

**LONDON BOROUGH OF BRENT**  
**MEETING OF THE GENERAL PURPOSES COMMITTEE – 24<sup>th</sup> February 2005**  
**REPORT FROM - THE DIRECTOR OF FINANCE**

**FOR ACTION**

**Wards affected**

**Report Title: Early Retirement in Local Government – Discretionary Policy**

**1. SUMMARY**

- 1.1 The Local Government Pension Scheme (Amendment) (No 2) Regulations 2004 come into force on the 1<sup>st</sup> April 2005. These Regulations amend the earliest age that a Scheme member can retire (other than for ill-health) from age 50 to age 55, although there will be protection for those members of the Scheme who are aged 50 or over as at the 31<sup>st</sup> March 2005. This report draws the attention of Members to that change and recommends that Brent's early retirement policy under The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 is amended so as to be consistent with the LGPS Regulations.

**2. RECOMMENDATIONS**

Members are asked to :

- 2.1 Note that from 1<sup>st</sup> April 2005 the earliest age at which benefits can be paid from the LGPS Scheme will be increased from age 50 to age 55, subject to :
- a) Protection for members who are aged 50 or over on the 31<sup>st</sup> March 2005, as they will retain age 50 as their protected earliest retirement age.
  - b) ill health benefits continuing to be payable to members who are retired on grounds of permanent ill health regardless of their age

2.2 Agree that from 1<sup>st</sup> April 2005 scheme members, who are not subject to protection under the new regulations, may not receive compensatory added years unless they are retired on the grounds of redundancy or efficiency on or after reaching the age of 55.

### **3. DETAIL**

3.1 The Local Government Pension Scheme Regulations 1997(2), referred to as 'the principal Regulations', govern the circumstances, including the member's age, in which a local authority employer can award early payment of benefits to scheme members. Currently the earliest age (other than for ill-health) that an employer can award early payment of benefits is age 50.

3.2 The Regulations that come into force on the 1<sup>st</sup> April 2005 are known as the Local Government Pension Scheme (Amendment)(No2) Regulations 2004. These Regulations amend the principal Regulations for early payments of benefits, (Regulation 26 that covers redundancy and efficiency, and Regulation 31 that provides that a member may elect to receive benefits from age 50) by increasing the earliest age of retirement from age 50 to age 55.

3.3 The Amendment Regulations provide transitional protection for members who will have attained the age of 50 prior to 1st April 2005. These members will have a continued right to the receipt of immediate benefits from age 50 should they:

- successfully appeal for early retirement under Regulation 31 of the LGPS.
- or
- be made redundant, or granted early retirement on the grounds of efficiency – allowing the payment of immediate benefits under Regulation 26 of the LGPS.

3.4 Regulation 8 (1) of The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 allows employing authorities discretionary power to award additional service (known as compensatory added years) to employees who are the minimum age of 50 or over but below the age of 65.

3.5 The Council's current policy on retirement for reasons of redundancy or efficiency (relevant extracts that are attached at Appendix 1) is based on a minimum retirement age of 50, and allows the payment of compensatory added years based on a formulae that provides more generous benefits to the Council's older as well as its lower paid workers.

3.6 Whilst the earliest retirement age under the principal Regulations will be amended on the 1<sup>st</sup> April 2005 to age 55, the Office of the Deputy Prime Minister has informed officers that the discretionary payment regulations will not be reviewed until later this year. This means that unprotected staff who may be made redundant on or after 1<sup>st</sup> April 2005 would not receive an immediate benefit between the ages of 50 and 54 from the LGPS but could

claim payment of the compensatory added years payable under Brent's discretionary policy as it currently stands. It is recommended, therefore, that the age at which compensatory added years may be awarded is consistent with the age at which redundancy and efficiency retirement benefits become payable under the LGPS. (See Appendix 2 for proposed revised policy)

- 3.7 Following the review of the discretionary compensation regulations later this year by the ODPM, an Officer working group will fully review Brent's discretionary payments policy. Any further recommendations that may arise from this review will be submitted to Members in a later report.
- 3.8 It is recommended that, except for scheme members who are covered by paragraph 3.3 above, the minimum age that Scheme members can receive early payment of compensatory added years under the Council's Early Retirement Policy, is amended to age 55.

#### **4 FINANCIAL IMPLICATIONS**

- 4.1 There will be no additional financial costs arising from this report.
- 4.2 Increasing the earliest age at which benefits become payable will undoubtedly create savings. It is not possible, however, to predict what those savings may be. Any savings will vary depending on the number, age and salary of those Scheme members granted early retirement due to redundancy or efficiency.

#### **5. LEGAL IMPLICATIONS**

- 5.1 When considering the proposals in this report Members are required by Regulation 26 of the Local Government ( Early Termination of Employment) (Discretionary Compensation) ( England and Wales) Regulations 2000 to have regard to the extent to which the Council's discretionary powers ( in accordance with the proposed policy) , unless properly limited, could lead to a serious loss of confidence in the public service. The Regulation also requires Members to be satisfied that the proposed policy is workable, affordable and reasonable having regard to the foreseeable costs.
- 5.2 The Council has a settled practice of consulting the trade unions over proposed changes to its compensatory years policy. Given this, when considering this report Members should satisfy themselves that the trade unions have been given a reasonable opportunity to comment on its proposals and should take into account any representations the trade unions have made on them.

