appeals. Where he or she has been involved in the original decision, which is the subject of the appeal, an independent officer will be appointed as the nominated person at the relevant stage by the Town Clerk and Chief Executive."

The Pensions Sub-Committee **recommends** approving the revised wording.

6. RECOMMENDATIONS

A revised draft policy is included at **Appendix 3** that reflects the recommendations in this report.

- 7.1 The **Cabinet** is requested to note and make any comment to the Administration Committee on the recommendations in this report.
- 7.2 The **Administration Committee** is **recommended** to note any comments from Cabinet and to approve:
- a) that compensation, in the case of termination of employment on redundancy grounds, should be based on the age/service matrix in the statutory scheme with a multiplier of 1, using actual pay. This will apply after a minimum of two years service and be based on continuous service with any of the bodies listed in the Modification Order (**paragraph 3.7**)

- b) that the revised policy should not apply to cases where an offer of compensation with added years has already been made, provided the final day of service is before 1 April 2007, in which case the current policy would apply **(paragraph 1.1)**
- c) that, in cases where the Town Clerk and Chief Executive considers it necessary, a higher multiplier may be applied, subject to the approval of the Administration Committee in every case **(paragraph 3.8)**
- d) that no discretionary compensation should be payable in the case of termination on the grounds of efficiency of the service **(paragraph 3.9)**
- e) that the council should not generally exercise the discretion to enable employees to purchase augmented service in the pension scheme in event of any additional discretionary compensation being awarded **(paragraph 3.10)**
- f) that early retirement decisions, resulting in an additional strain on the Pension Fund, be approved by the Administration Committee with effect from 1 April 2007 **(paragraph 3.11)**
- g) that consent to retire flexibly, where there would be an additional strain on the pension fund, be considered only where there is a robust business case and it can be shown that there are benefits to the Council, with the final decision being made by the Administration Committee **(paragraph 4.14)**
- h) that, where there would be no additional strain on the pension fund, flexible retirement arrangements may be approved at the discretion of the director of the relevant service, in consultation with the Director of Personnel and General Service **(paragraph 4.15)**
- i) that there should be no general waiver of the actuarial reduction, in flexible retirement cases, where this might be exercised **(paragraph 4.17)**
- j) that decisions to exercise discretion to re-instate a children's pension where a break between two courses of education or training has occurred be delegated to the Executive Director for Finance, Information Systems and Property **(paragraph 5.1)**
- k) that the Council exercise its discretion to write off amounts of pension overpayments, following the death of a pensioner, for periods of less than one month in future **(paragraph 5.2)**

- l) that the treatment of bonuses and honoraria in the calculation of pensionable pay be as set out in **paragraph 5.3**
- m) that in serious ill-health cases the Council pay the commuted pension at the employee's discretion (**paragraph 5.4**)
- n) that appeals under the Internal Resolution Dispute Procedure be dealt with as set out in **paragraph 5.5**
- o) that a recommendation be made to Council to amend the constitution and terms of reference of the Administration Committee as necessary.

Sue Beauchamp

**Executive Director for
Finance, Information Systems and Property**

Background papers:

Discretionary Compensation for Early Termination of Employment Regulations
The Local Government Pension Scheme (Amendment) Regulations 2006

