

REDUNDANCY

97. If a school no longer needs the post of a member of staff whose contract says that his or her place of work is the school, the governing body may declare that person redundant. Before any person is dismissed on grounds of redundancy, all relevant statutory requirements, such as those concerning the selection of staff for redundancy and consultation with trade unions and others, must be observed. The employee should then be dismissed using the dismissal procedures described in this guidance.
98. Whenever a governing body contemplates redundancies, it should obtain advice from the LA as well as from any other professional personnel service provider that it may retain. The LA will need to consider whether there are any other suitable posts in the area.

PREMATURE RETIREMENT AND COMPENSATION FOR REDUNDANCY

99. The governing body decides whether to grant premature retirement to teachers aged between 50 and 60, and whether to award them added years' service under the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997. The governing body can grant premature retirement either for reasons of redundancy, or if the employer terminates a teacher's employment, in the interests of the efficient discharge of the employer's function.
100. If the governing body grants a teacher premature retirement, the LA, as the compensating authority, will have to pay mandatory compensation towards that teacher's annual pension and retirement lump sum (but see paragraph 116, below). The amount of mandatory compensation will reflect the cost to the pension scheme of allowing a teacher to take their pension before they reach 60. The younger the teacher when he or she is granted premature retirement, the higher the amount of mandatory compensation the LA will have to pay.
101. The governing body also decides on the level of compensation to grant a member of staff that it makes redundant. Although under the Employment Rights Act 1996 it must make a statutory compensation payment for redundancy (worked out using the number of years' service and a limit on weekly earnings, which is currently £310), it is for the governing body to decide whether further compensation on top of that should be paid. For example, under the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997, governing bodies may have the right to base a redundancy payment on the teacher's actual salary. (The governing body can also make an initial severance payment to teachers who are made redundant or whose employment is terminated on efficiency grounds, but only if the governing body has not granted premature retirement.)
102. The governing body should bear in mind that Section 37 of the Education Act 2002 gives LAs the power to take the costs of premature retirements (including the cost of any added years' service) from school budgets if they have not agreed to the premature retirement. Section 37(5) of the Education Act 2002 allows LAs to take the costs of discretionary compensation for

redundancy from a school's budget, if they have good reason to do this (an example of a good reason might be that the LA thinks the discretionary payment in a particular case is too high in relation to its own policy). So, it is important for the governing body to hold discussions with its LA about premature retirements and redundancy compensation it plans to give. (Further information is given in DfEE Circular 15/97, *Early Retirement Arrangements for Teachers.*)

103. Some staff appointed some years ago may have contracts that say what payments must be made if the teacher takes early retirement. The governing body should make sure that any decision about how much the pension should be increased by takes account of these. Legal advice should be taken.