#### **6.0 DIVERSITY IMPLICATIONS**

- 6.1 This report has potential adverse financial implications for all staff who have not attained the age of 50 by the 31<sup>st</sup> March 2005.

## **7.0 STAFFING IMPLICATIONS**

- 7.1 Any change to Pensions Policy has a potential impact in the long term for all employees who are members of the pension Scheme.
- 7.2 Employees joining the LGPS before the change to the Regulations was known would have an expectation that in the event of being made redundant, or retiring on the grounds of efficiency at age 50, they would have received immediate payment of pension benefits.
- 7.3 Although the LGPS will give provisional protection to members who are aged 50 and above as at the 31<sup>st</sup> March 2005, members attaining age 50 after that date will not.
- 7.4 Officers have been communicating and will continue to communicate changes to the LGPS to all employees and Scheme employers. When changing its policy the regulations require that the Council:
- a) has regard to the extent to which the exercise of their discretionary powers (in accordance with the policy), unless properly limited, could lead to a serious loss of confidence in the public service; and
  - b) is satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.
  - c) publish the new policy 1 month before it becomes effective.
- 7.5 Trade Unions are also aware of the amendments to the LGPS Regulations, especially the increase to the earliest retirement age. A copy of this report will also be circulated to them for information.

## **8.0 BACKGROUND INFORMATION**

- 8.1 The Local Government Pension Scheme Regulations 1997(2).
- 8.2 The Local Government (Early Termination of Employment)(Discretionary Compensation)(England and Wales) 2000
- 8.3 The Local Government Pension Scheme (Amendment)(No2) Regulations 2004

**Duncan McLeod**  
**Director of Finance**

**Appendix 1**

## **DISCRETIONARY PAYMENT POLICY – The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000**

The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000, allow employers to award up to 10 added years of notional service to the lump sum and annual pension entitlement. The extra cost of this discretionary enhancement is not met from the pension fund but entirely from the general fund.

**Brent in exercising its 'Discretionary Powers' has limited the maximum amount of added years to 6 2/3 years.**

Brent's current scheme works as follows:

- (i) At age 50-54, pension and lump sum entitlements are enhanced by a number of years equivalent to a quarter of a year for each year of Brent service. At age 55+ pension and lump sum will be enhanced by a third of a year for each year of Brent service.
- (ii) The added years in (i) above are increased / decreased by multiplying them by  $\frac{25,617}{PR}$  where PR is pensionable remuneration.
- (iii) The added years arrived at through (i) and (ii) above shall not exceed 6 2/3 years nor exceed other Inland Revenue prescribed, maxima.

The full background and information as to our current policy is detailed in the report to Policy and Resources Committee 13<sup>th</sup> July 1998, titled 'Early Retirement in Local Government'. In addition a report to the General Purposes Committee on the 18<sup>th</sup> March 2003 amended the adjustment figure from £25,000 to £25617.

## Appendix 2

### **DISCRETIONARY PAYMENT POLICY – The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000**

The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000, allow employers to award up to 10 added years of notional service to the lump sum and annual pension entitlement. The extra cost of this discretionary enhancement is not met from the pension fund but entirely from the general fund.

**Brent in exercising its 'Discretionary Powers' has limited the maximum amount of added years to 6 2/3 years.**

Brent's proposed Scheme will work as follows:

#### **For those Scheme members who HAVE attained age 50 by the 31<sup>st</sup> March 2005.**

- (i) At age 50-54, pension and lump sum entitlements are enhanced by a number of year's equivalent to a quarter of a year for each year of Brent service. At age 55+ pension and lump sum will be enhanced by a third of a year for each year of Brent service.
- (ii) The added years in (i) above are increased / decreased by multiplying them by  $\frac{25,617}{PR}$  where PR is pensionable remuneration.
- (iii) The added years arrived at through (i) and (ii) above shall not exceed 6 2/3 years nor exceed the other, Inland Revenue prescribed, maxima contained in the Discretionary Compensation Regulations 2000.

#### **For those Scheme members who have NOT attained age 50 by the 31<sup>st</sup> March 2005**

- (i) At age 55+ pension and lump sum will be enhanced by a third of a year for each year of Brent service.
- (ii) The added years in (i) above are increased / decreased by multiplying them by  $\frac{25,617}{PR}$  where PR is pensionable remuneration.
- (iii) The added years arrived at through (i) and (ii) above shall not exceed 6 2/3 years nor exceed the other, Inland Revenue prescribed, maxima contained in the Discretionary Compensation Regulations,2000.

The full background and information as to our policy for scheme members who have attained age 50 by the 31<sup>st</sup> March 2005 is detailed in the report to Policy and Resources Committee 13<sup>th</sup> July 1998, titled 'Early Retirement in Local Government'. In addition a report to the General Purposes Committee on the 18<sup>th</sup> March 2003 amended the adjustment figure from £25,000 to £25617. The General Purposes Committee on the 24<sup>th</sup> February 2005

agreed a revised policy for scheme members who have not attained the age of 50 by the 31<sup>st</sup> March 2005.