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APPENDIX 1

TRENDS IN TERMINATION NUMBERS AND COSTS

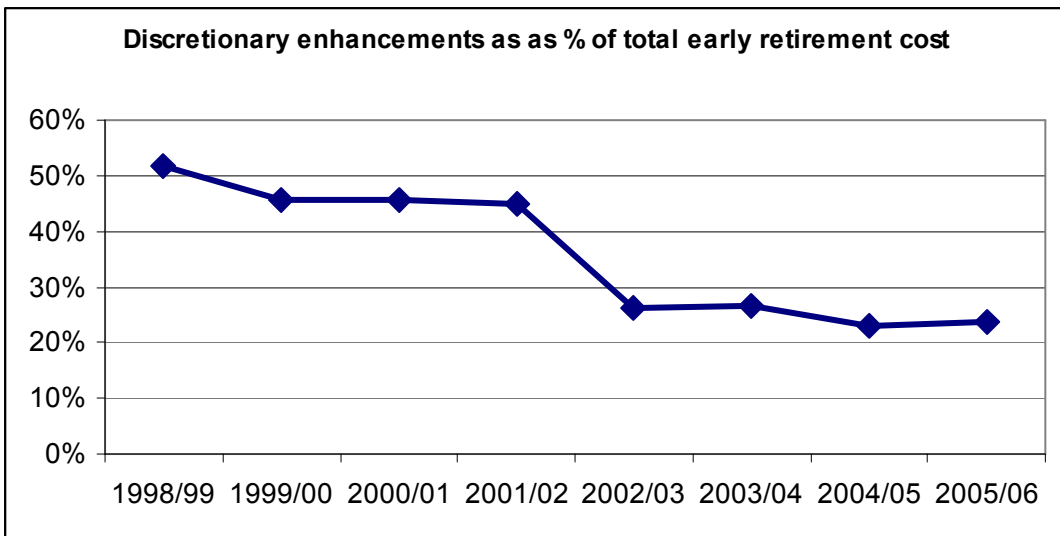
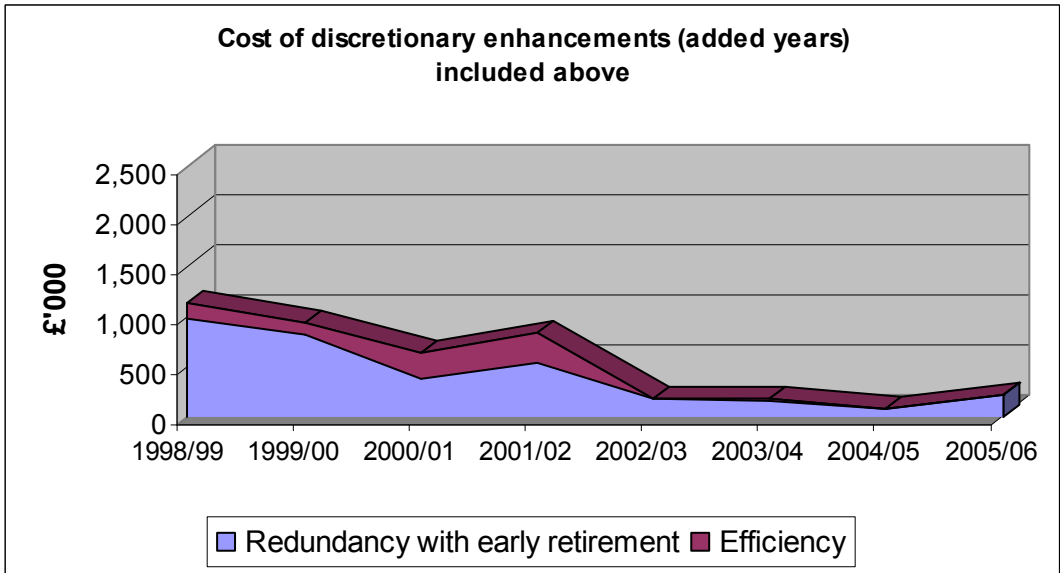
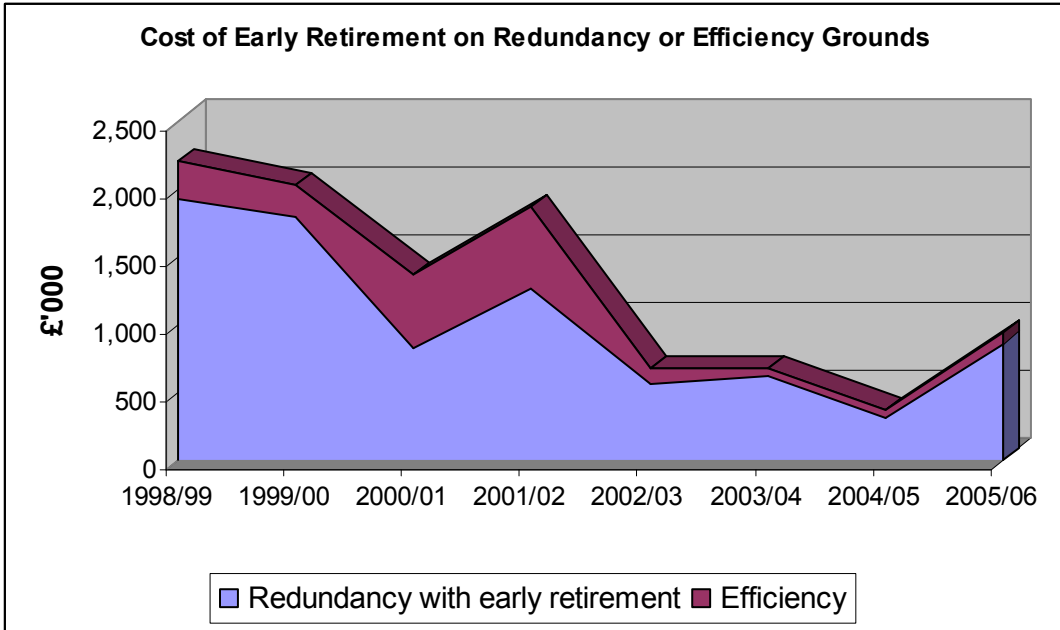
Efficiency Retirements	2003/04	2004/05	2005/06
Average Age	57.1	58.9	60.4
Number of cases	2	2	2
Cost of discretionary enhancements (£'000)	16	11	14
Capital cost of early pension payment (£'000)	25	36	48
Total cost of package (£'000)	41	47	62
Average cost of total package (£'000)	20	23	31

