

TEWKESBURY BOROUGH COUNCIL

Report to:	Executive Committee
Date of Meeting:	8 June 2016
Subject:	Redundancy and Redeployment Policy
Report of:	Graeme Simpson, Corporate Services Group Manager
Chief Officer:	Mike Dawson, Chief Executive
Lead Member:	Councillor Mrs E J MacTiernan
Number of Appendices:	Four

Executive Summary:

Local authorities have discretion to make certain payments over and above the statutory redundancy payment scheme. In the light of the current economic climate and the budget, the discretionary elements of the Council's Redundancy and Redeployment Scheme have been reviewed.

The Council currently pays an enhanced redundancy payment to employees who are dismissed by reason of redundancy. The calculation of a redundancy payment is calculated on actual weekly pay. The statutory redundancy table is used to calculate the redundancy payment, based on age and length of service, and a multiplier of 2.2 is applied. This provides for a maximum of 66 weeks pay. It is proposed to remove the multiplier to provide for a maximum of 30 weeks' pay.

The current policy was formulated and adopted to ensure fairness and consistency in the treatment of employees, regardless of age, whilst at the same time facilitating the changes required by the authority. The benefit to the Council is that it facilitates a reduction in staff where needed and the enhanced redundancy payment was deemed, at that time, an acceptable compensation for loss of office to staff.

Recommendation:

The Committee is asked to agree:

- 1. That a redundancy payment continues to be calculated on an Employee's actual weekly pay.**
- 2. That the multiplier is reduced from 2.2 to 1.**
- 3. The amendments to the Redundancy and Redeployment Policy.**

Reasons for Recommendation:

The financial implications of continuing with the current multiplier of 2.2 cannot be justified in the economic climate of austerity and the financial pressures on this authority.

Resource Implications:

The resource implications are contained with the body of the report.

Legal Implications:

The current Redundancy Scheme is deemed to be discretionary and not contractual; therefore the Council is able to make changes to the Policy without seeking the Unions agreement.

It is however recommended that consultation should be undertaken with the Unions in order to protect the Council's position

An Equality Impact Assessment should be undertaken to ensure that the Council follows a transparent process with regard to the changes to the Redundancy Policy.

Risk Management Implications:

The costs of redundancy can be significant, particularly, when there are strain costs (the cost to the Council of someone having their pension released early) to the Local Government Pension Scheme. The risk is that, unless the method in which a redundancy payment is calculated is changed, efficiencies may not be achieved as they could be unaffordable.

Performance Management Follow-up:

The policy will be reviewed in two years time.

Environmental Implications:

None arising from this report.

1.0 INTRODUCTION/BACKGROUND

- 1.1 Redundancy is one of the fair reasons for dismissal and is covered by statutory employment legislation, the Employment Rights Act 1996 (ERA 1996). In the event of a redundancy situation, the authority is expected to operate within a well-defined procedural framework, as well as following specific legal provisions, which underpin good practice. The purpose of a redundancy payment is to compensate the employee for loss of employment and to assist them until they find alternative work.
- 1.2 The policy is designed to provide that the procedural framework, complies with employment law, and follows the specific regulations for Local Government employees concerning the payment of severance compensation, as well as guidance and recommendations produced by the Employers Organisation. The policy aims to maintain motivation and good employee relations, without the Council over committing to ongoing costs. The policy was last reviewed in March 2011 in a different economic and financial context.
- 1.3 The regulations that govern what local authorities can pay to redundant staff are the Local Government (Discretionary Payments) Regulations, which were initially introduced as the 1996 regulations, but were amended in 2000 and 2006. Payments regarding additional pension benefits are governed by the Local Government Pension Scheme Regulations 2014.
- 1.4 The Redundancy Payments (Continuity of Employment in Local Government) (Modification) Order 1999 (as amended) makes it mandatory for authorities to count continuous service in local government (and with other specified bodies) when calculating redundancy payments, up to a maximum of 20 years.
- 1.5 The Equality Act 2010 (and in particular the Age Discrimination element which predates this and was introduced in 2006) also impacts upon how local authorities award discretionary payments. There is, however, discretion under the Equality Act (Age

Exceptions for Pension Schemes) Order 2010 to award more to older employees as long as it is done in a particular way, i.e. based on statutory redundancy payments table.

