

Staffing Committee

Date of Meeting: 24 January 2019

Report Title: Mutually Agreed Resignation Scheme (MARS) - Review of Programme for June 2018 Leavers

Portfolio Holder: Councillor Paul Findlow - Corporate Policy & Legal Services

Senior Officer: Sara Barker, Head of Strategic HR

1. Report Summary

- 1.1. This report addresses an action from the previous Staffing Committee meeting (4th October 2018) and provides an overview of outcomes and lessons learnt following the Mutually Agreed Resignation Scheme (MARS) programme which culminated in 28 employees leaving Cheshire East Council on 30 June 2018.

2. Recommendation

- 2.1. Staffing Committee is asked to note the contents of this report and provide feedback.

3. Reasons for Recommendation/s

- 3.1. In compiling this report, the views of Human Resources, Legal Services and Finance have been sought and will be used to ensure further refinement of the scheme.

4. Other Options Considered

- 4.1. Not applicable.

5. Background

- 5.1. The Mutually Agreed Resignation Scheme opened for applicants in March 2018. Of the 96 applications, 32 were approved with 28 employees accepting the offer to leave the Council on 30 June 2018.

- 5.2. The application process comprised a number of steps:

- Applications received (initial eligibility checked);

- Submission of business case by relevant Head of Service;
 - Assessment of business case and further eligibility checks;
 - Panel to consider applications together with business cases using the approval criteria to determine the outcome of the application. The Panel consisted of the relevant Executive Director, Head of Strategic HR and Head of Finance.
 - Report to CLT outlining the outcome of the exercise and recommended list of posts and services impacted, a financial summary of savings and an Equality Impact Assessment. Applicants informed of the outcome of their application.
 - Individual settlement agreements issued.
 - Employees left employment on 30 June 2018.
- 5.3. This was the first time that the Council had run MARS and had modelled the projected savings for the scheme based on the experience of other organisations.
- 5.4. The savings set at £1.5 million for 2018/19 would have been achieved if all 96 applications had been approved. However, due to the need to retain appropriate service levels and ongoing consultations on restructure proposals in specific areas, a significant number of applications could not be approved. Some applicants were able to consider other options available to them such as voluntary redundancy or redeployment, as a result savings were made by these alternative means.

Tax Implications

- 5.5. When staff were invited to submit applications for MARS, the scheme allowed for payments up to £30,000 to be paid tax free and successful applicants would not be required to work their contractual notice nor would they receive pay in lieu of notice (PILON). However, updated guidance by HMRC meant that any part of a payment which could be “deemed to be in respect of full or part non-worked notice period” was liable for normal deductions of income tax and National Insurance contributions.
- 5.6. The Council has taken the appropriate steps to meet these tax and NI costs and the amount due to HMRC in respect of this change was £40,432.

Settlement Agreements

- 5.7. The MARS settlement agreement template was adapted to incorporate the cost of any element of the payment deemed to be PILON by HMRC.

- 5.8. The MARS settlement agreement template will be reviewed again prior to a further MARS cycle to ensure that it remains fit for purpose.

Timeline/Process

- 5.9. The implementation and communication schedule ran from March to June 2018 when the successful applicants left the Council. This was required to ensure that staff had awareness of the scheme prior to submitting their applications and for the business cases to be compiled.
- 5.10. Communications included items in Team Voice, Centranet and drop in sessions for staff at different locations across the offices in Cheshire East. The communications were provided to the whole of the organisation which inevitably led to disappointment for some staff whose applications were not successful. Some services felt unable to agree applications due to staff shortages, skills shortages in the market and service demands. For example no applications from Adult Services were approved due to staff shortages in some areas and the imminent plans for a restructure which meant applications were declined at the final stages of the process. One third of applications were successful overall (of the 96 applications received, 32 were approved).
- 5.11. A targeted approach to specifically identified parts of the organisation supported by a clear rationale for this course of action will be considered for in future to ensure that business needs can be met and employee expectations are managed.
- 5.12. All staff left on 30 June 2018. Whilst this provided clarity to all concerned, in future it may be beneficial to retain some flexibility to the leaving date and therefore potentially provide staggered leaving dates to reflect differing business needs. For example, it may be difficult for a service to support an application at the time of applying but this could be accommodated on a longer term basis meaning a later leaving date could be agreed. Similarly, an earlier leaving date may be beneficial; for example, where an employee has less service and a shorter statutory notice period.

Finance information

- 5.13. Within the Medium Term Financial Strategy 2018/19, MARS savings were set at £1.5 million. The actual savings achieved from staff leaving under the scheme was £489,280 offset against £338,520 one-off MARS payments in 2018/19 with £652,373 ongoing savings in 2019/20 onwards.
- 5.14. There is a need to clarify some financial terminology for managers; for example how to explain 'net budget', particularly relating to posts which are funded with external income.