Redundancy Over 50	2003/04	2004/05	2005/06
Average Age	54.5	55.6	57.7
Number of cases	8	3	9
Cost of discretionary enhancements (£'000)	163	73	208
Capital cost of early pension payment (£'000)	344	154	471
Redundancy pay (£'000)	94	59	180
Total cost of package (£'000)	601	286	859
Average cost of total package (£'000)	75	95	95

Redundancy under 50	2003/04	2004/05	2005/06
Average Age	43.1	42.7	42.5
Number of cases	5	1	5
Total redundancy payments (£'000)	40	21	31
Average redundancy pay (£'000)	8	21	6

Note that in addition to the above there were seven "85-Year Rule" retirements with a capital cost of £255k.

Savings were made possible as a result of some these retirements and redundancies, which amounted to £770,000 per annum cumulatively over the same three-year period.



APPENDIX 2

STATUTORY REDUNDANCY SCHEME FACTORS
Number of weeks pay based on age and length of service

Age last birthday	Service																			
	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
20	1	1	1	1																
21	1	1.5	1.5	1.5	1.5															
22	1	1.5	2	2	2	2														
23	1.5	2	2.5	3	3	3	3													
24	2	2.5	3	3.5	4	4	4	4												
25	2	3	3.5	4	4.5	5	5	5	5											
26	2	3	4	4.5	5	5.5	6	6	6	6										
27	2	3	4	5	5.5	6	6.5	7	7	7	7									
28	2	3	4	5	6	6.5	7	7.5	8	8	8	8								
29	2	3	4	5	6	7	7.5	8	8.5	9	9	9	9							
30	2	3	4	5	6	7	8	8.5	9	9.5	10	10	10	10						
31	2	3	4	5	6	7	8	9	9.5	10	10.5	11	11	11	11					
32	2	3	4	5	6	7	8	9	10	10.5	11	11.5	12	12	12	12				
33	2	3	4	5	6	7	8	9	10	11	11.5	12	12.5	13	13	13	13			
34	2	3	4	5	6	7	8	9	10	11	12	12.5	13	13.5	14	14	14	14		
35	2	3	4	5	6	7	8	9	10	11	12	13	13.5	14	14.5	15	15	15	15	
36	2	3	4	5	6	7	8	9	10	11	12	13	14	14.5	15	15.5	16	16	16	
37	2	3	4	5	6	7	8	9	10	11	12	13	14	15	15.5	16	16.5	17	17	
38	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	16.5	17	17.5	18	
39	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	17.5	18	18.5	
40	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	18.5	19	
41	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	19.5	
42	2.5	3.5	4.5	5.5	6.5	7.5	8.5	9.5	10.5	11.5	12.5	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	
43	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
44	3	4.5	5.5	6.5	7.5	8.5	9.5	10.5	11.5	12.5	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	21.5	
45	3	4.5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	
46	3	4.5	6	7.5	8.5	9.5	10.5	11.5	12.5	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	21.5	22.5	
47	3	4.5	6	7.5	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	
48	3	4.5	6	7.5	9	10.5	11.5	12.5	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	21.5	22.5	23.5	
49	3	4.5	6	7.5	9	10.5	12	13	14	15	16	17	18	19	20	21	22	23	24	
50	3	4.5	6	7.5	9	10.5	12	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	21.5	22.5	23.5	24.5	
51	3	4.5	6	7.5	9	10.5	12	13.5	15	16	17	18	19	20	21	22	23	24	25	
52	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	17.5	18.5	19.5	20.5	21.5	22.5	23.5	24.5	25.5	
53	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19	20	21	22	23	24	25	26	
54	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	20.5	21.5	22.5	23.5	24.5	25.5	26.5	
55	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22	23	24	25	26	27	
56	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	23.5	24.5	25.5	26.5	27.5	
57	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25	26	27	28	
58	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25.5	26.5	27.5	28.5	
59	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25.5	27	28	29	
60	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25.5	27	28.5	29.5	
61	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25.5	27	28.5	30	
62	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25.5	27	28.5	30	
63	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25.5	27	28.5	30	
64	3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25.5	27	28.5	30	

Proposed Statement of policy as required under the Local Government Pension Scheme Regulations 1997

December 2006

Under the Local Government Pension Scheme (LGPS) Regulations 1997, operative from 1 April 1998, each employer must publish and keep under review a statement of their policy on certain discretions they can exercise under the Regulations. This statement has been reviewed following the Local Government Pension Scheme (Amendment) Regulations 2006 ("the 2006 Regulations"), which introduced a number of further discretions in addition to those introduced under the 2004 Regulations.

This statement applies to all employees of The Royal Borough of Kensington and Chelsea who are members of the LGPS.

Policy statements

A. Employer's discretion to reduce member's contribution rate

[former Regulation 15]

Under previous regulations an employer could waive employee pension contributions for scheme members who had attained 40 years of Local Government service and had not yet attained the age of 60. Employees who commenced employment between the ages of 18 and 20 and had continuous Local Government service since then could not accrue additional membership on completion of 40 years membership until after they have reached age 60. Under the 2006 Regulations membership in excess of 40 years is now allowed, with the employer and employee contributions being paid to the Pension Fund. The employer has discretion to waive the arrears of employee contributions for the period prior to 6 April 2006.

Policy

An RBKC employee who has achieved 40 years service prior to age 60 within Local Government will have contributions to the pension fund waived up to 5 April 2006.

B. Member's request for early payment of benefits

[Regulation 31]

From age 50 to 59, members of the pension scheme may apply for early payment of their retirement benefits subject to the consent of their employer. If a member's age and membership, in whole years, equal less than 85 then reduced benefits are payable.

Policy

An employee will be allowed to retire and receive accrued pension benefits subject to the employer's agreement and the Pension Fund being reimbursed the cost of the early payment of benefits.

C. Serious Ill Health

[Regulation 50]

If, when a retirement pension first becomes payable to a member, the administering authority are satisfied that his life expectancy is less than one year, they may pay him a lump sum equal to five times the amount by which the annual rate of the retirement pension exceeds his guaranteed minimum. This replaces the death grant that would otherwise be payable, and no further pension is payable.

Policy

The Council will pay the commuted pension at the employee's discretion.

D. Augmentation of membership for scheme members

[Regulation 52]

The award of discretionary added years was abolished with effect from 1 October 2006. Scheme membership may be increased for an employee at any time up to the termination of the period of employment.

