

# WIRRAL COUNCIL

## EMPLOYMENT AND APPOINTMENTS COMMITTEE

7 FEBRUARY 2013

<b>SUBJECT:</b>	<b>PROPOSAL TO CHANGE THE COUNCIL'S ENHANCED DISCRETIONARY SEVERANCE SCHEME</b>
<b>WARD/S AFFECTED:</b>	<b>ALL</b>
<b>REPORT OF:</b>	<b>CHIEF EXECUTIVE</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>EXECUTIVE MEMBER CORPORATE RESOURCES</b>
<b>KEY DECISION?</b>	<b>YES</b>

### 1. EXECUTIVE SUMMARY

- 1.1. Cabinet on 7 February 2012 received a report titled: Proposal to Change the Council's Enhanced Discretionary Severance Scheme.
- 1.2. The purpose of this report is to consider the recommendation from Cabinet on 7 February 2013 to adopt a revised Discretionary Severance Scheme.

### 2. BACKGROUND AND KEY ISSUES

- 2.1. The Council is facing a considerable financial challenge to reduce the net Council budget. The current position is that the Council is facing a budget deficit of approximately £109m over the next three years. The projected deficit for 2013/14 is currently £39m, with exception items at £38.4m, giving a total of £77.4m for 2013/14. This will necessitate significant changes to the manner in which the Council conducts its business, which will impact on the Council's workforce.
- 2.2. The Council currently employs its workforce on national and local conditions of service. The local conditions of service are subject to local agreement through a collective agreement with recognised Trade Unions (NJC Recognition Agreement with Trade Unions). The Council has a legal obligation to consult with recognised Trade Unions and staff on options to reduce the cost of the workforce and so reduce the potential numbers of job losses. The requirements for consultation are laid out in the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA).
- 2.3. As part of the consultation, the Council is required to consult on the terms of the Enhanced Discretionary Severance Scheme. Consultation in relation to the proposal to change the Council's Enhanced Discretionary Severance Scheme formally opened on 12 November 2012.

- 2.4. During this period of consultation, the Council met with the recognised Trade Unions through a series of regular meetings, with the aim of seeking agreement and to consider the Trade Unions feedback in relation to the Council's budget shortfall for 2013-14.
- 2.5. All employees affected by the proposal to change the Council's Enhanced Discretionary Severance Scheme were written to on 23 November 2012. The letter informed employees that the Council had opened consultation with the Trade Unions in relation to changing the current scheme to a scheme that was more affordable for the Council.

### **3. THE COUNCIL'S ENHANCED DISCRETIONARY SEVERANCE SCHEME**

#### **3.1 Introduction**

The Council currently has an Enhanced Discretionary Early Voluntary Retirement (EVR) and Severance (VS) scheme in place to be able to facilitate the release of an employee from their employment. Severance is where an employee leaves the organisation by mutual agreement and receives a compensatory payment (redundancy) for their loss of employment.

In addition for those employees who leave employment either through voluntary or compulsory redundancy who are aged 55 plus and members of the Local Government Pension Scheme, this process automatically triggers the early release of their pension. The early release of pension for employees over the age of 55 results in an additional cost to the Council. The costs can be paid back with interest over five years if the Council chooses to do so.

#### **3.2 Requirements of the Enhanced Discretionary Scheme**

The power to make a lump sum severance payment derives from the Local Government (Early Termination of Employment) (Enhanced Discretionary Compensation) (England & Wales) Regulations 2006. Regulation 6 of the regulations provides Local Authorities with an Enhanced Discretionary power to make severance payments up to 104 weeks pay. The Council's agreed scheme allows for payments up to 66 weeks.

The 2006 Regulations (Regulation 7) require that each employing authority must formulate, publish and keep under review the policy that they apply in the exercise of their Enhanced Discretionary powers and if the authority decides to change its policy, they must publish a statement of the amended policy and may not give effect to any policy change until one month after the date of publication.

