

**TO: EMPLOYMENT COMMITTEE
28 OCTOBER 2015**

**SEVERANCE POLICY OPTIONS
(Director of Corporate Services – HR)**

1 PURPOSE OF REPORT

- 1.1 To set out the reasons for and legal basis of the Council's current severance policy and to present options for the future. In light of the continuing need to make budget reductions, there is a need to examine the policy on severance payments but also a need to ensure that future restructurings and redundancies are dealt with fairly and good employee relations maintained.

2 RECOMMENDATION(S)

That the Employment Committee retains:

- 2.1 **The use of actual weekly pay levels for redundancy purposes**
- 2.2 **The policy of paying statutory weeks only to employees with immediate access to pension**
- 2.3 **The current x 1.75 multiplier of the statutory entitlement for employees with no immediate access to pension.**

3 REASONS FOR RECOMMENDATION

- 3.1 The approach to paying a multiplier of the statutory redundancy calculator has helped to maintain a positive employee relations climate in very difficult times. Maintaining a difference between those with access to pension and those without means that enhancements are targeted to those who have no additional means of support from their pensions after they have lost their jobs at the Council.
- 3.2 The existing severance policy was last reviewed in 2011. At that time the redundancy multiplier was reduced from 2.5 to 1.75 in line with the average level applied across local government. At 1.75 the multiplier still represents a balanced approach towards severance payments.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Council could provide enhanced payments to all employees eligible for redundancy, irrespective of pension access. However this would mean an increase in costs and a more generous package for those who would already have access to pension on being declared redundant.
- 4.2 The Council could use up to a x3 multiplier as some other Councils do, but this would lead to an increase in redundancy costs.

- 4.3 The Council could use less than the current 1.75 multiplier but this would provide only a very modest increase on statutory amounts and would put it amongst the lower levels for severance policies for all local government employers.
- 4.4 The Council could use no multiplier, ie statutory weeks only, which would make its severance payments the lowest level amongst all local government employers.

5 SUPPORTING INFORMATION

5.1 Severance policy principles.

Since 1999, the Council has kept a consistent overall approach to severance payments and to the principles underpinning the granting of early retirements. Severance payments are also closely linked with Pensions Regulations, and these will be mentioned in this report but only as they relate to severance; the full set of pension discretions is periodically reviewed by the Employment Committee.

5.2 Current Severance Policy

5.2.1 In brief, the current approach to redundancy/severance payments is as follows:

- In all cases the Council uses actual weekly pay to calculate the amount to be paid.
- The Council pays the statutory number of weeks to those who have immediate access to their pension.
- For those who do not have access to pension, an enhanced severance payment is made, as they will have no pension income or pension-related lump sum on leaving. This is x 1.75 the statutory minimum level of payment with a maximum level of 52.5 weeks pay.

5.2.2 This policy aims to give a fair but not over generous settlement to employees and has been a significant factor in the sound industrial relations context around severance over a number of years in which major Council reorganisations have been implemented. The logic of the policy was to exercise discretion in favour of those with no access to pension to ensure they received a reasonable severance package. Prior to 2011 a x 2.5 multiplier was used (up to 75 weeks pay), but the amount was reviewed in 2011 to be consistent with average practice in Local Government while still maintaining the same general principles.

The full extent of the discretions available through the Discretionary Compensation Regulations (DCR) which allows councils to pay up to 104 weeks in redundancy situations, has not been used as the Council felt it was unnecessary to utilise the maximum amounts.

5.3 The legal basis of the severance payments made

5.3.1 Employers must pay, as a minimum, statutory redundancy in accordance with the Employment Rights Act 1996 (ERA). The number of weeks paid varies with age and service, but the maximum achievable amount is 30 weeks pay while the minimum is 1 weeks pay. The ERA imposes a cap on the amount of weekly pay to be used in the calculation, currently £475 p/w.

However it is common for employers to waive this cap and use actual weekly pay, and virtually all local authorities do so; the Local Government (Discretionary Payments) Regulations 1996 explicitly give employers the power to do this.

- 5.3.2 There has to be an objective justification for the amount paid, and where age and service are a factor in this, the model used must be a multiple of the number of weeks in the statutory redundancy calculator, eg x2 or x3.

5.4 **The National Picture**

In 2013, the Local Government Employers organisation commissioned a survey of the severance policies operated by employers across the UK – 143 organisations responded. The main findings of the survey were that 89% of respondents used actual salaries to calculate redundancy payments; that 59% of respondents awarded lump sum compensation in some or all redundancy cases; and that where offered, lump sum compensation was generally calculated using multipliers up to x3 the number of weeks and that the most commonly used multipliers were x 1.5 and x 2. The Council's current level of x 1.75 the number of weeks is therefore in line with common practice.