Policy

It is not proposed to augment membership for any employee. In the case of termination of employment on the grounds of redundancy, the Council will not use its new discretion to allow any compensation in excess of the statutory amount to be converted to augmented membership.

E. Shared cost additional voluntary contribution

[Regulation 67]

A shared cost AVC scheme may be established.

Policy

The Council does not propose to introduce a shared cost AVC scheme.

F. Abatement of pension

[Regulation 109 as amended by the 2004 Regulations]

The pensions of an employee who retires and is subsequently re-employed in Local Government employment may be subject to reduction or suspension. The regulations also allow an employee to elect to combine both periods of membership on cessation of the second employment. This right was removed under the 2004 Regulations. Those who are currently re-employed pensioners can elect to retain the right to combine.

Policy

The benefits of a pensioner who is re-employed in local authority service should continue to be subject to the appropriate reduction; i.e. in accordance with the previous mandatory abatement provisions. The Royal Borough will "deem" that any employee wishing to retain the right to combine benefits on completion of the second employment may do so without having formally elected to retain the right.

G. Flexible Retirement

[Regulation 35]

An employer may consent to allow an employee, aged over 50, to reduce his/her hours or grade and receive payment of pension benefits under the main scheme regulations. If the employee would suffer an actuarial reduction in the pension and lump sum due to the early payment, the regulations confer a further discretion for the employer, at their cost, to waive that reduction in any particular case.

Policy

The Council will only consider allowing flexible retirement where there is a clear business benefit. This will generally only apply where no costs are incurred arising from early retirement. No waiver of pension abatement will generally be made.

H. Widower's Pensions

[Regulation 9 (Transitional Provisions) Regulations 1997]

The Council may resolve that an election from all female members should be accepted to enable membership between 1 April 1972 and 5 April 1988 to count for the purpose of a widower's pension, and all previous contracts are deemed paid in full.

Policy

The Council has resolved that the membership between 1 April 1972 and 5 April 1988 of all female members will count for the purposes of a widower's pension and all previous contracts are deemed paid in full.

I. Spouse's pension ceasing on remarriage

The Council may resolve that a spouse's pension awarded before 1 April 1988 will not cease upon marriage or co-habitation.

Policy

The Council has resolved that a spouse's pension awarded before 1 April 1998 will be payable for life.

J. Children's Pensions

[Regulation 44]

When a scheme member dies, children's pensions are payable to children who are under the age of 17 or in continuous full-time education or training or who are permanently incapacitated. For deaths occurring after 5 April 2006, a children's pension cannot continue beyond the age of 23 unless the child is permanently incapacitated. The regulation gives discretion to treat a child's education or training as continuous, ignoring a break.

Policy

The Council has delegated decisions on this matter to the Executive Director for Finance, Information Systems and Property.

K. Employees with previous deferred benefits

The 2004 Regulations removed the right of an employee who had elected not to transfer their deferred benefits from a previous employer, to combine their benefits on termination of the second employment. Employees had one year from 1 April 2004 -for existing staff - or from date of commencement of employment for new starts. Both periods may be extended at the discretion of the employing authority.

Policy

The Council extended the period to the 30 September 2005. The period may be further extended if an employee can demonstrate that they were unaware of the time-limited option.

L. Internal Dispute Resolution Procedure (IDRP)

The 2004 Regulations effectively removed the role of the Office of the Deputy Prime Minister (now the Department for Communities and Local Government) from the appeals process, replacing it with a local procedure with effect from 1 June 2004.

Policy

The Head of Financial Services is the nominated person for all Stage 1 appeals and the Executive Director for Finance, Information Systems and Property for all Stage 2 appeals. Where he or she has been involved in the original decision, which is the subject of the appeal, an independent officer will be appointed by the Town Clerk and Chief Executive as the nominated person at the relevant stage.

A copy of the Local Government Pension Scheme Regulations can be found on the internet at: <http://www.lge.gov.uk/pensions/content/timeline.html>