1.6 The Employment Rights Act 1996, section 162 sets out how a redundancy payment is calculated: The amount is calculated as follows–

- Up to the age of 21 - 0.5 week's pay for each completed year of service.
- 22 - 40 years of age - 1 week's pay for each completed year of service.
- 41+ years of age - 1.5 weeks' pay for each completed year of service.

The maximum number of years of employment that can be taken into account is 20. The maximum week's pay that can be taken into account is £479 (from 6 April 2016). This figure increases in line with the Retail Prices Index (RPI) under the automatic indexation provisions of the Employment Relations Act 1999.

1.7 The Council's current policy is to pay:

- A redundancy payment calculated on an Employee's actual weekly pay.
- Using the statutory redundancy table, the redundancy payment is factored up by a multiplier of 2.2, providing for a maximum calculation of up to 66 weeks' pay.
- The authority does not award additional pension.

2.0 DISCRETIONARY ELEMENTS RELATING TO REDUNDANCY COMPENSATION

2.1 REDUNDANCY COMPENSATION

2.1.1 Certain elements contained within the policy, relating to redundancy compensation are discretionary, and are within local authority's powers to agree, under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006. These are:

- Payment of an enhanced severance payment of up to 104 weeks pay.
- A redundancy payment based on an employee's actual weekly pay rather than the statutory maximum amount of £479 per week.

3.0 DISCRETIONARY ELEMENTS RELATING TO THE LOCAL GOVERNMENT PENSION SCHEME REGULATIONS 2014 -

3.1 THE AWARD OF ADDITIONAL PENSION (REGULATION 31)

3.1.1 The discretionary power for an authority to award Compensatory Added Years no longer exists. This has been replaced by the ability to award additional pension (Regulation 31) to an active member, or to a member who is dismissed by reason of redundancy, or business efficiency. The additional pension limit is £6,500 (value of limit as at 1 April 2014). If this provision was only made available to staff aged 55 and over in the case of redundancy, this could be seen as age discriminatory.

The Council's pension's policy is not to apply the discretion to award additional pension because of the significant costs that could be incurred, and for the potential for a claim of age discrimination. No other Gloucestershire Authority awards additional pension.

4.0 FACTORS TO BE CONSIDERED - THE COST OF REDUNDANCY

4.1 The most obvious cost is the redundancy payment itself and the early retirement costs

(strain on the fund costs) in respect of employees who qualify for an immediate pension.

- 4.2** Where an individual leaves on the grounds of redundancy at or after the age of 55 they will have an automatic entitlement to their pension benefits without any reduction to their pension. The Council is required to meet all the strain costs to the Local Government Pension Scheme, and this cost has to be paid as a lump sum up front. The retirement cost to the pension scheme can be significant, and even more so when added to the cost of the redundancy payment.

5.0 CONSIDERATION OF ALTERNATIVES

- 5.1** The alternatives are to consider whether to continue calculating the redundancy payment on an actual week's pay and using a multiplier to enhance the redundancy payment.

6.0 THE CALCULATION OF A WEEK'S PAY IN GLOUCESTERSHIRE

- 6.1** As stated above, the authority has the power to calculate redundancy payments based on an actual week's pay, rather than on the statutory ceiling. It has been the authority's policy to calculate redundancy payments on actual week's pay. The situation in the other Gloucestershire Councils is shown below:

Gloucestershire County Council	*Actual pay
Stroud District Council	Actual pay capped at the statutory ceiling of £479
Cheltenham Borough Council	Actual pay
Gloucester City Council	Actual pay
Forest of Dean District Council	Actual pay
Cotswold District Council	**Actual pay
Tewkesbury Borough Council	Actual pay

* Gloucestershire County Council cap employees on fixed term contracts at the statutory level.

