

<b>SHADOW EXECUTIVE</b>
-------------------------

<b>17 MARCH 2009</b>
----------------------

<b>SUBJECT</b>	<b>CENTRAL BEDFORDSHIRE UNITARY COUNCIL'S SEVERANCE / EARLY RETIREMENT POLICY – SCHOOL BASED STAFF</b> (To consider and determine the Severance/Early Retirement Policy for Central Bedfordshire Unitary Council's school based staff to be effective from 1 April 2009).
	<b>Director of Corporate Resources</b>
<i>Contact Officer: Steve James (01462 611177)</i>	

**IMPLICATIONS**

<b>SUSTAINABILITY</b>	N/A
<b>FINANCIAL</b>	The policy that is determined will impact on ongoing redundancy costs for school based staff.
<b>LEGAL</b>	Employment Legislation, Statutory Regulations and Terms and Conditions of Employees Contracts.
<b>PERSONNEL/EQUAL OPPORTUNITIES</b>	The redundancy policy will take note of all relevant employment legislation.
<b>COMMUNITY DEV/SAFETY</b>	N/A
<b>TRADES UNION / PROFESSIONAL ASSOCIATIONS</b>	Have been consulted and their views will be reported to the Shadow Executive.
<b>HUMAN RIGHTS</b>	Will be taken account of
<b>KEY ISSUE</b>	Yes
<b>BUDGET/POLICY FRAMEWORK</b>	None

<b>OTHER DOCUMENTS RELEVANT TO REPORT</b>
---

Central Bedfordshire Shadow Executive Report 16 December 2008 – Severance / Early Retirement Policy
---

<b>RECOMMENDATION(S):</b>
---------------------------

- |   |
|---|
| <ol style="list-style-type: none"> <li>1. That, in line with current practice of the predecessor authority, Central Bedfordshire should only operate the discretion available under Regulation 52 of the Local Government Pension Scheme (“added years”), or the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 2006, only in the most exceptional circumstances.</li> </ol> |
|---|

2. That the Shadow Executive adopt a policy based on the statutory scheme (using actual weekly pay) that makes use of the available discretion under the redundancy compensation scheme to award up to 30 weeks in general and up to 45 weeks pay, in exceptional circumstances, and where supported by a robust business case.
3. That the Interim Chief Executive, in consultation with the Portfolio holder for Corporate Resources, be authorised to implement the severance/early retirement policy for school based staff with effect from 1<sup>st</sup> April 2009 in accordance with recommendation 2.
4. That the policy in respect of severance and early retirement be included in the suite of school based employee policies for the new Council.

*Reason for Recommendation: Central Bedfordshire is required to determine a policy for Severance/Early retirement for school based staff which is effective from 1 April 2009.*

### **Purpose of Report**

1. The report sets out the requirement for Central Bedfordshire to determine a policy with regard to redundancy and early retirement payments for school based staff and the background to such a decision. In so doing it identifies the potential options that could be considered and proposes a specific recommendation for such a policy on 1 April 2009 and beyond.

Whilst schools in Central Bedfordshire have not been directly affected by LGR in terms of their staffing structures, there will inevitably be requirements to rely on the policy going forward. In the context of Central Bedfordshire's policy position for 'core' staff (i.e. up to a maximum of 45 weeks), and emerging Bedford Borough Council policy, the purpose of this report is to provide the Shadow Executive with background in order to determine and publish the policy position regarding Severance/Early Retirement Policy for Central Bedfordshire school based staff with effect from 1 April 2009.

### **Background**

2. Central Bedfordshire, as a new authority, is required to determine a policy relating to redundancy and early retirement payments for school based staff and the operation of the discretionary powers. Entitlements for support staff are based on the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 and the Local Government Pension Scheme Regulations. Entitlements for teachers are based on the Teachers (Compensation for Early Retirement) (Amendment) Regulations 2006.

Access to pension is available to school support staff over the age of 50 (55 for those joining the scheme after 1 April 2008 in line with LGPS regulations).

Access to the teachers' pension scheme is only agreed for teachers over the age of 55 years. The Regulations do allow for the addition of enhanced service for pension purposes. Bedfordshire County Council policy makes it clear that this discretion "will only be exercised in the most exceptional circumstances".

**In relation to the discretionary enhancement (to apply 'added years'), no discretion has been exercised by Bedfordshire County Council in the last 5 years. It is recommended that Central Bedfordshire adopt the same position. Central Bedfordshire would therefore allow discretion to be applied only in the most exceptional circumstances. [Recommendation 1].**

When considering its future policy with regard to redundancy for school based staff, the Shadow Executive is reminded of the rationale behind the decision to adopt a policy of a maximum of 45 weeks for non school staff contained in the Shadow Executive Report of 16 December 2008.

It is also incumbent on the Shadow Executive to consider the Staffing Guidance Notes issued with the LGR Staffing Regulations. This guidance advises the Shadow Executive to:

- explore with predecessor Councils whether it may be desirable to harmonise discretionary compensation arrangements in advance of 1 April 2009, in consultation with the trade unions, and in accordance with TUPE and relevant employment law,
- have regard to the extent to which the exercise of such arrangements, unless properly limited, could lead to a serious loss of confidence in public services; and
- be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

As a new authority Central Bedfordshire needs to be aware of the existing policy arrangements within the other authorities affected by LGR in Bedfordshire. Although Mid and South Bedfordshire District Councils and Bedford Borough Council have policies that enhance the statutory redundancy payment based on age and service up to the maximum 104 weeks (subject to the merits of the business case in achieving the Councils' objectives), none of these policies, at present, relate to school based staff.

