

EMPLOYMENT MATTERS COMMITTEE

2 DECEMBER 2020

EARLY RETIREMENT AND SEVERANCE PAYMENTS

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Summary

To present Members with a report of all decisions taken in relation to early retirements and severance payments for the period 1 April 2020 to 30 September 2020 and to seek approval to consult on removing discretionary pension enhancements to teachers who are made redundant with effect from 1 April 2021.

1. Budget and Policy Framework

1.1 Whilst there is no specific decision to be made based on the report, it is important that the committee is apprised of all decisions taken in relation to early retirements and severance payments.

2. Background

2.1 The procedure for Managing Reorganisation and Redundancy was agreed on 26 September 2007. The Employment Matters Committee subsequently reviewed the policy on 15 April 2009, 2 November 2010 and 29 June 2011. This paper recommends an amendment to current practice in relation to the application of discretionary enhancements to pensions for teachers who face early retirement on the grounds of redundancy.

2.2 Decisions on early retirements and severance payments are taken by the Head of HR Services and the relevant Director. Employment Matters Committee receives quarterly reports on these decisions together with costings. This is in line with the Audit Commission's Report "Retiring Nature" which recommended that Members be informed of early retirement decisions and that the costs of the decisions taken are reported.

2.3 Whilst Members need to be apprised of all decisions taken in relation to early retirement and severance payments, it is important that any data provided does not risk individual employees being identified. Therefore, to avoid any breach of GDPR and in accordance with Section 40 of the Freedom of Information Act 2000 and Article 5 of the GDPR, this report will not release data that may identify individuals involved.

3. Advice and analysis

Early Retirement and Severance decisions

3.1 School based staff

3.1.1 During the period of this report, there were no school based redundancies.

3.1.2 The Education Act 2002 sets out how premature retirement and redundancy costs should normally be funded. The Act states that costs incurred by the local authority in respect of any premature retirement of a member of the staff of a maintained school shall be met from the school's budget share unless the authority agrees with the governing body in writing that they shall not.

3.1.3 Costs incurred by the local authority in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school shall not be met from the school's budget share except in so far as the authority has good reason for deducting those costs from that share. The Medway Scheme for Financing School's outlines when redundancy costs will be charged to the school's delegated budget shares:

- Where the school is making staffing reductions which the authority does not believe are necessary to either set a balanced budget or meet the conditions of a licensed deficit;
- Where a school has not or has refused to engage with the authority's redeployment policy;
- Where a school has decided to offer more generous terms than the authority's policy then the excess will be charged to the school;
- Where a school is otherwise acting outside the local authority's policy.

3.2 Non-school based staff

3.2.1 During the period of this report there were five non-school based members of staff who were either made redundant or took early retirement at a total cost of £110,443.41

3.3 Total cost

- 3.3.1 The total cost to the council of all staff made redundant or who took early retirement during this period is £110,443.41.
- 3.3.2 The cost of the five redundancies in Frontline services was agreed against the backdrop of a restructure saving circa £400,000 per annum.
- 3.3.3 The cost of the redundancies in the Early Help Team were as a result of the need to reduce staff in line with a reduction in grant funding.
- 3.3.4 As Members will be aware, details of organisational reviews are reported to the Committee. The frontline services restructuring referred to in paragraph 3.3.2 was reported to the last meeting of the Committee in August. The Early Help team restructuring referred to in paragraph 3.3.3 is detailed in the report on organisational change that appears elsewhere on the agenda for this meeting.

4. Proposal to remove discretionary pension enhancements to teachers

- 4.1 Teachers prematurely retired on the grounds of redundancy are currently granted both mandatory and discretionary pension compensation in Medway maintained and voluntary controlled schools. On 10 February 2010 Employment Matters Committee “reaffirmed Medway exercising its discretion under the teachers' pensions regulations to award premature retirement benefits to scheme members who have attained the age of 55 on the date the pensionable employment terminates.”
- 4.2 Medway Council currently budgets £693k per annum to cover early retirement costs from schools; the main element of the budget is due to ongoing costs from early retirement decisions that are historic. Unlike mandatory compensation, discretionary compensation does not end when the person dies but continues to be paid at a reduced rate to the spouse or civil partner after their death.
- 4.3 Research however shows that many local authorities no longer award discretionary pension enhancements to teachers. It is considered that in most cases the decision was taken due to affordability.
- 4.4 Given constraints on centrally controlled school budgets it is proposed that the Council consult on removing the awarding of discretionary pension enhancements to teachers retiring on the grounds of redundancy with effect from 1 April 2021 but afford schools the right to apply this discretion if funded from their delegated budgets.

5. Financial implications

- 5.1 All decisions are made in accordance with the Council’s procedures for managing redundancy and early retirement.

- 5.2 A breakdown of costs relating to retirements and severance payments for the period 1 April 2020 to 30 September 2020 is attached at Appendix one.
- 5.3 A financial impact assessment should the Council implement the removal of the discretionary pension enhancements to teachers retiring on the grounds of redundancy would be required as part of the consultation process.
6. Legal implications
- 6.1 The consultation procedure must be made in line with the Council's internal policies and procedures. Doing so reduces the risk of any potential legal challenge arising as a result of the consultation.
7. Risk Management
- 7.1 There are no risk implications arising from this report. All decisions are made in accordance with the Council's procedures for managing redundancy and early retirement.
8. Recommendation
- 8.1 That the Committee notes the report and agrees to consultation on the removal of the award of discretionary pension enhancements to teachers retiring on the grounds of redundancy with effect from 1 April 2021.

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Appendices:

Exempt Appendix 1: Breakdown of the early Retirement and Severance payments for period of 1 April 2020 to 30 September 2020

Background papers:

Further information on teachers' pension discretion
<https://www.teacherspensions.co.uk/employers/member-retirement/premature.aspx>