The results are tabulated below:

Policy in cases of redundancy	%age Local Authorities, non-schools
Actual salary for redundancy payments	89
Multiplier of number of weeks for lump sum payment where used:	
X1.5	28
X2 or over	28
Other formula used*	43

*This denotes a variety of other methods – eg some other multiplier between 0.75 and 3, or capped at a certain level, or dependent on case by case factors, or perhaps, like this Council, using a multiplier in cases with no access to pension and statutory weeks in cases with access to pension.

5.5 **Options on use of discretions**

- 5.5.1 As can be seen from the information above and in paragraph 5.2, the Council pays neither the highest nor the lowest severance of the authorities surveyed.

Clearly there are a range of options available to the Council if it were to consider changing its approach to severance payments:

- Pay statutory redundancy only at actual weekly pay rate or using the £475 p/w cap for all employees, irrespective of pension access
- Where there is no access to pension, pay a multiplier of the actual weeks' pay in statutory redundancy, either x1.5, x1.75, x2, or x3; use the statutory table at actual week's pay only (ie x1) where there is access to pension.

5.6 **Cost implications**

- 5.6.1 In the last two financial years, the Council implemented 43 redundancies, 40 of which resulted in a redundancy payment. The average payment was of £8147. Capitalised costs of pension are not included in the comparative figures below. Pensions are automatically triggered in redundancy cases for those over 55 and thus the Council has no influence over this (the capitalised cost is the one off amount the Council has to pay to the Pension Fund to allow for early payment of a pension).

Had the options in paragraph 5.5.1 been exercised on the 40 redundancies the impact would have been as follows:

Option	Average redundancy pay
A - Actual weekly pay (no multiplier)	£6015
B - Actual weekly pay with x 1.5 multiplier	£7436
C - Actual weekly pay with x 1.75 multiplier - current policy	£8147
D - Actual weekly pay with x 2 multiplier	£8858
E - Actual weekly pay with x 3 multiplier	£11,701

Option A reduces expenditure on severance to those with no access to pension but leaves those with access to pension unchanged.

Options C maintains the current practice of additional redundancy payments for those with no access to pension.

5.7 **Non-cost impact**

- 5.7.1 There is clearly a significant climate of financial challenge affecting local government employers at local and national levels.

Over the last decade employees have seen a reduction in their terms of employment, and an erosion of some elements of their base conditions. These include:

- below inflation pay increases
- an extended pay freeze
- reduction of car mileage payments
- introduction of car parking charges in town centre offices

- the 2011 reduction in severance payments
- several consecutive years of budget-related redundancy proposals.

As a consequence of these, there is no doubt that local government is in a very difficult employee relations environment. It is against that background that a further review of the severance terms must be viewed as if any change is perceived by staff as being unfair this could impact on the performance of the organisation on respect of service delivery.

5.7.2 There are some specific issues which impact on the severance scheme itself:

- It is a reasonable assumption that fewer employees At Risk would be prepared to volunteer for redundancy at rates which were viewed as below the norm for local government, and that selection outcomes would be more vigorously contested by employees and the trades unions.
- Any significant change to the current policy would undoubtedly be seen as penalising those about to lose their jobs, and would be strongly resisted by the unions. The Council enjoys a constructive and realistic relationship with its main trades unions, who acknowledge that change is sometimes unavoidable but try to ensure fair treatment of those At Risk; a change to the current policy would undermine this situation. Employees would undoubtedly see this measure as one which particularly penalises vulnerable and low paid staff.

5.7.3 It is believed that the Council's ability to achieve structural changes and savings in the context of relatively harmonious and constructive employee relations is partly due to the commitment to pay above the statutory minimum to those who are unfortunate enough to lose their jobs without any immediate payment of pension whilst avoiding the excesses of payments at the level of maximum discretion. The current employment market can make it quite difficult for people to secure employment readily, and the severance package helps them through the period of seeking new work. Bracknell's good reputation as an employer includes the way it is seen to treat those who leave its employment as well as those who remain in employment.

6 CONCLUSION

6.1 Redundancies have become a necessary part of the management of the Council's workforce. It is important to ensure they are managed in a fair, equitable and cost effective way; the recommendations in this report reflect that approach ie

- Maintain the use of actual weekly pay.
- Maintain the multiplier at x 1.75 the number of weeks.
- Maintain the use of statutory pay levels for those with access to pension.

7 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

7.1 There are no specific legal implications arising from the report's recommendations.

Borough Treasurer

- 7.2 Reducing the multiplier from 1.75 to say 1.5 would have saved the Council £28,000 in the last two financial years, across 40 separate redundancies. All redundancy costs are met from the Structural Changes Reserve which currently stands at £1.47m.

Equalities Impact Assessment

- 7.3 Attached.

Strategic Risk Management Issues

- 7.4 As outlined in the report at paragraph 5.7.

8 CONSULTATION

Principal Groups Consulted

- 8.1 Any proposed policy change will be considered by the trades unions.

Method of Consultation

- 8.2 Local Joint Committee.

Representations Received

- 8.3 TBA

Background Papers

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