

EAST CHESHIRE

CABINET

Date of meeting: 4 NOVEMBER 2008
Report of: HR JOINT TRANSITION GROUP
Title: VOLUNTARY REDUNDANCY PROCESS PRIOR TO 31 MARCH 2009

1.0 Purpose of Report

- 1.1 To consider the arrangements for considering redundancies in relation to LGR prior to Vesting Day.

2.0 Recommendations

- 2.1 To agree the process and criteria which will be applied to LGR voluntary redundancies prior to 1 April 2009.
- 2.2 To agree that delegated authority be granted to the Chief Executive, or their nominee, to endorse the recommendations of the Panels in relation to proposed redundancies, for agreement by the existing employing Council, and to note the implications for transitional costs.

3.0 Financial Implications for Transitional Costs

- 3.1 The People and Places Business Case included severance costs of £10.9m based on 158 redundancies. It assumed these costs would be incurred in 2009-10. The most recent estimates of transitional costs for 2008-09 also exclude a provision for severance costs, although both Shadow Authorities have made provision in 2009-10 based initially on the business case estimates.
- 3.2 Any costs incurred in the current financial year would therefore be over and above the current 2008-09 budget for net transitional costs. They would however serve to reduce any such costs in 2009-10 and facilitate ongoing revenue savings.
- 3.3 The Statutory Order requires all seven existing Authorities to share LGR transitional costs and the agreed approach is as follows:-
- a) separate transitional cost budgets for Cheshire West and Chester and Chester East but with cross-cutting costs being shared 50:50 in the absence of a more appropriate basis
 - b) the District Council element of costs to be shared pro rata to tax base
 - c) County Council to bear 45% of the costs of both Cheshire West and Chester and Cheshire East

- 3.4 LGR-related severance costs are clearly transitional costs and would be treated in accordance with the above approach. This means that any District Council severance costs will be shared across the County and three Districts (East or West) while County Council severance costs will be shared across all seven Authorities in accordance with the above formula.

4.0 Financial Implications 2009/10 and beyond

- 4.1 As indicated above, any redundancies prior to Vesting Day would serve to reduce any such costs in 2009-10 and facilitate ongoing revenue savings

5.0 Legal Implications

- 5.1 TUPE provides for employees of all seven existing Councils to transfer to one of the two new Councils on 1st April 2009. There will therefore (in accordance with the TUPE provisions) be no compulsory redundancies prior to vesting day for reasons related to the transfer.
- 5.2 However that does not preclude voluntary redundancies in connection with LGR being agreed prior to Vesting Day, but these must be made by the existing Authorities as the current employer.
- 5.3 Any such arrangements will need to be considered in consultation between the existing Councils and the new unitaries and must include a compromise agreement to protect the Councils from any future claims against them.

6.0 Risk Assessment

Risk	Risk Level	Mitigating action
Impact on morale if staff not successful in VR application	Medium	Manage expectations
Having to pay in lieu of notice	High	Tight process

7.0 Background and options

- 7.1 The People and Places business case identified some broad areas of staff reductions across both Cheshire East (CE) and Cheshire West and Chester (CWAC). Alongside of this the budget setting process for the new Authorities has identified a challenging financial envelope within which the Councils will operate.
- 7.2 Although, in accordance with TUPE provisions, no compulsory redundancies related to the transfer are possible, voluntary redundancies (agreed via a compromise agreement) are a possibility if required. Such redundancies would need to take effect on 31st March 2009, and need therefore to be dealt with by existing authorities.
- 7.3 Temporary staff, whose contracts come to an end on or before the 31st March 2009 for reasons unrelated to the transfer, are outside of this process and should continue to be managed using current processes via the existing Authorities as appropriate.
- 7.4 In these circumstances existing Councils will, in effect be managing redundancies on behalf of the new unitaries. It is important therefore that all nine Councils agree the process, the arrangements for funding and recognise the implications of this for

service delivery both pre and post transfer. Existing Councils are considering reports on the process.

8.0 Eligible Employees

8.1 Prior to Vesting Day there are two situations which may lead to invitations for voluntary redundancy:

- **Appointments to jobs in the top three tiers in the new Authorities** - leading to individual employees potentially in a redundancy situation post vesting day.
- **Service redesign identifies an over supply of employees for day one** – this is likely to be in certain services or at particular levels.

8.2 As mentioned, the People and Places bid outlined some potential areas for staff reductions, namely some 566fte of which they were 158fte predicted redundancies. The financial scenario may add to those figure.

8.3 It is anticipated that prior to Vesting Day, the primary focus will be on reducing staffing levels of senior managers and corporate support functions.

8.4 As appointments to the top management tiers in the new Councils are made and the position of the top three tiers in this Council become clear, separate reports will be brought to this Committee in relation to any arrangements in respect of those officers.

8.5 In respect of other employees, once disaggregation of the County Council workforce and aggregation of the District workforce has been completed, the outcome for the new Councils can be compared against the blue print structures and the transitional requirements to identify any areas where there is a potential surplus of staff.

