

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	15 th October 2013
Report of:	Principal Manager HR Delivery
Subject/Title:	Terms of Voluntary Redundancy and Voluntary Early Retirement (Forward Plan Ref: 13/14-24)
Portfolio Holder:	Councillor Barry Moran, Performance

1.0 Report Summary

- 1.1 The terms that the Council offers to employees volunteering for redundancy/ early retirement are regularly reviewed to ensure that they provide value for money in enabling the Council to reduce its workforce in a way that is efficient, cost-effective and conducive to a positive employee relations climate.
- 1.2 The last review took place in August 2012 and Cabinet is now requested to consider retaining the existing terms for a further period.

2.0 Recommendation

- 2.1 It is recommended that Cabinet retain the existing terms as outlined below and that a further review be carried out in May 2014.

3.0 Reasons for Recommendations

- 3.1 To enable Cabinet to review how future workforce change is to be managed. Taking account of; the likely scale of change, the costs associated, value for money alongside the importance of striking the right balance in facilitating organisational change and maintaining our constructive employee relations and levels of employee engagement.
- 3.2 To provide clarity for employees whose future employment with the Council is uncertain due to workforce change.
- 3.3 To facilitate the ongoing management review and restructure within the Council,

4.0 Wards Affected

- 4.1 None

5.0 Local Ward Members

- 5.1 None

6.0 Policy Implications

- 6.1 Should Cabinet elect to change the current arrangements, this will represent a change to the Council's policy as to how it applies the Local Government (Early Termination of Employment) Discretionary Compensation) (England and Wales) Regulations 2006. In this event the policy will be updated to reflect the changes and published in accordance with the requirements.
- 6.2 In addition, the Council's Pay Policy Statement will need to be amended to take account of those changes and referred to Council with a recommendation that the revised Pay Policy Statement be adopted. Following any such Council decision, any amendments that the Council makes to its application of the discretionary regulations must be published for a month before any new terms are implemented.. Traditionally changes to the scheme have also been considered by Staffing Committee.

7.0 Financial Implications

- 7.1 The medium term financial strategy assumes costs of redundancy will be met on existing terms, so the option not to change this will have no financial implications to the current plan.
- 7.2 Each case of voluntary redundancy is scrutinised to evaluate the ongoing financial implications to the Council, and this process will remain in place. This reduces risks and promotes value for money in the process.
- 7.3 The legal implications, and background, clarified in this report, in the face of continuing organisational change, support the recommendation to retain the existing terms until the next review.

8.0 Legal Implications

- 8.1 The current voluntary severance terms exceed statutory redundancy requirements, are in accordance with pension regulations and are therefore legally compliant.
- 8.2 The voluntary redundancy process is handled in such a way as to minimise the risk of employment and breach of contract claims and no settlements will be paid unless an approved settlement agreement had been executed.
- 8.3 Managing workforce change through a compulsory process will inevitably result in the Authority being open to greater legal challenge. Such challenge will initially be by way of appeals/grievances from

employees who consider that they have been unfairly selected for redundancy and/or that there have been procedural flaws and thereafter by way of Employment Tribunal claims. As it would not be a voluntary process it would not be possible to minimise the risk of claims by the use of settlement agreements. All of this would lead to managers requiring greater support from HR and Legal Services than they would for a voluntary process.

9.0 Risk Management

- 9.1 There is a risk that, if the staffing reductions which arise from organisational change are not managed or achieved in a timely way, the Council will overspend its staffing budgets.
- 9.2 Employers can manage changes to the size of their workforce through compulsory or voluntary means. The availability of and application of a voluntary scheme acts to support staff, minimise the disruption caused by organisational change and reduce the effects on staff morale during a lengthy period of organisational change. Voluntary arrangements can help to achieve the required workforce reductions through redeployment, re-skilling and voluntary redundancy. In offering voluntary terms, employers need to strike the right balance in facilitating organisational change, maintaining constructive industrial relations and employee engagement, alongside managing the costs involved and demonstrating value for money.
- 9.3 The availability and use of a voluntary scheme also sets out the organisation's commitment to its workforce, supports its reputation and can minimise any prospect of industrial action.
- 9.4 Should a voluntary scheme be offered, the Council would still need to consider making staff compulsorily redundant if the voluntary terms offered are not sufficient to attract the necessary number of volunteers.
- 9.5 In releasing staff, risks are mitigated by the use of a settlement agreement for staff leaving on a voluntary basis. The settlement agreement includes a clause that it is in full and final settlement of all claims (excluding any personal injury claims) against the Council or its successors. It also includes a confidentiality agreement that binds officers and Members to treat its contents insofar as they relate to the terms of any negotiation and the terms of the settlement, as confidential. There is a requirement for independent advice to be given to employees who sign such agreements and reimbursement of up to £250 per individual is provided in order that they acquire this advice.

10.0 Background and Options

- 10.1 On 28th May 2012, Cabinet resolved that in relation to the Council's workforce change and severance/ termination arrangements, a multiplier of 1.80 times would be applied to a week's pay up to a

maximum of 50 weeks, with effect from 20 August 2012, and that these arrangements would be reviewed after a period of twelve months.

The potential options available to Cabinet are to:-

- 10.1.1 Retain the existing terms as outlined above and review further at a later date.
- 10.1.2 Increase the current terms; or
- 10.1.3 Reduce the current terms to a more economical model e.g. to reduce the multiplier.
- 10.2 Councils have two key discretions as to how they can manage voluntary redundancies, firstly the ability to pay up to 104 weeks pay, with the Council having elected to pay up to a maximum of 50 weeks. Secondly Councils can elect to base the payment on the employee's actual weekly wage, a statutory upper limit or to use an amount in between the two. The Council applies the actual weekly wage.
- 10.3 Given the current financial situation, there is no requirement or incentive to increase the current voluntary termination package. This could also lead to perceptions of unfairness in regards to staff who had left on the earlier lesser terms.
- 10.4 To assist with consideration of whether or not to further reduce the terms, a comparison has been carried out of the voluntary termination costs for the employees who left in 2011/12 against what they would have received in compulsory redundancy costs, pension and notice payments. This confirmed that moving to a voluntary redundancy multiplier of 1.80 last year reduced the costs to 92% of the previous scheme and had compulsory arrangements applied this would have equated to 81%. The change last year therefore reduced costs whilst maintaining an incentive for employees to consider volunteering, the incentive being the difference of 11%.
- 10.5 Further reductions to the voluntary severance scheme would have the effect of making the scheme less financially attractive for some employees than compulsory terms (as notice payments only accrue in compulsory redundancy situations) and only marginally more attractive for others.
- 10.6 Whilst being more cost effective, changes to the workforce through compulsory arrangements would have disadvantages. The removal of the voluntary scheme could have a consequential negative impact on levels of motivation and employee engagement, with the potential for industrial action. There would be a greater risk of claims of unfair dismissal and a greater call on Legal Services and HR time / support. Any such claims would also not be protected against through the use of settlement agreements.

- 10.7 The Council is going through a significant amount of organisational change with the introduction of the new operating model, the related review of the senior management structure and the establishment of a number of new vehicles to deliver key services. The VR scheme over recent years has been instrumental in facilitating and supporting organisational change. Cabinet may therefore wish to continue to support the ambitious change programme with the current scheme and review it during May 2014 when the programme will have been mainly completed. This would also provide a degree of consistency and equity for the workforce during this period of change.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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