



**General Purposes Committee**  
15 March 2021

**Report from Head of Paid Service**

**Severance Approvals**

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	N/A
<b>Open or Part/Fully Exempt:</b> (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	This report is partially exempt. Appendix 2 is Not for Publication as it relates to the following category of exempt information as specified under Paragraph 1, Schedule 12A of the Local Government Act 1972, namely: "Information relating to any individual"
<b>No. of Appendices:</b>	Two Appendix 1: Redundancy Costs in Excess of £100,000 Appendix 2: Redundancy Costs (named individuals) in Excess of £100,000 (exempt)
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> (Name, Title, Contact Details)	Debra Norman Director of Legal, HR, Audit & Investigations <a href="mailto:Debra.norman@brent.gov.uk">Debra.norman@brent.gov.uk</a>

**1.0 Purpose of the Report**

- 1.1 This report seeks approval from the Committee to make severance payments to a number of officers, in particular pursuant to the council's voluntary redundancy scheme, where their redundancy and severance payment, when added to the pension strain costs that the council must bear as part of the Pension scheme rules, comes to over £100,000.
- 1.2 This report is required at this late stage due to the Government issuing the Exit Payment Cap Direction 2021 on 12<sup>th</sup> February, which revoked the Restriction

of Public Sector Exit Payments 2020 which had introduced a £95,000 Exit Payments Cap.

- 1.3 In addition, the report proposes a revision to the early retirement strain factors previously approved by the Committee.

## **2.0 Recommendations**

- 2.1 To approve the severance payments set out in Appendix 1 and 2.
- 2.2 To note that none of the payments include any element additional to sums calculated in accordance with the council's Managing Change Policy and the requirements of the Local Government Pension Scheme.
- 2.3 To agree, as the administering authority of the Brent Pension Fund, to revert to the previous early retirement strain factors provided by the Fund actuary, Hymans Robertson.
- 2.4 To agree, the payment of an unreduced pension under Regulation 30(7) of the Local Government Pension Scheme for a member of staff as set out in Appendix 1 and 2 following her redundancy on 31 December 2020

## **3.0 Detail**

- 3.1 At its meeting on 7<sup>th</sup> December 2021 the Committee received a report providing an update on the Voluntary Redundancy scheme including a detailed Equalities Impact Assessment. In addition, the Committee agreed the approach the Council would take in respect of the implementation of the Exit Cap Regulations and as a result a consequent change to how the Pension Fund would calculate pension strain related to early retirement by using Government Actuary Department factors.
- 3.2 The Government announced on the 12<sup>th</sup> February that the Exit Cap Regulations would be rescinded and issued the Exit Payment Cap Direction 2021 to implement this. As a result the Council is now clearly required to pay full pensions to those who are 55 years or over and have volunteered for redundancy under the scheme, or are otherwise redundant, and who leave the council after 12 February 2021. Therefore, there are now costs of releasing those pensions that exceed £100,000 that require the approval of the Committee in accordance with statutory guidance and the council's Pay Policy Statement 2020/21. The detail is set out at Appendix 1, including one redundancy which was not part of the scheme.
- 3.3 As can be seen from the Appendix 1, the termination payments in excess of £100k proposed pursuant to the voluntary redundancy scheme are not all being made to high earners. The nature of payments due, including the terms of the Local Government Pension Scheme (LGPS) are such that, for example, someone earning £40,000 p.a. with 30 years' service might attract a total termination payment (including pension strain) in excess of £100,000.
- 3.5 Employees with two or more years' continuous service at the council or other

bodies listed in the Redundancy Payments (Continuity of Employment in Local Government) Modification Order are entitled to a redundancy payment in accordance with the council's policies. The council's policy is based on the statutory scheme but actual salary rather than the statutory weekly maximum is used for the calculation. In addition, a discretionary severance payment, equal to 50% of the redundancy payment so calculated, is currently made to those made redundant. In addition, employees who are made redundant who are aged 55 or over and have at least two years of pension scheme membership are required to receive immediate payment of pension benefits without reduction for early payment.

