

Report to Appeals and Retirements Committee

Subject Redundancy: Compensation Payments - Discretionary Arrangements and Pension Release

Date 22 July 2016

Author Chief Executive
Service Manager- Organisational Development

1. Purpose of the Report

1.1 To seek authority to extend the delegation to the Chief Executive, decisions relating to the release of pension and to the payment of the maximum compensatory payments in cases of voluntary and compulsory redundancy for the remainder of this current Administration to May 2019.

2. Background

2.1 In March 2014 a paper was presented to this committee that proposed that certain decisions relating to pension release and payments of discretionary awards below the maximum permissible under the Council's local policies be delegated to the Chief Executive. This report is shown at Appendix A.

2.2 The arrangement was designed to provide an expedient method of applying local policies at a time (between 2014-17) during which it was expected that there would be many changes to structure as budgets continued to be put under pressure.

2.3 Although the number of employees over this two-year period has remained reasonably static at just over 390 full-time equivalents (FTE), there have been numerous service reviews that have re-shaped teams so that good service can still be delivered efficiently. During this time there have been 13 redundancy dismissals both voluntary and compulsory. Appendix B lists these posts. Appendix C shows the existing general policy that relates to discretionary payments for dismissals relating to redundancy or "efficiency of the service".

3. Proposal

3.1 Over the coming years budgets will continue to be affected by the requirement to make further savings. This will inevitably affect the ways that services will be delivered. Although it will be possible to drive out further efficiencies through new ways of working and to maximise income potential through innovative business practice, it is likely that further changes to structure will also be needed. With this are likely to come further dismissals due to reason of redundancy and efficiency.

3.2 In order to continue to be able to make swift decisions and to facilitate the implementation of new structures, it is proposed that the current arrangements detailed in the report at Appendix A be continued until the end of the financial year 2019 at which point they will be reviewed again. It is also proposed to include the same delegations to the Chief Executive for compensatory payments made through an “efficiency of service” route as for those under redundancy terms. Although dismissals for this reason are rare (there have been none in the last two years), the principles are almost identical in respect to the nature of the compensatory payments.

3.3 The proposal, in summary, is that within the scope of the Council’s policies and established pension discretions, the Chief Executive will have delegated authority to:

- 3.3.1 Authorise release of pension to employees age 55 and above who are members of the Local Government Pension Scheme. In cases where release of pension is not recommended, the decision would be referred back to this committee for final decision.
- 3.3.2 Authorise the award of the normal maximum discretionary compensatory redundancy and efficiency payments made within the terms of the Council’s local scheme. In cases where payment of the maximum discretionary award is not recommended, the decision would be referred back to this committee for final decision.

4. Resource Implications

4.1 Looking forward to coming years, further substantial reductions within budgets will drive the need for service changes. The release of pension benefits and the payment of compensatory sums will have financial implications for the Council. In the planning of changes to services these costs will be accounted for and funds identified for the required payments to be made.

5. Recommendation

It is **recommended** that for the period up to the financial year end 2019 that in all cases of redundancy and efficiency, authority be delegated to the Chief Executive, following consultation with the Section 151 Officer, as follows:

- 5.1 To authorise release of pension to employees age 55 and above who are members of the Local Government Pension Scheme. In cases where release of pension is not recommended, the decision would be referred back to this committee for final decision.
- 5.2 To authorise the award of the normal maximum discretionary compensatory redundancy and efficiency payments made within the terms of the Council's local scheme. In cases where payment of the maximum discretionary award is not recommended, the decision would be referred back to this committee for final decision.

Report to Appeals and Retirements Committee

Subject Redundancy: Compensation Payments - Discretionary Arrangements and Pension Release

Date 24 March 2014

Author Chief Executive
Service Manager- Organisational Development

1. Purpose of the Report

1.1 To seek authority to delegate to the Chief Executive, decisions relating to the release of pension and to the payment of the maximum compensatory payments in cases of voluntary and compulsory redundancy as a consequence of the current organisational restructuring relating to the 2014-2017 budget proposals.

2. Background

2.1 The Council is currently going through a review of its service delivery arrangements. As a result of this, a re-structuring of most services is likely over the next three years. Arising from these changes there will almost certainly be redundancies, both voluntary and compulsory.