- 5.15. As the MARS scheme programme for 2018 resulted in employees leaving on 30 June 2018, there was a need to make budget adjustments as full year savings for 2018/2019 were not achieved.
- 5.16. Although the scheme allows for a post to be retained once the postholder has left under MARS, there needs to be further improve systems to ensure that the staffing establishment is permanently reduced and/or the budget is permanently adjusted accordingly.
- 5.17. Any business case for a service growth bid made within a 12 month period of an employee leaving through MARS will continue to be carefully considered to ensure that this represents good value for public money.

6. Future Actions

- 6.1. A summary action plan is included at Appendix one to this report.
- 6.2. To ensure that the Council is fully compliant with tax legislation, the timeline will be revised to allow provision of individual staff's statutory notice wherever possible. However, it may not always be possible and as a result, pay in lieu of notice will be paid with appropriate deductions for income tax and National Insurance; this will be in addition to the MARS payment.
- 6.3. The Settlement Agreement for MARS leavers is in place. It will be reviewed prior to a further MARS cycle to ensure that it remains fit for purpose as well as being adapted on an individual basis. It will also be adapted to allow for pay in relation to any unworked notice period as required at the time.
- 6.4. In conjunction with Finance colleagues, to provide clarity in respect of the information required in terms of costs and savings in a consistent and clear way to inform the business cases and approval process as well as agreeing how the staffing establishment will be adjusted. Recommendations will be made by Finance and Human Resources and agreed with the Executive Director – Corporate Services.
- 6.5. Prior to launching a further MARS programme, to reconsider with CLT how the scheme can be further developed, in particular whether there is flexibility about leaving dates and the budget savings if there is a strong business case to approve an application for MARS.

7. Implications of the Recommendations

The implications of the recommendations from the report are:

7.1. Legal Implications

- 7.1.1. The first iteration of the scheme was devised on the basis of comprehensive legal advice taken. The relevant issues highlighted have

been dealt with. The only change since that time relates to treatment of tax in respect of any part of a payment which could be deemed to be in respect of full or part non-worked notice period. That is dealt with in the body of this report. The Council is compliant with current legislation in respect of any unworked notice period of those leaving Cheshire East under this scheme.

7.2. Finance Implications

7.2.1. The one-off cost of the MARS payments for future applications need to be funded from either Transforming Services Reserve or by Flexible Use of Capital Receipts.

7.2.2. The exact cost figures would change according to both the number of people who were accepted and their employment history. However, the 2018/19 figures give an average MARS payment and saving achieved. Using these average figures, it shows that to achieve the 2019/20 net savings target of £300,000 would require 27 members of staff leaving, giving a gross saving of £633,000 offset by £333,000 of MARS payments.

7.2.3. These savings would continue into 2020/21 where there would be no associated MARS payments therefore resulting in an ongoing annual saving of £633,000.

7.3. Policy Implications

The Mutually Agreed Resignation Scheme needs to be revised to take account of the changes in tax legislation and legal advice received in terms of any part of a payment which is deemed to be in relation to unworked notice periods.

7.4. Equality Implications

An Equality Impact Assessment has been completed in respect of the High Level Business Case for a further programme of the Mutually Agreed Resignation Scheme for 2019/20.

7.5. Human Resources Implications

Human Resource services are responsible for the implementation of the MARS programme in line with current policy and procedure.

Lessons learnt will be reflected in the revised schedule for 2019.

7.6. Risk Management Implications

There are no direct Risk Management implications.

7.7. Rural Communities Implications

There are no direct implications for rural communities.

7.8. Implications for Children & Young People/Cared for Children

There are no direct implications for children and young people.

7.9. Public Health Implications

There are no direct implications for public health.

8. Ward Members Affected

8.1. No Wards that will be particularly affected by your recommendation.

9. Contact Information

9.1. Any questions relating to this report should be directed to the following officer:

Name: Sara Duncalf

Job Title: Acting HR Business Partner

Email: sara.duncalf@cheshireeast.gov.uk

Appendix One:

Summary action plan for future Mutually Agreed Resignation Scheme

	Action	Detail	Responsible	By When
1.	Individual application timelines to include statutory notice period.	If this is not possible, make arrangements for appropriate deductions.	Head of Strategic HR.	As part of agreeing individual terms – date to be determined when date of launch agreed.
2.	Review existing settlement agreement.	Ensure fit for purpose Adapt to consider individual circumstances Consider pay in relation to unworked notice as appropriate.	Head of Strategic HR and Director of Legal Services and Monitoring Officer.	Prior to launch of 2019/20 MARS scheme.
3.	Clarify financial terms.	Costs, savings, business cases, adjustment of establishments.	HR, Finance Approval by Executive Director – Corporate Services.	Prior to launch of 2019/20 MARS scheme.
4.	Clarify possible flexibility over budget savings.	Clarify if possible and if so, what is the decision making process.	Corporate Leadership Team.	Prior to launch of 2019/20 MARS scheme.
5.	Consider flexibility around leaving dates.	Staggered process based on statutory notice periods and business needs.	Corporate Leadership Team.	Prior to launch of 2019/20 MARS scheme.