In formulating and reviewing their policy the authority must:

- a) Have regard to the extent to which the exercise of their Enhanced Discretionary powers (in accordance with the policy), unless properly limited, could lead to a serious loss of confidence in the public service; and
- b) Be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

#### 4. The Council's current budget position

4.1 The range of officer budget options, at £78m, to meet the budget shortfall of £109m, will mean that there will be a reduction in staff. The Council therefore needs to look at the cost of the current enhanced Discretionary Severance Scheme, so that the cost does not worsen the Council's financial position, and seeks to improve it.

The Council's position on reserves is that they exactly match the risk level for 2013-14, as set out in the Cabinet report of 29 November 2012. The Cabinet Monitoring report of 20 December 2012, notes the emergence of new financial risks, that could require further savings.

4.2 The Council currently has exception items for 2013/14 which total £38.4m. The exception items include the costs for bad budgets, bad debt, the estimated cost of single status implementation and the estimated cost of redundancies. The total budget deficit, with exception items at £38.4m and the current funding gap of £39m, is £77.4m.

4.3 The cost of severance and the early release of pension are met in the following ways:

1. The early release of pension for those staff aged 55 plus is paid back over a five year period if the Council chooses to do so.
2. The cost of severance is met in two ways: however the Council's financial position requires a new approach to minimise revenue costs:

Previous Practice	Proposed Approach
i. The Council is able to capitalise the cost of the statutory scheme only. This involves a request to the Department of Communities and Local Government. The capitalisation, if agreed, results in an additional reserve cost of approximately 10% of the cost which is usually recovered over three years.	Fund from capital receipts
ii. The amount that the Council chooses to pay over and above the statutory element, referred to as the discretion, the Council has to find as a one off payment in year from further savings.	Either: <ul style="list-style-type: none"><li>• Application to Government to fund from capital receipts; or</li><li>• Review the necessity to make the payment.</li></ul>

#### 5. Current Position: Enhanced Discretionary Severance Scheme

5.1 The statutory redundancy scheme is calculated using multipliers (ranging from 0.5-1.5), which provide that a redundant employee is entitled to:

- half a week's pay capped at £450 for every full year of employment under the age of 22;
- a week's pay capped at £450 for every full year of employment aged 22-40; and
- one and a half weeks' pay capped at £450 for every full year of employment aged 41 and over, subject to an overall maximum of 20 years (30 weeks pay).

5.2 The Council's current scheme is based on the above. The Council has exercised its discretion in two ways;

1. The weekly pay is not capped at £450 per week. It is calculated at the actual weekly salary;

And

2. The scheme then applies a multiplier of 2.2 to the statutory uncapped entitlement. This provides a maximum of 66 weeks pay, rather than 30 weeks for those with 20 years service over the age of 41.

5.3 The Council's Enhanced Discretionary Severance Scheme is amongst the most generous schemes. A list of comparative authorities is attached at Appendix 1.

## **6. Alternative Options**

6.1 There are a range of options for changing the Council's Enhanced Discretionary Severance Scheme. Those options are shown at Appendices 3a and 3b. The options are shown based on 10% and 15% of the workforce.

6.2 The range of options at Appendices 3a and 3b show the following, modelled at 10% and 15% of the workforce:

1. The cost of each scheme
2. The cost of statutory redundancy
3. The reduction in cost from the current scheme
4. The percentage saving
5. The total cost above the statutory element that would need to be capitalised.

6.3 The range of options consists of the following:

1. The statutory scheme with the weekly salary capped at the statutory cap of £450 per week (cap effective 1 February 2013).
2. The statutory scheme with the weekly pay uncapped.
3. Alternative options using the statutory scheme, with a capped weekly salary, with a range of multipliers.
4. Alternative options using the statutory scheme, with an uncapped weekly salary with a range of multipliers.
5. A range of options which do not use the statutory multiplier, and instead use a flat week calculation.
6. A proposal for two schemes. Scheme one would protect the lowest paid workers by applying the 2.2 multiplier for those staff earning up to £21K. This salary level is the level used as a definition of low pay in National Pay negotiations. This would be uncapped. Scheme Two would apply the statutory multiplier only, for those staff earning above £21k. The weekly pay would not be capped, so this would benefit the higher paid staff.

