

	<b>General Purposes Committee</b> 5 December 2018
	<b>Report from Head of Paid Service</b>
<b>Severance Approvals</b>	

<b>Wards Affected:</b>	N/A
<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 Appendix 2 is Not for Publication as it relates to the following category of exempt information as specified under Paragraph 1, Schedule 12A of the Local Government Act 1972, namely: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>	Appendix 1 – Severance Payments Appendix 2 – Severance Payment Appendix 3 – Equality Impact Assessment
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> (Name, Title, Contact Details)	Debra Norman Director of Legal and HR 020 8937 1578 <a href="mailto:Debra.norman@brent.gov.uk">Debra.norman@brent.gov.uk</a>

## 1.0 Purpose of the Report

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. The report also reports more generally on the outcome of the council's Voluntary Redundancy Scheme run during August and September 2018.

## 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 pursuant to the voluntary redundancy scheme 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 note the overall outcome of the Voluntary Redundancy Scheme run during August and September 2018.

### **3.0 Detail**

- 3.1 On 2 August 2018 the General Purposes Committee agreed that the council implement a Voluntary Redundancy Scheme in advance of planning and implementing restructures as part of re-modelling the council to achieve the savings required in the council budget over the coming period. It was agreed that employees taking voluntary redundancy under the scheme would continue to work until the end of the financial year (31 March 2019) unless exceptionally another date is agreed by the Chief Executive. The scheme was implemented from 3 August 2018 and closed for application on 28 September 2018. 149 applications were received.
- 3.2 All applications were assessed on the basis of the efficiency of the service and longer term financial considerations. A benchmark period of not more than 2 years for the cost of the redundancy to be offset by the consequent savings to the council (net of any saving reinvested as part of a restructure) was part of this assessment. A business case was prepared in respect of each application received and this was considered by Departmental Management Teams (DMT). Each business case has considered the cost of the individual redundancy and the savings associated with a deletion of the post, taking into account any associated restructure to ensure that the council can continue to deliver its services after the redundancy is implemented. The Council Management Team considered all the proposals from DMTs.
- 3.3 As a result of this process, 82 applications for voluntary redundancy were agreed and a further 12 are recommended for approval but require the agreement of General Purposes Committee before they can be agreed. Formal confirmation of acceptance has now been received from 75 employees, 6 have withdrawn and one has left the council for other reasons. Assuming the 12 applications covered by this report are agreed, a total of 87 redundancies will proceed under the scheme. In addition to the contribution to the council's savings targets, the restructures connected to the successful implementation of this scheme will provide opportunities for other staff within the council to progress in their careers.
- 3.4 Statutory guidance 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. 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 highest 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 12 voluntary redundancy 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 2019 be agreed (on an exceptional basis as set out at paragraph 3.1) based on service need.
- 3.7 To not approve these payments would mean that officers aged 55yrs 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. This is discussed further in the Diversity Implications section of this report and in Appendix 3. 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 is included in Appendix 2 and arises from a restructure rather than being part of the voluntary redundancy scheme.

#### **4.0 Financial Implications**

- 4.1 As set out in the report, the benefits of the scheme was not only financial. Nonetheless, it is important to consider the financial implications.
- 4.2. The total termination payments will be £5.3m and savings of £3.3m will be achieved. This equates to an overall payback period of approximately 1.6 years, which is well within the two year benchmark.

- 4.3. Most of the savings will form part of the delivery of the proposals set out in the draft budget of 15 October 2018, if agreed. However, approximately £0.6m of additional savings have been identified through this exercise, of which nearly half relate to the HRA and DSG budgets. Redundancy costs will also be properly apportioned between different ring-fenced elements of the budget.

## **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 The Government has put forward various proposals to reduce and standardise severance payments in the public sector. The proposals, none of which are operative at the moment, are:
- (a) requiring repayment of public sector exit payments by those with annual earnings above £80,000 should they return to work in the public sector within one year (Small Business, Enterprise and Employment Act 2015). Implementation of regulations to effect these changes (the Repayment of Public Sector Exit Pay Regulations 2016) is still awaited;
  - (b) placing a cap on exit payments of £95,000 (Small Business, Enterprise and Employment Act 2015) subject to further consultation on the draft Public Sector Exit Pay Regulations;
  - (c) making public sector exit compensation terms fairer, more modern and more consistent, including through the following means:
    - A maximum salary of £80,000 for the calculation of exit payments.
    - A taper on the amount of lump sum compensation an individual is entitled to receive as they get close to the normal pension age or target retirement age of the pension scheme.
    - Action to reduce the cost of employer-funded early access to a pension as an exit term.

The government has published its response to the consultation but has not yet brought forward draft legislation.

- 5.4 Firm implementation dates for these provisions have not yet been announced and so whether any of them will be implemented at a time and in a way that impacts on the payments General Purposes Committee is being asked to agree is unknown.
- 5.5 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 policy (this is included in Appendix 3).
- 6.4 This assessment identifies that applying a 2 year payback period to individual redundancy applications would impact particular on those aged 55yrs and over. This impact is likely to be materially justified by the policy objectives to contribute to the council's savings requirements and to the avoidance/minimising of compulsory redundancies in the whole workforce. If costs are not recovered over the required period, this does not contribute to the council's savings requirements over this period, although a contribution will be made after a longer period. However, as indicated in the Financial Implications, if the 12 applications Council is asked to agree which do not meet this benchmark are accepted, the scheme as a whole will still meet the benchmark.

## **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.

### **Background Papers**

None

<b><u>Report sign off:</u></b>
--------------------------------

Carolyn Downs Chief Executive and Head of Paid Service
---