

Taunton Deane Borough Council

Full Council – 10 July 2018

Approval of Redundancies (Transformation) Where Severance Is Over £100,000 and Technical Change to Pension Discretions Policy

Report of the Transformation HR Lead

This matter is the responsibility of the Leader of the Council, Councillor John Williams and Cllr Andy Sully, Portfolio Holder for Resources.

1 Executive Summary

- 1.1 This report is requesting Council to approve the redundancies of the Assistant Director Planning and Environment, the Open Spaces Area 1 Supervisor and the Housing and Community Project Lead. The necessary financial approvals are already in place via the Business Case for Transformation. This request for Full Council approval is a separate requirement of the Councils HR policies where severance costs exceed £100,000 per case.
- 1.2 The report also recommends a technical change to the Pensions Discretions Policy recommended by Peninsula Pensions which does not change the intent of the current policy but does reflect the appropriate Regulation to be used.

2 Recommendations

- 2.1 That Council approve the redundancies of the Open Spaces Area 1 Supervisor and Housing and Community Project Lead with effect from 30 September 2018 and the Assistant Director Planning and Environment with effect from 31 March 2019 in accordance with the financial details set out in Appendices A, B and C.
- 2.2 That Council approve the amended Pensions Discretions Policy as set out in Appendix D.

3 Risk Assessment

Risk Matrix

Description	Likelihood	Impact	Overall
Risk:Challenge from the Employee if not approved and decision relates to cost which in turn relates to age.	2	3	6
<i>Mitigation:These redundancy requests are within budget and are applying the appropriate policies of the Council and Regulations relating to the Local Government Pension Scheme</i>	1	3	3

Risk Scoring Matrix

Likelihood	5	Very Likely	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Feasible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Slight	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Very Unlikely	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
			Impact				

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at some time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily/weekly/monthly)	> 75%

- 3.1 The legal comments highlight potential risks of challenge from the affected employees if Council decide not to approve the redundancies. In addition to this risk such a decision would also reduce the financial savings made.

4 Background Information

- 4.1 The purpose of this report is to request that Council agree the redundancies of:

the Open Spaces Area 1 Supervisor and Housing and Community Project Lead posts as at 30 September 2018; and

the Assistant Director Planning and Environment Planning as at 31 March 2019.

- 4.2 There is a requirement for these redundancies to be approved by Full Council as the 2018/19 Pay Policy Statements contain the following:

‘That where severance payments for staff exceed £100,000 they will be reported to Full Council for approval and in presenting information to Full Council the components of the relevant severance package will be clearly set out. These components may include salary paid in lieu, redundancy compensation, pension entitlements, holiday pay and any bonuses, fees or allowances paid.’

- 4.3 Under the transformation project the post holders were included in Phase 1 and, along with 19 other staff, expressed the preference to leave the organisation. The use of voluntary redundancy has been adopted to help achieve the required 22% savings in staff costs leaving those staff remaining to compete for the new posts created in the organisation.
- 4.4 The financial details are set out in Appendices A, B and C.
- 4.5 The report also proposes a technical changes to our Pensions Discretions Policy following advice from Peninsula Pensions. It does not change the current intent of the Discretions Policy.
- 4.6 Peninsula Pensions have recommended that, like a number of other authorities, we use Regulation 16(2)(e) and 16(4)(d) Funding of Additional Pension rather than Regulation 31 – Award of Additional Pension to allow staff to use any compensatory payment made for redundancy or retirement in the interest of efficiency of the service.
- 4.7 This technical change maintains the benefit for the employee and does not increase any costs to the authority. The Pensions Discretions Policy is attached at Appendix D and shows the relevant changes.

5 Business Continuity

- 5.1 Although Phase 1 of the new structure created through transformation will come into effect at the end of September 2018 discussions have been held with 1 of the employees to secure their services until the 31 March 2019 to ensure sufficient capacity is available to manage the workload of the Planning Service and identified risks to the service.

6 Links to Corporate Aims / Priorities

- 6.1 This proposal is in response to the Transformation Project, whose aims were set out in detail in the Business Case agreed by both Taunton Deane Borough Council and West Somerset Council in 2016. Among the aims in the business case is to deliver financial savings which involves reducing staff costs.

7 Finance / Resource Implications

- 7.1 Both Full Council's approved funding for the "High Level Business Case – Transformation" in 2016 (TDBC on 26 July 2016 and WSC on 07 September 2016) which included an allowance for estimated termination costs of £3m (WSC: £493k; TDBC General Fund: £1,673k, TDBC Housing Revenue Account: £834k). The total costs for all 3 posts are £419k which is affordable within the agreed budget.
- 7.2 The payback period for all 3 posts is under 3 years and therefore within normal acceptable boundaries and in line with the business case. It is therefore considered the proposals achieve value for money for the Councils, both when considered in isolation and for the business case overall. The finance details

are set out in the confidential appendices A, B & C. If approved the costs will be disclosed in the annual statement of accounts for 2018/19, which as standard includes a note regarding remuneration costs that exceed £50,000 in any one financial year – including severance costs.