8.6 It is expected that volunteers are only sought from those groups of staff where there is a high degree of certainty that some reductions will be required. It is also expected that many more employees may be hoping to go than there are opportunities for, at this stage. It will therefore be important not to raise unrealistic expectations and to ensure that employees appreciate that by no means all volunteers will be able to be released.

9.0 Outline Process and Timescales

9.1 As indicated above, the process to manage voluntary redundancies prior to vesting day is a nine Authority issue and as such needs all parties to sign up to the process. The proposed approach is summarised in Appendix 1 to this report. Reports are therefore being taken through all seven existing Councils and to the two new unitaries.

9.2 A suggested high level timeline for managing voluntary redundancies from selected groups is provided below. This will be influenced by the timing of the approval process in each of the nine Councils and the clarity about where reductions are required.

Action	By week commencing
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1. Written invitation for voluntary redundancy to selected groups in each Authority	1st Dec 08
2. Individuals submit a "VR application" form (notifying their line manager).	15th Dec 08
3. Applications are collated with other relevant information(including line manager assessment) by function (e.g. HR or legal services) to be considered 'en bloc'.	5th Jan 09
4. Separate panels to consider applications from the East and the West. Panels will consist of one Director able to represent the "future service", Chief Exec or other senior manager and one senior HR Rep. Make recommendations.	19th Jan 09
5. Separate joint panel consider bumped redundancies across Authorities and make recommendations.	20th Jan 09
6. Approval from existing Authorities in accordance with relevant standing order staffing regulations	Feb 09
7. Compromise agreement and formal notice of redundancy.	Feb/March 09

9.3 This timetable is very tight and demands that everything works smoothly. It will require the co-operation of staff who will have other important demands on their time if it is to be achieved.

10.0 The Package

10.1 Where voluntary redundancy is agreed, the employee will be entitled to:

- (i) A payment in accordance with the Statutory Redundancy Scheme – a number of weeks of pay based on a combination of age and length of service :
 - the week's pay to be the actual amount because the maximum payment of £330 under the statutory scheme will not apply.
- (ii) A further payment equal to the amount received under (i).
- (iii) If in the Local Government Pension Scheme the employee may choose to use this further payment (but not the one under the statutory scheme) to buy additional pensionable service. Only the whole amount can be used in this way - it cannot be split.
- (iv) If the employee is 50 or over (and has joined the Local Government Pension Scheme prior to 1 April 2008, and leaves before 1st April 2010), there would be immediate payment of the full earned pension at the date of leaving. (If they have joined the scheme since 31 March 2008 or leave after 31 March 2010, immediate unreduced pension is only payable to those aged 55 and over.)

10.2 Employees may also be entitled to payment for any untaken leave entitlement,

potentially (depending on timing) to some pay in lieu of notice) and to a contribution (up to £200) towards the costs of legal advice in respect of the compromise agreement they will be asked to sign. This agreement is to protect Councils from future claims in connection with their employment (excluding any personal injury claims). There is a requirement for independent advice to be given to employees who sign such agreements.

- 10.3 In addition, as this is a redundancy situation, it would be appropriate to waive any early termination costs for car lease holders.

11.0 Trade Union Consultation

- 11.1 The trade unions are not opposed to voluntary redundancies (they are opposed to compulsory redundancies), indeed they see them as an opportunity for some employees. They will be concerned to see that any selection is carried out fairly and that it is not just senior managers who are released. Arrangements will be put in place to ensure monitoring of outcomes in terms of equal opportunities. The harmonisation of the severance arrangements across the nine Councils will help to re-assure them that the employees will receive the same severance package.

- 11.2 Consultation with the trade unions has taken place on a Pan Cheshire basis.

12.0 Conclusions

- 12.1 This will be difficult and challenging, both in terms of managing within the timescale and in not raising unrealistic expectations amongst the workforce.

VOLUNTARY REDUNDANCY PROCESS PRIOR TO 31 MARCH 2009

1. Objective

To help Cheshire West and Chester and Cheshire East to achieve viable service delivery within budget.

2. Eligibility

Permanent employees and temporary employees whose contract ends after 1 April 2009.

3. Approach

1. There will be no compulsory redundancies as a result of LGR in advance of Vesting Day.
2. Volunteers will only be invited from services where an 'over supply' of staff have been identified.
3. The severance payment formula offered will be the same in all authorities and will be that which will apply in the two new Councils.
4. Agreed criteria will be applied to decide whether individual employees can be released and to ensure that the number of redundancies does not exceed the reductions required.
5. Redundancies will not be approved unless the employee accepts a compromise agreement.
6. To comply with business requirements, employees will continue to work until 31 March 2009 unless exceptional arrangements are agreed.
7. The process will be managed in a fair and transparent way.
8. Decisions will be monitored to ensure consistency and the avoidance of discrimination.
9. The trade unions will be consulted and kept informed of developments.

5. Consultation

The trade unions will be consulted by the seven existing authorities and Department of Business, Enterprise and Regulatory Reform (BERR) notified if necessary in accordance with legal requirements.

