

**TO: COUNCIL
30 NOVEMBER 2011**

**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 agree what approach to take in the future. In the light of the continuing need to make budget reductions, there is a need to examine the level of severance payment but also a need to ensure that future restructurings and redundancies are dealt with fairly and good employee relations maintained.

2 RECOMMENDATIONS

- 2.1 **That the use of actual weekly pay levels for redundancy purposes be retained;**
- 2.2 **That the policy of paying statutory weeks only to those with immediate access to pension be retained;**
- 2.3 **That the current x 2.5 multiplier of the statutory table for those with no immediate access to pension be reduced to a multiplier of x 1.75;**
- 2.4 **That the policy of awarding added years to pensions only in exceptional circumstances be continued; and**
- 2.5 **That the new policy take effect from 1 December 2011.**

3 REASONS FOR THE PROPOSED CHANGE

- 3.1 The approach to paying a multiplier of the statutory redundancy calculator has helped to maintain a positive employee relations climate in difficult times. Maintaining a difference between those with access to pension and those without means that enhancements are targeted at those who have no additional means of support from their pensions after they have lost their jobs at the Council.
- 3.2 The new recommended severance policy is the median level applied across local government and represents a balanced approach towards severance payments. 56% of authorities who took part in a recent survey of severance policies confirmed that they paid at this level.
- 3.3 As part of the general responsibility for the Council's budget, this issue was considered by both the Executive (as it needs to be in accordance with the Council's overall financial planning) and the Employment Committee (as it needs to be in accordance with the Council's overall approach to managing its workforce in a cost effective way); both are supportive of the recommendations.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Council could provide enhanced payments to all those 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 their pension on being declared redundant.
- 4.2 The Council could use up to a x3 multiplier but this would lead to a significant increase in redundancy costs.
- 4.3 The Council could use a x1.5 multiplier but this would provide only a very modest increase on statutory amounts and would put it below the average level for severance policies amongst all local government employers.
- 4.4 The Council could use statutory weeks only, which would make its severance payments the lowest amongst all local government employers.

5 SUPPORTING INFORMATION

5.1 Severance policy principles.

- 5.1.1 Since 1999, those Committees responsible for employment have kept a consistent approach to severance payments and to the principles underpinning the granting of early retirements. Severance payments are also closely linked with Pensions Regulations.
- 5.1.2 No change is suggested to the principles of early retirement already agreed by the Council, which are:
 - (i) No employee should regard early retirement for which the employer's consent is required as his or her automatic right, nor should the exercise of the employer's discretions be expected as a right. Discretions will only be exercised where there is a benefit to the organisation which adequately justifies their use.
 - (ii) Early retirement is not a substitute for proper performance management and will not be used by management to resolve competence/capability problems.
 - (iii) On occasions early retirement is a valuable management tool which enables decisions to be made to effect savings and/or improve efficiency in the organisation. It will also avoid the negative industrial relations impact of compulsory redundancies.
 - (iv) Employees will be treated in a fair and equitable manner.

- (v) Each case must be assessed individually, and the costs and benefits to the organisation clearly presented to the decision-makers as part of that case.
- (vi) Decisions on early retirement must be made with regard to the Council's overriding responsibility to act with prudence and propriety and in accordance with the age discrimination laws.

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 due.
- 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 2.5 the statutory minimum level of payment with a maximum level of 75 weeks pay.

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.

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 never 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 £400 p/w. However it is common for employers to waive this cap and use actual weekly pay and virtually all local authorities including this one do so; the Local Government (Discretionary Payments) Regulations 1996 explicitly give Local Government employers the power to use actual weekly pay for the calculations.

5.3.2 The Discretionary Compensation Regulations (DCR) available to local government allow payment of severance up to 104 weeks pay. 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.

The pension scheme rules allow the award of added years, and the Council's policy is that up to five added years may be awarded but that this would be only in exceptional circumstances. The option is very rarely exercised.

5.4 **The National Picture**

- 5.4.1 The Local Government Employers organisation commissioned a survey in 2009 of the severance policies operated by employers across the UK – 118 organisations responded. The first survey related to 2009/10 and during the last year 26% of respondents have changed this policy.
- 5.4.2 The main findings of the survey were that more than 9 out of 10 respondents used actual salaries to calculate redundancy payments; that around a half of respondents awarded lump sum compensation in all redundancy cases, and that where offered, lump sum compensation was generally calculated using multipliers up to x3, but 56% of authorities used multipliers between x1.5 and x2.

5.5 **Options on use of discretions**

- 5.5.1 As can be seen, 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 the payment of severance for employees:

- Pay statutory redundancy only at the capped weekly rate to all employees irrespective of pension access (ie exercise no discretions)
- Pay statutory redundancy only at actual weekly pay rate to 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, x2, x2.5 or x3 all fall within the 104 week maximum limit; use the statutory table at actual week's pay only (ie x1) where there is access to pension.

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 recommended changes to the current policy outlined in this report reflect that approach ie

- Maintain the use of actual weekly pay.
- Reduce the multiplier.
- Maintain the use of statutory pay levels for those with access to pension.
- Award added years only in exceptional circumstances.
- Apply the policy from 1 December 2011.

7 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

7.1 Nothing to add to report.

Borough Treasurer

7.2 The Council maintains a Structural Changes Reserve to meet the costs associated with organisational change. Severance payments and the capitalised cost of pension (for those in receipt of early payment of pension following redundancy) are usually met from the reserve. In recognition of the financial challenges that lay ahead and that further downsizing of the workforce is almost inevitable the reserve is set at a level which ensures redundancies remain affordable. Funding for this was provided from the revenue budget underspend in 2010/11.

Equalities Impact Assessment

7.3 An EIA has been completed with particular regard paid to the impact of any age and length of service related issues in the light of the Council's use of the statutory linked calculators. No adverse impacts were noted.

Strategic Risk Management Issues

7.4 As outlined in the report.

8 CONSULTATION

Principal Groups Consulted

8.1 This proposed policy change was considered by the trades unions.

Method of Consultation

8.2 Local Joint Committee and Employment Committee

Representations Received

8.3 The unions are not supportive of the suggested changes to the policy and would like the Council to consider other ways to make savings.

Background Papers

Local Joint Committee agenda and minutes – 27 September 2011

Employment Committee agenda and minutes – 12 October 2011

Contact for further information

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