The County Council is the only Authority that currently has a policy that covers school staff. Their current provision is, under most circumstances, to pay up to 30 weeks but allow for a maximum of up to 45 weeks to be paid based on a robust supporting business case.

For Central Bedfordshire school based staff, specific consideration has therefore been given to possible policy alternatives that align with either 104 weeks or 45 weeks.

### **Bedford Borough Council policy from 1 April 2009**

3. Bedford Borough Council at their Implementation Executive dated 7 October 2008 determined to continue their existing policy of up to 104 weeks' pay to eligible employees (existing employees plus those transferring from the County Council) based on service and age for the new Bedford Borough Unitary Authority and that this policy would be reviewed during 2009/2010 to enable any further change to be effective from 1 April 2010.

Bedford Borough also confirmed that their existing policy not to operate the discretion available under Regulation 52 ("added years") would continue.

At the time of drafting, Bedford Borough have not made any decision regarding a policy for school based staff.

### **Financial impact of Redundancies**

4. The future costs to Central Bedfordshire of both severance (redundancy) and actuarial strain are determined by the policy option chosen. Actuarial strain costs are the costs of the early payment of pension to any member of support staff made redundant who is over the age of 50 (or 55 for new members) years, and for teachers over the age of 55.

In relation to liability for payment, the determination to dismiss by reason of redundancy is a matter for the governing body. The Authority would normally expect to bear the cost of any redundancy unless it felt that the governing body had acted unreasonably. 'Unreasonable' action by the governors might be, for example, agreeing severance terms outside the agreed constraints.

Additionally, if a governing body acted 'unreasonably' and so incurred costs at an Employment Tribunal, the Authority may not pay any associated costs.

Furthermore, under the current County Council scheme, the Council will require the school to demonstrate “identifiable and acknowledged budget difficulties as defined by the Director of Resources” before being prepared to meet the cost of redundancy. Any “non budget led” redundancies must be subject to a report from the school outlining the business case. On the basis of the business case the Council will determine the extent to which, if at all, the Council will meet the redundancy costs.

In practice the policy has meant that all schools submit a business case, in order that a judgement can be made about the extent to which the Authority will meet the cost. It is proposed that Central Bedfordshire adopts a similar governance process.

In terms of numbers of cases, the following table illustrates the volume of cases over recent years. It should be noted that the discretionary enhancement (up to 45 weeks) was not applied to any case.

Year	Number of Cases	Cost (where known)
2005/06	36	-
2006/07	23	-
2007/08	28	£179K
2008/09 (to Nov)	15	£154K

For Central Bedfordshire, 60% of this total over three and a half years would mean approximately 61 cases in total, at £7.7K each, or £134K pa.

## **Alternatives**

5. Given that, for schools, it will be largely ‘business as usual’ from 1 April 2009, it is important to consider both the organisational and financial consequences of this policy decision. In a stable business environment, during which potential redundancies would not be significant, an appropriate scheme, for a unitary with Central Bedfordshire’s workforce, is likely to be one with a maximum of 45 weeks actual pay. This is more than 1.5 times the statutory redundancy provision. The statutory redundancy scheme provides for up to 30 weeks pay, at a maximum of £330 per week (£350 per week from April 2009).

To adopt a discretionary policy of 104 weeks (recognising that the enhancement would only be applied in exceptional circumstances) would align with the position that Bedford Borough may decide on for school based staff (assuming it aligns itself internally), but would create a significant disparity between school based staff and ‘core’ Central Bedfordshire staff.

The financial consequences of such a policy would also be significant in terms of inflating the individual cost of making school based staff redundant, increasing the figure of £134K pa to, potentially, £464K pa.

To adopt a policy of a maximum of 45 weeks would make significant savings against the option of 104 weeks and would provide consistency of policy in relation to 'core' Central Bedfordshire staff.

### **Financial Consequence of Change**

6. Should a policy of a maximum of 45 weeks be adopted, but the enhancement only applied beyond 30 weeks in exceptional cases, there will be not be any significant impact on the centrally held budget for redundancies in schools.

### **Conclusions**

7. Careful consideration has been given to the options for school based staff and the importance of harmonising arrangements as far as possible with 'core' Central Bedfordshire staff.

On this basis the recommendation is for Central Bedfordshire to adopt a policy for school based staff for 2009/10 and beyond that provides for redundancy payments of up to 30 weeks in general and up to a maximum of 45 weeks on an exceptional basis. **[Recommendations 2, 3 and 4]**. These recommendations are considered affordable.

### **Consultation on Policy proposals**

8. Consultation on the alternative approaches has taken place with senior management and with the trade unions and professional associations. The outcome of the latter consultation will be presented to the Shadow Executive at the meeting.

### ***Background Papers:***

### ***Location of Papers:***

### ***File Reference:***