2.2 The current Early Retirement and Redundancy Scheme of the Council allows for some discretion in the payments made through dismissal relating to redundancy. It is this committee that has the remit for determining how such discretion is applied.

2.3 Statutory redundancy payments are based on a number of weeks' pay, the actual number being determined in law by a combination of age and length of continuous service. Our local policy allows for additional payment up to the same amount again as the statutory payment, in effect doubling the compensatory payment to be made.

2.4 The maximum number of weeks on which the statutory payment can be made is 30 weeks and payments at this level can only be made for older employees (age 41 and above) who have long service (20 or more years). So, with discretion applied to award the maximum number of weeks' compensatory pay, this raises the total potential maximum payment to 60 weeks' pay.

2.5 The wording of our policy states, "Under exceptional circumstances, the ... committee may agree variation to the normal payment scheme, but still within the 60 week maximum." This would allow discretionary payment to be reduced or removed, or increased so long as the total payment did not exceed 60 weeks pay.

2.6 Although material in nature, and having the potential to create potential redundancy situations, the service reviews in themselves are not otherwise "exceptional". Indeed, it is likely that over the coming three years, an additional 20 posts will need to be dis-established. It may be the case that redeployment of some affected employees will be possible, but this is unlikely to be the case for all.

2.7 Any employee dismissed through reason of redundancy (voluntary or compulsory) will have applied to them the terms of the Early Retirement and Redundancy scheme which makes available the potential for additional discretionary payments and, if aged 55 or over, release of pension. Consent for payment of discretionary benefits and the release of pension is gained through this committee.

3. Proposal

In order to enable decisions to be made swiftly and to facilitate the implementation of new structures, it is proposed for the purpose of this current programme of service reviews, in all cases of redundancy that authority be delegated to the Chief Executive, following consultation with the Section 151 Officer, as follows:

3.1 To authorise release of pension to employees age 55 and above who are members of the Local Government Pension Scheme. In cases where release of pension is not recommended, the decision would be referred back to this committee for final decision.

3.2 To authorise the award of discretionary compensatory redundancy payments made within the terms of the Council's local scheme equivalent to, and in addition to statutory payments. In cases where payment of the maximum discretionary award is not recommended, the decision would be referred back to this committee for final decision.

4. Resource Implications

4.1 The release of pension benefits and the payment of compensatory sums will have financial implications for the Council. The report agreed at Full Council on 3 March 2014 supported budget proposals, part of which was to set aside a fund to cover such expected additional costs arising from these reviews. It is not possible to be more specific about costs since these will depend on the personal situation of individuals made either voluntarily or compulsorily redundant. Where employees are over 55 and take their pension benefits there will be an actuarial pension strain cost to be met by the Council. The costs of the strain again may vary depending on the individual's age, length of service and salary; these costs have to be made directly to the pension scheme.

4.2 Overall the proposals made for service review are designed to generate savings of around £2.5million over a three year horizon. Costs arising from redundancy or pension release will be taken into consideration when delivering these necessary savings and have been accounted for in recommendations made by the Council's 151 Officer.

5. Recommendation

It is **recommended** that with immediate effect and for the period of the service review programme between 2014-2017 that in all cases of redundancy, authority be delegated to the Chief Executive, following consultation with the Section 151 Officer, as follows:

- 5.1 To authorise release of pension to employees age 55 and above who are members of the Local Government Pension Scheme. In cases where release of pension is not recommended, the decision would be referred back to this committee for final decision.
- 5.2 To authorise the award of discretionary compensatory redundancy payments made within the terms of the Council's local scheme equivalent to, and in addition to statutory payments. In cases where payment of the maximum discretionary award is not recommended, the decision would be referred back to this committee for final decision.

