

# Review of the Redundancy Policy

## Strategy & Resources Committee Thursday, 1 December 2022

Report of: Chief Executive

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Purpose: For recommendation to Council

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Publication status: Open

Wards affected: All

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### Executive summary:

This report considers options for changing the Council's approach to calculating enhanced redundancy pay. It proposes two options for discussion and approval at this Committee, with benchmarking and commentary about each option.

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**This report supports the Council's priority of:** Building a better Council

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### Recommendation to Committee:

- A. the Committee considers the following two options for the Council's approach to enhanced redundancy:
  1. Remove the multiplier of 1.5 so that an amount equivalent to one week's salary is multiplied by the number of weeks determined in the ready reckoner
  2. Retain the current calculation as-is, with a multiplier of 1.5 times the weekly salary, multiplied by the number of weeks determined in the ready reckoner
- B. the Chief Executive, in consultation with the Chair of the Committee, make any necessary amendments (relating to the result of Recommendation A) to paragraph 8 of the Council's Pay Policy Statement (which references the multiplier of 1.5) and any change to the current Redundancy Policy.

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## **Reason for recommendation:**

This Committee tasked Officers with reviewing the Council's approach to enhanced redundancy pay, with a view to reducing the financial impact of redundancies on the Council.

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## **Introduction and background**

1. On 30th June 2022, the Committee considered a revised redundancy policy as part of the *2022/23 Budget – Tranche 3 Savings and Future Tandridge Programme Update report*. The Committee resolved to give delegated authority to the Chief Executive, in consultation with the Chair and Vice Chair, to agree the Final Redundancy Policy wording, following engagement and feedback from the workforce through the Staff Conference.
2. Subsequently, on the 10<sup>th</sup> August 2022, it was determined by this Committee that the policy in the process of finalisation should be reviewed again, and return to Committee in order to determine whether changes should be made to the calculation of redundancy payments.
3. The aim of the review was to lessen the impact of redundancies on the Council's finances. The Committee resolved that the Council's redundancy policy be reviewed, with a report being submitted to this meeting on the 1st December 2022. This report represents the resolution to that action.
4. Work has progressed in the intervening period to assess the options available. The outcome of that work is set out, below.

## **The current policy – enhancements to the statutory redundancy scheme**

5. The statutory redundancy scheme takes an employee's weekly pay, and multiplies it by a number of weeks determined by reference to a ready reckoner. The ready reckoner is appended as the final page of the attached Redundancy Policy.
6. The number of weeks' pay applicable in the statutory scheme is determined by age and length of continuous service with the employer.

You get:

- 0.5 week's pay for each full year worked when you're under 22
  - 1 week's pay for each full year worked when you're between 22 and 41
  - 1.5 week's pay for each full year worked when you're 41 or older
7. The number of years of applicable service is capped at 20. By way of an example, a 65 year old, earning £80,000 per annum with 25 years' service would receive 30 weeks' pay which, under the statutory scheme, is capped at £571 per week:

- 20 years = 30 weeks x £571 = £17,130. £17,130 is the maximum available under the statutory scheme because of the cap on years' service and the cap on weekly pay.
8. The ratio between years of service and weeks of redundancy pay varies according to age. It is not always a ratio of 1.5. For instance, a 43 year old earning £80,000 per annum with 7 years of service would receive 8 weeks of redundancy pay:
- 7 years = 8 weeks x £571 = £4,568.
9. These calculations can be tested on the Government's redundancy calculator (<https://www.gov.uk/calculate-your-redundancy-pay>) and are the minimum amounts applicable to all employers.
10. The Council, in common with other Local Government authorities, currently enhances this scheme through two mechanisms:
- Removal of the £571 cap; and
  - Multiplying the weekly pay by a factor of 1.5.

It is a coincidence that the number of weeks applicable for someone aged 61 or above is 1.5 times the number of years employment. This can be seen in the table showing the enhancements offered by other local authorities, which varies from 1.5. It can also be demonstrated by the example in para 7 above, where the ratio between years and weeks is not 1.5.

