

# **EAST AYRSHIRE COUNCIL**

**CABINET - 23 JUNE 2010**

## **WORKFORCE PLANNING**

### **SEVERANCE ARRANGEMENTS**

#### **Report by Executive Director of Finance and Corporate Support**

#### **1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to set out for Cabinet's consideration the principles and processes which will be implemented in order to carry out reductions in the Council's workforce.

#### **2. BACKGROUND**

- 2.1 To date the Council has, in the main, utilised voluntary severance to effect reductions in employee numbers. These reductions have been identified either through reviews of business process or service delivery or through individual employees expressing interest in early retirement.
- 2.2 The Council's current policy with regard to Employers' Discretions under the Local Government Discretionary Payments and Injury Benefit (Scotland) Regulations as amended, is to maximise benefit to employees in terms of these Regulations according to individual circumstances and subject to approval by the Council, taking into account the Council's financial position at the time of the voluntary severance or early retirement.
- 2.3 Whilst the approach outlined in para 2.1 above has so far met the Council's needs, the budget reductions which the Council will have to make in the coming years requires the implementation of a more structured approach to the management of severance. Additionally in that context, the Employers' Discretions exercised currently by the Council require to be reviewed.
- 2.4 The position referred to in para 2.3 above was reinforced in the Report on Efficiency Strategy 2011/12 – 2013/14 (SRRB2) agreed by Cabinet on 19 May 2010 which stated:-

#### **Strand No 5 – Workforce Planning Review**

- The spending reductions resulting from the Efficiency Strategy project will undoubtedly impact on current workforce given the proportion of the budget which salary costs represent. It is proposed, therefore, that plans be developed to manage the reduction of workforce numbers in line with the planned reduction in budget resources over the lifecycle of the Spending Review and beyond.
- At the same time it will be essential that all employees continue to have opportunities to develop the skills necessary to enable them to be

appropriately deployed and to operate at maximum efficiency. A review of current arrangements will be undertaken to ensure that they are able to support and encourage the new ways of working which will emerge from the various review strands.

- 2.4.1 In agreeing the arrangements for Strand No 5 – Workforce Planning Review, Cabinet noted that a series of reports containing proposals to achieve these aims would be brought to a meeting of the Cabinet before the summer recess. This report is one of that series and in the following paragraphs sets out the principles and arrangements which will be used to manage severances within the Council.

### **3. PRINCIPLES**

- 3.1 The underlying principle which will govern the Council's approach to the management of severance and workforce reduction will be one of business need. Whilst on occasions an individual employee may initiate a request for consideration under the Council's severance arrangements, the majority of severances will be dealt with in the context of business need following the review of existing service delivery or organisational structures.
- 3.2 Where, on either a compulsory or a voluntary basis, there is a need to select employees for redundancy from amongst a wider pool of employees then it is necessary to have in place a fair and transparent selection system. The criteria which will comprise this system will require to be discussed with the Trade Unions in accordance with statutory requirements.
- 3.3 Where it is necessary to effect reductions in one part of the Council's workforce then any employees who are identified as surplus will be dealt with in accordance with the Council's Redeployment Policy and Procedures.

### **4. CURRENT SEVERANCE PROVISIONS**

#### **Enhanced Redundancy Scheme**

- 4.1 Part IV Regulation 35 of the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998, as amended, enables the Council to make a redundancy payment of up to 104 weeks remuneration where no added membership years have been awarded under Regulation 8 of the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998, as amended. In exercising this Discretion, the Council has approved an Enhanced Redundancy Payments Scheme which provides for a compensation payment of up to a maximum of 66 weeks remuneration to be made to employees aged 50 and over who have at least two years qualifying employment and who have not been awarded compensatory added membership years and those employees aged 18 to 50 and over who have at least 2 years qualifying employment, who leave the Council's employment by reason of redundancy.
- 4.1.1 Consideration could be given to discontinuing the Enhanced Redundancy Payment Scheme and utilise only the Statutory Redundancy Scheme with a maximum number of 30 weeks redundancy pay although it should be noted that this provision is retained by the majority of Councils.

## **Statutory Redundancy Scheme and Added Years**

4.2 The Council currently awards compensatory added membership years to employees who are members of the Local Government Pension Scheme aged 50 and over dependent on the circumstances in each case and subject to a maximum of 6 years 243 days for redundancy and a maximum of 10 years for efficiency of service. Where added years are awarded for redundancy, the employee also receives the Government's statutory redundancy payment of up to a maximum of 30 weeks pay but does not have access to the Enhanced Redundancy Payments Scheme. Compensatory added years are not awarded to employees who are not members of the Local Government Pension Scheme.

4.2.1 Currently employees who are in a redundancy situation and are members of the Local Government Pension Scheme are able to choose between the following options:-

- redundancy payment of up to 30 weeks and 6 years 243 days added years
- redundancy payment of up to 66 weeks and no added years
- no redundancy payment and up to 10 added years

4.3 The minimum retirement age under the Local Government Pension Scheme is 55 and employees who were in the Pension Scheme on 5 April 2006 retain the minimum retirement age of 50 in respect of efficiency of service and redundancy.

4.4 Teachers have their own enhancements to pension in terms of the Scottish Teachers' Superannuation Scheme.

## **Redundancy Payments Calculator**

4.5 The Council calculates statutory redundancy payments based on the employee's actual pay where it exceeds the statutory weekly pay limit, currently £380 per week.