- 3.6 In each of the cases in respect of which a committee decision is requested, the overall cost of the termination is in excess of £100,000 only because of the payment that the council needs to make into the pension fund in order to ensure the fund does not suffer any detriment, because individuals over 55 are required by Local Government Pension Scheme rules to take their pension early. The precise amounts to be paid in each case could change slightly should a date other than 31 March 2021 be agreed based on service need.
- 3.7 To not approve these payments would mean that officers aged 55 years or over and who are in higher paid jobs, or in some cases are in lower paid jobs but have many years of service, would be denied access to the voluntary redundancy scheme. To not approve these payments would effectively mean that equivalent savings would need to be found elsewhere and staff in lower paid jobs and/or with shorter service might face compulsory redundancy as a consequence.
- 3.8 The final severance payment covered by the report and included in Appendix 1 arises from a restructure rather than being part of the voluntary redundancy scheme. The individual left the Council's employment on the 31<sup>st</sup> December 2020.
- 3.9 The Brent Pension Fund uses early retirement strain factors to calculate the strain charged to employers. These are developed to address the extra cost of paying an unreduced pension when a member retires early. Traditionally, the strain cost is calculated on the Fund's administration system using factors provided by the Fund actuary.
- 3.10 In light of the £95,000 exit cap regulations, it was necessary to alter the strain factors to ensure they were still fit for purpose. On 7<sup>th</sup> December 2020, the General Purposes Committee agreed to adopt the new methodology and draft factors provided by the Government Actuaries Department (GAD).
- 3.11 With the dis-application of the £95k exit cap, it is recommended to revert to the previous fund specific factors now. The disadvantages of using the new factors were that they could not simply be added to the administration system and instead calculation of strain costs were done outside of the system. Therefore, reverting to the previous factors will simplify pension administration and reduce the likelihood of errors.

#### **4.0 Financial Implications**

- 4.1 The applications that have been accepted for voluntary redundancy result in an aggregate payback period of less than two years, net of any savings reinvested as part of a restructure, which is within the agreed benchmark for long term financial considerations.
- 4.2 The net cashable savings from the budgeted establishment arising out of the accepted applications have been incorporated in the Council's Medium Term Financial Strategy.
- 4.3 Overall, the Fund specific factors are likely to produce higher strain costs than the GAD factors in some cases. Nonetheless, the Council sets aside provisions for the one off costs of redundancy, severance and actuarial strain.

## **5.0 Legal Implications**

- 5.1 The council has power to enhance the statutory redundancy scheme and to make severance payments to staff not eligible for that scheme under Regulations 5 and 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England & Wales) Regulations 2006 (as amended) where dismissal is for redundancy or efficiency reasons.
- 5.2 Under the Redundancy Payments (Continuity of Employment in Local Government) Modification Order continuous service with bodies listed in the Order is included in the calculation of an employee's continuous employment for redundancy purposes.
- 5.3 Statutory guidance under the Localism Act 2011 provides that termination payments (including pension strain) which exceed £100k should be approved by full Council. The council must have regard to this guidance. The council's Pay Policy Statement provides that where practicable, and unless the Chief Executive agrees otherwise, termination payments which exceed £100k will normally be agreed by full council or a committee of the council. For the avoidance of doubt, termination payments in excess of normal contractual terms are not proposed as a result of the voluntary redundancy scheme by way of this report.
- 5.3 Other legal implications are contained in the body of the report.

## **6.0 Diversity Implications**

- 6.1 The public sector equality duty, as set out in section 149 of the Equality Act 2010, requires the Council, when exercising its functions, to have "due regard" to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, to advance equality of opportunity and foster good relations between those who have a "protected characteristic" and those who do not share that protected characteristic. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 6.2 Having due regard involves the need to enquire into whether and how a

proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

- 6.3 An equality assessment has been undertaken in respect of the proposed redundancies under the Voluntary redundancy scheme and was included in the report considered at the meeting of 7<sup>th</sup> December 2021.

## **7.0 Consultation with Ward Members and Stakeholders**

- 7.1 None.

## **8. Human Resources/Property Implications (if appropriate)**

- 8.1. The council has made a commitment in its Change Management policy to seek to avoid compulsory redundancies by using voluntary redundancy where appropriate. This commitment and its implementation is likely to have a positive effect on employee engagement and reduce any negative impact on service performance which can result from the distress and demotivation sometimes experienced by continuing staff whose colleagues have been made compulsorily redundant.
- 8.2. A voluntary redundancy scheme is advantageous for both management and employees. It enables employees to come forward and initiate a discussion about their future without fear of committing themselves until all the paperwork has been agreed after exit figures have been finalised. For managers, it means that they can plan reorganisations more effectively, knowing in advance which staff are willing to leave.
- 8.3. Implementing compulsory redundancies is a significant drain on management time and is very disruptive for the wider workforce. Time is spent on individual consultation and in dealing with appeals which is saved if redundancy can be agreed on a voluntary basis.
- 8.4. Use of voluntary redundancy also reduces the risk of legal claims against the council. Implementation of compulsory processes carries with it the risk of disputes and employment tribunal claims. Even where these are successfully defended, they pose a further drain on management resource and on HR and Legal resources and may incur irrecoverable costs, for example in respect of the use of counsel.

### **Report sign off:**

Carolyn Downs  
Chief Executive and Head of Paid  
Service