## **7. RELEVANT RISKS**

7.1 The Council is required to set a legal and balanced budget for 2013/14 and is facing an estimated budget deficit of £39m for 2013/14 as part of a total saving of £109m over the next three years. With only £78m of savings options identified, any amount higher than the statutory scheme, the discretion, increases the funding gap of £31m,

the current shortfall in the Council's three year budget. The Employment and Appointments Committee will need to consider the advice provided to Cabinet as to whether additional costs are a prudent action.

## **8 OTHER OPTIONS CONSIDERED**

- 8.1 A number of options to change the Council's current Enhanced Discretionary Severance Scheme are provided for consideration.
- 8.2 The consultation process provided an opportunity to explore and discuss all options before final decisions are made which may impact on our workforce.

## **9. CONSULTATION**

- 9.1 Extensive consultation has been undertaken with the recognised Trade Unions on the range of options and alternatives sought.

## **10. IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

- 10.1 None

## **11. RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

- 11.1 The Council is having discussions with Government in relation to capitalising the cost of redundancy. Only the statutory element of the cost can currently be capitalised. The Council will be seeking to capitalise costs for up to 15% of the workforce
- 11.2 For 10% of the workforce, the statutory cost of redundancy is £2,479,289. For 15% of the costs of the workforce, the statutory cost of redundancy is £3,718,934. The costs over and above these amounts, given the finances of the Council, may be an imprudent cost. Further advice will be given at the meeting.
- 11.3 This report concerns the Council's full workforce.

## **12. LEGAL IMPLICATIONS**

- 12.1 The Council is meeting the requirements to keep the Enhanced Discretionary Severance Scheme under review.
- 12.2 The Council will ensure that it complies with the necessary requirements to consult under the TULRCA.
- 12.3 The Council must meet its statutory duty under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006. By virtue of regulation 7(3) the council when formulating and reviewing its policy must:
  - Have regard to the extent to which the exercise of their discretionary powers (in accordance with the policy), unless properly limited, could lead to a serious loss of confidence in the public service; and
  - Be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

### **13. EQUALITIES IMPLICATIONS**

13.1 Equality impact assessments are published for all options for change. All equalities issues are considered as part of consultation.

13.2 The EIA attached to this report, and is available at:

<https://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/budget-options-eias>

### **14. CARBON REDUCTION IMPLICATIONS**

14.1 Not applicable for this report.

### **15. PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

15.1 Not applicable for this report.

### **16. RECOMMENDATION/S**

16.1 The Employment and Appointments Committee are asked to consider the recommendation made by Cabinet on 7 February 2013 and to make a decision on an appropriate Discretionary Severance Scheme.

16.2 That the proposed change to the Council's Enhanced Discretionary Severance Scheme is agreed and that the revised scheme is published in accordance with the regulations.

### **17. REASON/S FOR RECOMMENDATION/S**

17.1 The Council has to set a legal and balanced budget for 2013/14. The aim is to protect as far as it can, front line services for vulnerable people. All options for reducing costs are being considered.

17.2 The Council's current Enhanced Discretionary Severance Scheme is unaffordable and applying the scheme will worsen the Council's financial position.

17.3 Consultation is required under TULRCA on the potential impact of any options being considered with the aim of minimising job losses. Consultation is required as part of a collective bargaining position on current local conditions of service. The Council's policies require consultations as good practice. All consultation is an essential and welcome part of working with our Trade Unions and staff to address the significant financial challenges the Council faces.

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## **APPENDICES**

- Appendix 1: A Comparison of other North West Local Authorities' Severance Schemes
- Appendix 2: A summary of the options
- Appendix 3a: A range of options, with costs, for the Council's Enhanced Discretionary Severance Scheme – costs based on 10% of the workforce
- Appendix 3b: A range of options, with costs, for the Council's Enhanced Discretionary Severance Scheme – costs based on 15% of the workforce

## **REFERENCE MATERIAL**

None

## **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
Cabinet	7 February 2013
Cabinet	18 September 2012
Employment and Appointments Committee	18 September 2012
Cabinet	8 November 2012
Employment and Appointments Committee	7 November 2012