11. The Council's current enhancements would result in the following redundancy payments, using the same two examples as cited above:
- A 65 year old earning £80,000 per annum with 25 years service would be paid as follows:  
 $20 \text{ years} = 30 \text{ weeks} \times £1,534 \times 1.5 = \mathbf{£69,030}$   
 The weekly pay is the annual salary of £80,000 divided by 52.143 weeks
  - A 43 year old earning £80,000 per annum with 7 years service would be paid as follows:  
 $7 \text{ years} = 8 \text{ weeks} \times £1,534 \times 1.5 = \mathbf{£18,408}$
12. It is standard practice for local authorities to enhance the statutory scheme in this way. The Council's scheme was benchmarked against other District and Boroughs in Surrey, with the following results, taken from the combination of a survey sent to the Surrey Districts and publicly available policies. In each case, the cap was removed. However, the multiplier used on the weekly salary varied from the 1.5 used by Tandridge. See below:-

<b>Council</b>	<b>Redundancy based on</b>	<b>Weeks paid</b>	<b>Capped at weekly Statutory rate (currently £571)</b>
Epsom & Ewell	1 x weekly pay	Based on statutory number of weeks up to 20 years' service	No
Guildford	2 x weekly pay	Based on statutory number of weeks up to 20 years' service	No
Mole Valley	2 x weekly pay	Paid up to a max of 60 weeks	No
Reigate & Banstead	1 x weekly pay	Based on statutory number of weeks not exceeding 30 weeks' pay	No
Runnymede	1.5 x weekly pay	Based on statutory number of weeks pay up to 20 years' service	No
Spelthorne	2 x weekly Pay	Paid up to a max of 60 weeks	No
Tandridge	1.5 x weekly pay	Based on statutory number of weeks not exceeding 30 weeks' pay	No
Woking	2.2 x weekly pay	Based on statutory number of weeks up to 20 years' service	No

13. The comparison shows that this Council is currently paying more than some, whilst others offer more. The benchmarking reflects the other Councils' *current* policies. It is likely that some will now re-consider their multiplier, particularly as financial constraints will continue to apply.
14. In all cases, employees aged 55 and over who are members of the Local Government Pension Scheme are also entitled to unreduced pension benefits if made redundant. This causes the Council to incur a lump sum, equal to the income forfeited by the pension fund between the employee's leaving date and their planned retirement age.

15. Enhanced redundancy payments are not contractual and can be changed by the Council at any point. A reduction in enhancements may impact staff morale, particularly if implemented during a wide-ranging change process that is likely to lead to redundancies.

## Options Considered

16. The primary aim of reviewing the enhancements applied by the Council is to reduce the financial burden of redundancy on taxpayers, at a time when Councils' finances are under significant pressure, as is the case at this Council. A number of options were considered in order to achieve this aim.

17. In particular, consideration was given to maintaining the current multiplier of 1.5, whilst capping redundancy payments at a certain level. This would reduce the financial impact on the Council whilst limiting the number of employees affected by any change. These options were pursued at length, however internal legal advice was that they could leave the Council open to the risk of challenge on equality grounds, particularly in respect of age discrimination. This is because options with a cap disproportionately impact people of age 55 or above. The legal implications are considered further in this report.

<b>Option</b>	<b>Description</b>	<b>Average redundancy (current staff cohort)</b>	<b>Maximum Redundancy (current staff cohort)</b>	<b>Potential number of Staff affected by change</b>
Statutory	Multiplier of 1, £571 per week cap	£8k	£17k	All
Enhanced Options:				
1	Remain as-is with 1.5 multiplier.	£16k	£87k	0
2	Change multiplier to 1.	£10k	£58k	All
3	Retain 1.5 multiplier, but capped at a weekly pay equivalent to a member staff at the top of M4 grade	£15k	£47k	c15
4	Retain 1.5 multiplier but cap at either £99,999 or Statutory Redundancy + Pension if higher	£16k	£99,999 unless Pension and Statutory Minimum redundancy exceed this amount	Dependent on the Pension strain

18. The statutory powers which give local authorities discretion to make enhanced redundancy payments are contained in the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (the 2006 Regulations). The 2006 Regulations provide local authorities with the power to pay discretionary enhanced redundancy payments to employees whose employment is terminated early by reason of redundancy. The regulations provide two separate discretionary powers to make enhanced payments.
19. Under Regulation 5, local authorities have the discretion to define a week's pay for the purposes of calculating the redundancy payment as any amount between the:
  - statutory cap on a week's pay (£571 per week from 6 April 2022)
  - employee's actual weekly pay.
20. Under Regulation 6, local authorities also have the discretion to pay a compensatory lump sum of up to the equivalent of 104 weeks' pay (against which any statutory redundancy payment (SRP) is offset), provided that the employee is not being credited with additional membership of the Local Government Pension Scheme.
21. When drafting the policy, the Council needs to ensure that there is no unjustifiable age discrimination in the way the discretion is exercised.
22. In light of the above, the options presented for inclusion in the final policy are as follows:
  - Either retain the current calculation as-is, with a multiplier of 1.5 times the weekly salary, multiplied by the number of weeks determined in the ready reckoner or
  - Remove the multiplier of 1.5 so an amount equivalent to a week's salary is multiplied by the number of weeks determined in the ready reckoner.
23. The Council is also able to adopt the statutory scheme, which equates to weekly salary (capped at £571 per week) multiplied by the number of weeks determined in the ready reckoner.