Appendix B

Job	Post Number	Date of dismissal
PT Sports Development Officer	LRS04	12/12/2014
Duty Manager	LCA30	30/09/2014
Corporate Director	DIR01A	12/01/2016
Electoral Registration Assistant	LZD05	30/06/2015
Building & Engineering Technician	DTF08	30/04/2015
Service Support Assistant	LSS02C	07/12/2014
BTP Manager	PIP04B	30/09/2014
Corporate Director	DIR01B	25/03/2016
Senior Clerical Assistant	LZD06	31/05/2016
SAQ/Athletics Coach	LRS13	30/11/2014
Corporate Director	DIR01C	31/01/2015
Service Support Assistant	LSS02B	07/12/2014
P/T Service Support Assistant	LSS02A	26/10/2014

EARLY RETIREMENT POLICY

1. Early Retirement on Grounds of Redundancy

1.1 For all employees with two or more years' continuous local government service, including service covered by the Redundancy Payments Modification Order, (RPMO) who are dismissed by reason of redundancy, lump sum compensation will normally be payable (inclusive of any statutory redundancy payment) at a level of twice the statutory payment (as defined in compensation rules under the Employment Relations Act 1996) but based on an actual week's pay. This means that the maximum award normally made within the local scheme would be limited to 60 weeks' pay. Under exceptional circumstances, the Sub-Committee may agree variation to the normal payment scheme, but still within the 60 week maximum.

1.2 The service that will be taken into account when calculating entitlement to a redundancy payment under this policy will be continuous service with an organisation covered by the RPMO.

2. Early Retirement on Grounds of Efficiency of the Service

2.1 For an employee with two or more years' continuous local government service, (including service covered by the Redundancy Payments Modification Order), who is dismissed in the interests of the efficient exercise of the Council's functions, the Council shall have discretion to make a payment to the employee up to a maximum of 30 weeks' pay in circumstances where there is a demonstrable business benefit to the Council (this may be financial or related to improvement in performance or quality of service delivery) arising from the payment. Payment normally will be based on an amount equivalent to the number of weeks' payable (with no multiplier rate applying) under the ERA 1996 used in redundancy compensation calculations. Under exceptional circumstances, the Sub-Committee may vary the payment made, but still within the 30 week maximum.

3. Discretions

3.1 Discretions under this policy shall be applied by the Early Retirement Sub-Committee.

3.2 In all cases, redundancy and compensatory lump sum payments covered within this policy will be based on actual week's pay.

4. Additional Membership of the Local Government Pension Scheme

4.1 Employees who are members of the LGPS and are either made redundant or dismissed in the efficient exercise of the Council's functions will have the option of being able to request that the Council converts their lump sum compensation (over and above the statutory minimum) into additional membership of the Local Government Pension Scheme (LGPS). The total amount of membership that can be purchased by the excess lump sum cannot exceed the shorter of:

- 6 2/3 years or;
- By the period by which the employee's total membership falls short of the total membership s/he would have had if s/he continued in the scheme until age 65.

4.2 The request by the employee to convert any of the lump sum into pension must be made at the time the case is brought to the Early Retirement Sub-Committee, before the employee leaves the employment of the Council.

5. Appeal

5.1 A right of appeal exists against any recommendation made to the Early Retirements Sub-Committee by the Head of Paid Service.

5.2 Prior to a report being made to the Early Retirements Sub-Committee, the person who is the subject of the report will be notified of the recommendation to be made. If they do not agree with this recommendation, they will be allowed to submit a written appeal against this. The written appeal will be considered by the Early Retirements Sub-Committee as part of its decision in regard to the report submitted. Where the committee may wish to ask the appellant for additional information, they may request that the appellant attends the meeting. Also, if the appellant wishes to make a personal statement of case, they may attend the committee meeting to do this. In either circumstance, the appellant will not be allowed to be present whilst the decision is discussed. If the appellant does attend the meeting, a union representative or work colleague may accompany them.

6. Changes to this policy

In accordance with Regulations 7 (2) and (3), any changes to this policy and its application will not be made until one month after a statement setting out the intended changes has been published. The policy will be reviewed after one year to review its effectiveness.

7. Potential employment related claims

In those cases where there is a prospect of an employment related claim, a condition of the Council exercising its discretions under Regulations 5 and 6 may be that the employee agree to sign a Settlement Agreement, by which the employee will agree not to pursue any legal claims, including unfair dismissal claims, against the Council. Where an employee unreasonably refuses to enter into such an agreement, the employee will be entitled only to the statutory minimum compensation (if any).