6. Chief Executives and Second and Third Tier Officers

In circumstances where it is clear prior to Vesting Day that an individual employee is potentially redundant after 31 March 2009, discussions will be held with the individuals on their preference for the future, which could be to transfer to the new authority, to seek employment outside the Cheshire Councils, to apply for a job at the next tier down or to consider voluntary redundancy.

If they wish to seek voluntary redundancy the severance terms will be as indicated below and they will be required to sign a compromise agreement.

It is proposed that the process to manage voluntary redundancies at Chief Executive and second and third tier levels run separately to the process for selected groups due to the timing and situation of employees.

7. Process in all other areas where appointments to New Councils are not made before Vesting Day

Timing

When:

- there is clarity about the budget
- the “blue print” structures have been developed
- disaggregation and aggregation have been completed

it will be possible to identify where there is an over supply of employees in services or at particular levels. It is possible that there will be different decisions on the number and type of redundancies in the two Councils.

At that stage, selected groups (from those who would be an employee of the new Council in April 2009) be will asked whether they wish to volunteer for redundancy.

Terms of invitation

- There is no guarantee redundancy will be agreed
- Business needs of the New Councils take priority.
- The consistent agreed severance provisions will apply to all employees
- The employee will have to sign a compromise agreement (which waives any further claims, except personal injury, against the authority).
- They will continue to work until 31 March 2009.

Criteria

If there are too many volunteers

- the need to be able to deliver quality services in both East and West Cheshire;
- the longer term business needs (succession planning);
- cost;
- the viability of transfer to the new Council i.e. the consequences of disaggregation or aggregation on the volunteers ;
- transition needs.

Procedure for invitation and approval

1. A written invitation for voluntary redundancy will be sent via the Director/Head of Service in their existing Council to staff in the selected groups, inviting interested people to complete and return an “application for voluntary redundancy” to a central point (notifying their line manager).
2. Applications for a function (e.g. legal services or revenue and benefits) will be considered “en bloc”. Agreed paper work covering the key issues will be used to ensure consistency to facilitate equal opportunity monitoring. This will include a statement from the existing line manager.
3. There will be separate panels to consider “applications” from the East and the West. Panels will consist of one Director able to represent the “future service”, a Chief Executive or other senior manager and one senior HR representative. They

will consider the applications and make recommendations (subject to agreement from the Chief Executive or their nominee and the employing Council's approval processes). A detailed note of the reasons for any recommendations (whether to agree or reject) will be kept.

4. If at this stage there were too many volunteers for one Council (e.g. East) an approach will be made to identify any staff in the other Council (in this case West) who have the appropriate skills who may wish to transfer to the other Council (in this case East) to enable a bumped redundancy to take place. This could need the agreement of a joint panel and would not be agreed if it put service delivery at risk.
5. Approval from existing authority.

8. Compromise Agreements

A standard compromise agreement framework is being developed. This must be used to avoid any potential litigation against the new or existing authorities.

It will be important to ensure that there is a consistent approach to any additional financial considerations which are negotiated as part of a compromise agreement. The following could be included:

- any pay in lieu of notice;
- pay for outstanding leave entitlement;
- waiving of an early release payments due under a car lease scheme (or any other repayment arrangements);
- legal expenses in connection with the compromise agreement (up to a maximum of £200).

9. Severance Payments

In all cases the following will apply

- (v) A payment in accordance with the Statutory Redundancy Scheme - based on a combination of age and length of service
 - a. the week's pay to be the actual amount because the maximum payment of £330 under the statutory scheme will not apply.
- (vi) A further payment equal to the amount received under (i)
- (vii) If in the Local Government Pension Scheme the employee may choose to use this further payment (but not the one under the statutory scheme) to buy additional pensionable service. Only the whole amount can be used in this way - it cannot be split.
- (viii) If the employee is 50 or over (and has joined the Local Government Pension Scheme prior to 1 April 2008, and leaves before 1st April 2010), there would be immediate payment of the full earned pension at the date of leaving. (If they have joined the scheme since 31 March 2008 or leave after 31 March 2010, immediate unreduced pension is only payable to those aged 55 and over.)

10. Support for Employees

Initial generic information on redundancy payments and pensions will be available via “ready reckoners”.

Pensions Section will supply information on pensions for those people who wish to submit an firm application for VR when requested by HR.

Information on severance entitlements will be provided for those people who wish to submit a firm application for VR by HR.

OHU (or equivalent) is available if employees wish to refer for counselling or other medical support.

Once redundancy has been agreed, Managers will support staff seeking external employment.

A list of frequently asked questions is available.

11. Employees who are refused release

There will undoubtedly be some employees who volunteer for redundancy whose release is not agreed. It is important that they are:

- told at the outset that there is no entitlement to redundancy and no guarantee it will be agreed if they volunteer;
- aware of the criteria which will be used; and
- given the reasons for their release being refused.

Managers will need to support those who are refused and seek to address any concerns they may have.