## **Consultation**

24. Staff Conference were informed of the options under consideration and their response is as follows:

“Staff Conference wish to express our opposition to the proposed policy to change the weekly multiplier, when calculating redundancy pay, from 1.5 times our weekly salary to 1 times.

Staff Conference understand the need to make savings and we realise that redundancy payments for those on high grades with the maximum length of eligible service can be high.

However, the proposed policy basically eradicates enhanced payments for most employees, which we feel is unfair.

Reducing the multiplier to 1 times our weekly salary will result in many employees, particularly those on lower grades, receiving the same as they would under statutory redundancy calculations.

As you may be aware, under statutory redundancy pay, an employee's weekly pay is capped at £571. Whilst we are aware that under the new policy, there is no cap (as there is in statutory) however, this is meaningless if an employee is getting under £591 per week as their redundancy payment would be same under this policy as under statutory. Whereas a senior manager on over £1000 per week will be a lot better off than on statutory calculations.

The current multiplier of 1.5 was introduced immediately prior to Customer First, when the multiplier was downgraded from 2, without a cap of 20 years' service. The proposal to downgrade this again, prior to a restructure is ethically wrong. Staff were promised that this restructure would be transparent and honest, however this feels underhand. The majority of staff members that will be affected by this policy were not responsible for the financial situation we found ourselves in after Customer First. Whilst we understand the need to move on from Customer First, it appears that the only lessons that have been learnt is how to erode staff terms and conditions

An enhanced rate of redundancy pay is particularly important for Council Officers, for the following reasons.

- Many of our roles do not easily translate into the private sector so we either have to a) go through a lengthy process of not only finding a new job, but once we have found one have to wait for full references, DBS checks etc which takes around 3 months. b) potentially take a lower paid job, as whilst we have transferable skills, it's not always clear to private sector employers, how these skills can be applied in a different industry.
- We are more likely than our private sector colleagues, to have to retrain/study to prove how our skills can transfer to another industry.
- Even within local government, many roles created under Customer First do not easily translate to roles in other local authorities
- We do not have the option of continuing to make our own contributions towards our pension whilst we are looking for another job as some private and stakeholder pensions allow.

The Council's reputation as an employer is being eroded, removing terms and conditions could mean that this deteriorates even further, and recruitment and retention of staff is likely to be impacted. Whilst we understand your wish to shed staff, this proposal could mean that officers in hard to recruit to posts will be forced to consider other options.

We also have concerns regarding the lack of consultation with Staff Conference, Section 2.1 of the Staff Conference Constitution has an objective which states:

*'To negotiate and be consulted on all terms and conditions of employment and associated matters for all Council staff with and by management representatives'.*

This objective has clearly not been met. Furthermore, the Staff Conference Functions are detailed in the constitution, particularly in section 5.1 which states:

*'The Conference shall be the established negotiating and consultation machinery between management and the Council's employees.*

And in 5.2:

*'All issues relating to changes to the terms and conditions of employment and associated matters will be considered by the Conference'*

We are concerned that the Council may be in breach of its own policy.

Most importantly, we have devoted our time and energy to public service, our response to the Covid pandemic is evidence of this. Many staff have higher level qualifications and were attracted to local government work as a vocation and with the understanding that the terms and conditions are better than the private sector. Whilst we haven't had much time to conduct full research on this, so far our current redundancy payments appear to be lower than all the local authorities we have contacted within the South East and lower than decent private sector employers. We would therefore urge you to keep the multiplier at 1.5 times weekly salary.

**(Staff Conference 23 November 2022)**

## **Key implications**

### **Comments of the Chief Finance Officer**

A reduction in the Council's enhancements to the statutory redundancy scheme will reduce the cost of redundancies. The indicative financial impact is set out in the report.

### **Comments of the Head of Legal Services**

The Head of Legal Services has been involved in advising upon the Redundancy Policy and its legal effects and her comments have been included in this report. However, it should be noted that any changes to the existing enhanced redundancy payment arrangement as a result of the Committee's decision will need to be reflected in the Council's Pay Policy Statement. As it would only require minor changes, such revisions can be delegated to the Chief Executive in consultation with the Chair of the Committee to make the necessary amendments to para 8 of the Council's Pay Policy Statement.



## **Equality**

We have a statutory duty to consider and demonstrate equality in all of our decisions. Equality considerations, particularly those in respect of age, are included within the report.

## **Climate change**

There are no climate change implications.

## **Appendices**

Appendix A: Current iteration of the Council's redundancy policy, subject to change depending on the option selected by the Strategy & Resources Committee.

## **Background papers**

None

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