**Cotswold District Council has agreed that if an employee earns below the top of their grade scale 5 (currently £22,770 per annum), the top of grade 5 is used for the calculation of a week's pay.

7.0 THE PAYMENT OF ENHANCED REDUNDANCY PAYMENTS IN GLOUCESTERSHIRE

7.1 The authority currently awards an enhanced redundancy payment, which includes the statutory redundancy payment element multiplied by a factor of 2.2. This provides for a maximum calculation of up to 66 weeks depending upon age and length of service. The policy in the other Gloucestershire authorities is set out below:

Gloucestershire County Council	1.75
Stroud District Council	1
Cheltenham Borough Council	1
Gloucester City Council	2
Forest of Dean District Council	2
Cotswold District Council	1
Tewkesbury Borough Council	2.2

8.0 OTHER OPTIONS CONSIDERED

8.1 The options considered were to continue calculating the redundancy payment on actual week's pay, using a multiplier to enhance the redundancy payment, and capping the redundancy payment. The calculation of a redundancy payment based on the statutory amount of £479 was considered. The payment of a redundancy payment is deemed to be compensation for loss of employment. The statutory redundancy table enables the Council to pay more to an older employee, as compensation for loss of employment, as they are less likely to be able to find another job as easily as a younger person. The older employee is usually in a managerial or professional or specialist post and the opportunities for future employment at a similar level may be limited. In terms of fairness it was deemed appropriate to continue using an actual week's pay, rather than the statutory amount of £479. It was felt that skills and experience should be recognised and this can be reflected by using the employees actual week's pay. The option to continue using a multiplier was considered. The situation amongst the Gloucestershire authorities is varied. It is deemed appropriate for the authority to propose to change the multiplier from 2.2 to 1, providing the actual week's pay is used as the basis of the redundancy payment. On this basis a reasonable redundancy payment can still be paid as compensation to an employee for loss of employment. The capping of the redundancy payment was considered. In order to cap the redundancy payment, the statutory amount of £479 would need to form the basis of the calculation, using the statutory redundancy tables. The statutory amount could have a multiplier attached to it to enhance the week's pay used for the calculation of the redundancy payment. It was deemed that this would not be fair to an older employee because the week's pay would be the same for everyone, and this would also be a completely different method for calculating a redundancy payment amongst the Gloucestershire authorities.

9.0 CONSULTATION

9.1 The trade unions have been consulted. The GMB trade union would like to see a phased approach to the reduction in the enhanced severance payment. It has suggested that in year 2016 -2017 it is reduced to 1.75, in year 2017-2018 it is reduced to 1.50, and in year 2018-2019 it is reduced to 1.25. The GMB is aware that this does not match the proposed reduction; however, as this is only paid to people at a time when they have been unfortunate enough to lose their employment, every penny will count.

10.0 RELEVANT COUNCIL POLICIES/STRATEGIES

10.1 Redundancy and Redeployment Policy.

Allocations Procedure.

The Council's statement of Pension Policy.

11.0 RELEVANT GOVERNMENT POLICIES

11.1 The Employment Rights Act 1996 (ERA 1996). The Redundancy Payments (Continuity of Employment in Local Government) (Modification) Order 1999 (as amended). The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006. The Local Government Pension Scheme Regulations 2014 and the Equality Act 2010.

12.0 RESOURCE IMPLICATIONS (Human/Property)

12.1 These are contained within the Redundancy and Redeployment Policy.

13.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

13.1 None.

14.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

14.1 An Equality Impact Assessment has been carried out on this policy. All staff will be treated with dignity and respect and care will be taken to ensure that any policies or decisions do not involve any form of discrimination on any ground.

15.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

15.1 Executive Committee 2 March 2011 – Approval of the current Redundancy and Redeployment Policy.

Background Papers: None.

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Appendices:

- 1 – Redundancy and Redeployment Policy with amendments highlighted.
- 2 – Equality Impact Assessment.
- 3 – Statutory Redundancy Payments Table.
- 4 – Statutory Redundancy Payments Table factored up by 2.2.