- 4.3 Should these redundancies not be approved then the annual cost of retaining these posts would be £170,500 which would reduce the ongoing savings proposed within the business case. There could also be further costs incurred if the decision is challenged by any of the post holders. The savings target per the Business Case is already incorporated into the Medium Term Financial Plans for the two Councils, therefore any shortfall will increase the budget gap that would need to be addressed in other ways.

8 Legal Implications

- 8.1 All relevant employment legislation and HR policy has been complied with.
- 8.2 The creation of the staffing structures has been delegated to the Chief Executive but, due to the requirement for all redundancies over £100,000 to be approved by Full Council, there is a need for these specific proposals to be considered by Members.
- 8.3 The requests for redundancy have been considered against and accord with Council policies. Individually and together they pay back within a three year period but it should be remembered that these are part of the wider transformation project.
- 8.4 Should the Council determine that any of the redundancies should not be approved then there is a risk of challenge by the affected post holders as this decision may be deemed to be discriminatory.

9 Environmental Impact Implications

- 9.1 None associated with this report.

10 Safeguarding and/or Community Safety Implications

- 10.1 None.

11 Equalities and Diversity Implications

- 11.1 All aspects of the Transformation Programme which are HR related, such as recruitment, redundancy etc, are being being monitored for equality purposes so that any equality impacts can be considered.
- 11.2 There are no equality issues arising from this report.

12 Social Value Implications

- 12.1 None.

13 Partnership Implications

13.1 None for the purposes of this report.

14 Health & Wellbeing Implications

14.1 None.

15 Asset Management Implications

15.1 None.

16 Consultation Implications

16.1 None.

Democratic Path:

- **Corporate Scrutiny – No**
- **Executive – No**
- **Full Council – 10 July 2018**

Reporting Frequency: One Off

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Written Statement on Local Government Pension Scheme Employers Discretions and Key Pensions Policy

Taunton Deane Borough Council

April 2018 to 31 March 2019

LGPS (Administration) Regulations 2008

Regulation B30 (2)

The Council will allow individual former employees leaving employment on or before 31 March 2014 the option to request early payment of benefits after on or after age 55 and before age 60 which will be considered on a case-by-case basis following the production of a business case. In these cases no additional compensation will be awarded.

Regulation B30 (5)

With regard to the early payment of benefits on or after age 55 and before age 60 made under B30 (2) above the Council retains the right to waive the actuarial reduction of benefits on exceptional compassionate grounds.

Regulation B30A (3)

The Council will allow the option to request an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60 which will be considered on a case-by-case including the production of evidential support. This applies to employees leaving service on or before 31 March 2014.

Regulation B30A (5)

With regard to an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60 made under B30A (3) above the Council retains the right to waive the actuarial reduction of benefits on exceptional compassionate grounds.

Local Government Pension Scheme Regulations 1997 (as amended) in relation to active councillor members and pre 1 April 2008 scheme leavers.

Regulation 31 (2)

The Council will allow a post 31 March 1998/pre 1 April 2008 leaver or from a councillor member the option to request early payment of benefits after on or after age 55 and before age 60 which will be considered on a case-by-case basis following the production of a business case. In these cases no additional compensation will be awarded.

Regulation 31 (5)

With regard to the early payment of benefits made in accordance with Regulation 31 (2) the Council retains the right to waive the actuarial reduction of benefits on exceptional compassionate grounds.

Regulation 31 (7A)

The Council will allow councillor optants out and pre 1 April 2008 employee optants out the option to request payment of benefits at normal retirement date and these will be considered on a case-by-case basis following the production of a business case.

The Local Government Pension Scheme Regulations 2013

Regulation 100 (6)

It is not Council policy to extend the 12-month limit on transfer of previous pension rights into the LGPS.

Regulation 9 (1) and 9 (3)

It is Council policy to allow employee contribution rates to be determined as changes occur during the financial year.

Regulation 16(2)(e) and 16(4)(d) Funding of Additional Pension

It is not the policy of the Council to fund additional pension and the Council will not enter into a shared cost additional pension contributions arrangement other than where an employee leaving has requested that the Council use all of the compensatory payment to purchase additional pension benefits.

Regulation 30(6) Flexible Retirement

The Council will allow benefits to be paid to a member of staff if they reduce their hours/grade (known as flexible retirement) and this is set out in the Council's Retirement Policy. Each case will be decided individually after the consideration of a detailed business case and only applies to those aged 55 and over.

Regulation 30(8)

With regard to flexible retirement and requests from staff aged 55 or over for retirement the Council retains the right to waive the actuarial reduction of benefits on exceptional compassionate grounds.

The Local Government (Early Termination of Employment) Discretionary Compensation Regulations 2006

As set out in the Redundancy Policy the Council do not limit redundancy payments to the statutory maximum weekly pay threshold and instead use the actual weekly

pay of the employee. Actual weekly pay does not include payment of pension contributions.

The Council does not offer a minimum payment with regard to redundancy. Benefits are calculated using actual weekly pay and the statutory number of weeks as calculated against continuous local government service (and service covered by the Modification Order).

The Council provides up to 15 weeks compensation, in addition to any redundancy payment as set out in both the Compensation Policy.

Where additional compensation is paid the employee has the option to ask the Council to augment their pension benefits by using all of the additional compensation prior to their date of leaving.