4.6 Given the budgetary constraints facing the Council and the need to effect workforce reductions to a level which has not been necessary previously, consideration should be given to whether the maximum number of added years should be reduced or whether there should be a variation such as a sliding scale of added years. A combination of both could also be considered along the following lines:-

Length of Local Government Pension Scheme Membership	Number of Added Years Awarded
Up to 10 years	No added years
Between 10 years and less than 20 years	Up to 2 added years
Between 20 years and less than 30 years	Up to 4 added years
Over 30 years	Up to 5 added years

This would effectively be 73 added days service for full year of service beyond 10 years with a maximum of 5 added years.

The provisions contained in the table above will apply to both redundancies and also retirements in the interests of the efficiency of the service.

## **5. STATUTORY CONSULTATION REQUIREMENTS**

- 5.1 Collective consultation with recognised Trade Unions must commence at least 90 days beforehand for proposed redundancy dismissals of 100 or more employees and at least 30 days before notification of redundancies for 20 – 99 employees.
- 5.2 In cases where collective consultation is required, it must be completed before notice to dismiss is given to any of the employees concerned. The law requires meaningful consultation – it is not enough only to inform. The maximum compensation that can be awarded if an employer fails to consult is 90 days pay.
- 5.3 The consultation requirements apply to both voluntary and compulsory redundancies.

## **6. STATUTORY NOTIFICATION**

- 6.1 At least 90 days written notification must be given to the Department of Business, Enterprise and Regulatory Reform (BERR) if 100 or more employees are to be made redundant and at least 30 days for 20 to 99 employees. For less than 20 employees, no notification to the BERR is required. Failure to comply may lead to criminal proceedings and a fine of up to £5,000. Accordingly, it is proposed that Cabinet should agree that where formal notification to the Department of Business, Enterprise and Regulatory Reform (BERR) is required then this should be actioned as appropriate by the Head of Human Resources.

## **7. SCHEME OF DELEGATION**

- 7.1 The Personnel Sub-Committee of the Policy and Resources Committee at its meeting on 24 February 1998 agreed with the findings of the Accounts Commission for Scotland report “Bye Now, Pay Later?” relating to the management of early retirement in local government. A key element of this report was that elected members should be fully involved in the approval of severances, whether voluntary or compulsory and importantly should be provided with the detailed financial implications of all decisions which they were being asked to take in that regard.
- 7.2 Whilst “Buy Now, Pay Later” anticipated that only severances above a certain salary level would require the involvement of elected members, the Council at that time agreed that all retirements due to redundancy or efficiency of the service should be submitted to the relevant Committee which had responsibility for personnel issues. Since May 2007 in accordance with the Council’s revised decision making structures all early retirements for non-teaching employees on the basis of redundancy or efficiency of service being submitted to Cabinet for formal approval.

- 7.3 The Executive Director of Educational and Social Services has delegated authority to approve teachers' early retirement where there is no enhancement to pension, albeit cases in which this delegation is exercised are reported to Cabinet for their interest.
- 7.4 The Council's current severance provisions are detailed in Section 4 above and the arrangements for their approval are detailed in Section 8.2 above. It is recommended that the Head of Human Resources be given delegated authority to approve all non-teaching redundancies where they come within the criteria of the Council's Redundancy Payments Scheme and there are no added years element or strain on the fund costs. This will allow applications to be dealt with speedily and will minimise the need to make payments to employees in lieu of notice.
- 7.5 The Head of Human Resources will advise Cabinet on a regular basis of the number of employees who leave the Council under the Council's Redundancy Payments Scheme. Employees who leave the Council's service on redundancy or efficiency of the service and who are being awarded added years or where there are strain on the fund costs associated with the termination will continue to have their termination formally submitted for approval by Cabinet.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 Any reduction in the number of compensatory added years awarded to employees under the Council's Statement of Policy on Employers' Discretions under the Local Government Pension Scheme will reduce the cost of individual severances relative to recurring pension costs and increased lump sums. The revisions will not reduce Strain on the Fund costs as these reflect early payment of pension and not the number of added years.

## **9. POLICY/LEGAL IMPLICATIONS**

- 9.1 This report reflects Council Policy and meets current employment legislative requirements.

## **10. TRADE UNIONS**

- 10.1 Any proposals to revise the current arrangements for severance would require to be the subject of consultation with the Trade Unions.

## **11. RECOMMENDATIONS**

- 11.1 Cabinet is recommended to:

- i) consider the revisions to the current severance arrangements;
- ii) agree that the maximum number of added years be set at 5 in accordance with the table set out in para 4.6 above and that these provisions be effective from 1 April 2011;
- iii) agree that the Enhanced Redundancy Scheme be maintained;

- iv) note that any changes proposed to the Council's Statement of Policy in respect of Employers' Discretions under the Local Government Pension Scheme will require to be submitted to Cabinet and are subject to consultation with the Trade Unions; and
- v) otherwise note the contents of the report.

**Alex McPhee**  
**Executive Director of Finance and Corporate Support**  
**28 May 2010**

### **LIST OF BACKGROUND PAPERS**

1. Per Circular 11/98 on Possible Voluntary Severance – Chief Officers and APT&C etc Staffs.
2. Report by the Depute Chief Executive/Executive Director of Corporate Support on Chief Officers, Local Government Employees, Craft Operatives Local Government Pension Scheme – Statement of Employers' Discretions to Cabinet meeting of 17 June 2009.
3. Report by the Depute Chief Executive/Executive Director of Corporate Support on Chief Officers, Local Government Employees, Craft Operatives Local Government Pension Scheme – Statement of Employers' Discretions to the Corporate Management Team meeting of 5 October 2009.

Any person wishing to inspect the Background Papers or wishing further information should contact Martin Rose, Head of Human Resources, Tel: (01563) 576092.

**Implementation Officer:** Martin Rose, Head of Human Resources.