

RHONDDA CYNON TAF COUNCIL

MUNICIPAL YEAR 2015 - 2016:

COUNCIL

25TH NOVEMBER 2015

Agenda Item No. 9
CHIEF OFFICER VER & REDUNDANCY PACKAGES

JOINT REPORT OF THE CHIEF EXECUTIVE AND DIRECTOR OF HUMAN RESOURCES

Author: Richard Evans, Head of Human Resources

1. PURPOSE OF THE REPORT

Following a recommendation from the Council's Voluntary Early Retirement (VER) Panel to obtain Council approval of a Chief Officer severance package (as detailed in the report) in accordance with the Council's approved 2015/16 Pay Policy statement.

2. RECOMMENDATION

It is recommended that Council:-

- 2.1 Approve, following a recommendation from the Council's VER Panel, a Chief Officer severance package (as detailed at Appendix 1 of the report) in accordance with the Council's approved 2015/16 Pay Policy statement.

3. BACKGROUND

- 3.1 Statutory guidance issued by the Welsh Government under Section 40 of the Localism Act 2011 recommends that full Council approve severance packages over £100,000. The Guidance aims to promote openness and transparency in relation to severance packages above £100,000.

- 3.2 As a consequence of the Guidance the Council's Pay Policy statement 2015/16, approved by Council on 25th March 2015, states: "*Welsh Government recommends that full Council should be offered the opportunity to vote before severance packages of £100,000 and above are approved for staff leaving the organisation. However Members must be made aware of the statutory or contractual entitlements due to an employee and the consequences of non approval by Council which may allow an employee to claim damages for breach of contract*".

- 3.3. Within the Guidance the definition of the elements which make up the £100,000 and above severance package includes:

- i. Salary paid in lieu of notice;

- ii. Lump sum redundancy payment; and
- iii. Cost to the authority of any pension enhancement or strain on the pension fund.

4. CURRENT POSITION

- 4.1 Salary paid in lieu of notice is a legal obligation of the Council when it gives the employee less than the contractual period of notice to terminate their employment. Under the Council's VER process an early termination date is usually mutually agreed rather than giving the employee the contractual length of notice that they are entitled to receive and therefore no salary in lieu of notice is paid.
- 4.2 The lump sum redundancy payment is calculated based on the Council's discretionary scheme which full Council agrees through the annual Pay Policy each year. The lump sum redundancy payment is calculated using the Council agreed formula in accordance with its Voluntary Early Retirement and Voluntary Redundancy Scheme.
- 4.3 It should be noted that an element of this lump sum is the statutory redundancy payment which the Council is legally obliged to pay under the Employment Rights Act and the statutory redundancy scheme. It has also been advised that for as long as a particular pay policy is in force, the Council would have little scope not to honour any discretionary element payment for an employee facing a redundancy situation.
- 4.4 Therefore, even when a severance package amounts to £100,000 or more, the amount of the actual redundancy payment received by the employee, could be a relatively smaller part of the whole package.
- 4.5 The Council has no agreement in place with regard to pension enhancements or 'added years' and therefore there are no elements of the overall payment which would fall into this category.
- 4.6 The 'strain' or capitalised cost on the pension fund is a payment which is included in the definition of the severance package for employees aged 55 or over at their leaving date. It is not paid to the employee but from the Council into the overall pension fund itself.
- 4.7 It should be noted that the Council has absolutely no discretion over this cost as it is a payment that the Council is required to make pursuant to the Local Government Pension Scheme (LGPS) Regulations 2013 (30(7) and 68(2)) into the pension fund itself. Indeed the amount paid under this element is entirely dependent on, and determined by, the application of the Local Government Pension Scheme Regulations 2013, Regulation 30(7), which prescribes that any employee aged 55 and over who leaves employment by reason of redundancy, shall be entitled to immediate access to the LGPS without actuarial reduction for early payment.

5. CONTRACTUAL EMPLOYMENT MATTERS

- 5.1 The failure by the Council to make payments in accordance with the statutory and/or contractual obligations set out above would give rise to potential liability to claims for bad faith / breach of contract and / or constructive unfair dismissal.
- 5.2 As part of the recent review of the Council's Senior Management positions in October 2015 agreed by Cabinet, it was identified that the revised senior management structure be introduced as part of the need to fund savings due to the austerity measures placed on this Council. The overall savings to be realised from the revised structure supports the release of this post.
- 5.3 As a result of the restructure and through the Council's VER process there is one Chief Officer employee, to whom this application of the process for severance packages now needs to be applied.
- 5.4 The details of the individual's application are outlined at Appendix 1 to this report.

6. VOLUNTARY EARLY RETIREMENT (VER) PANEL

- 6.1 In line with the Council's Constitution, requests for Voluntary Early Retirement with Redundancy (VER) and Voluntary Redundancy (VR) are approved by the VER Panel which consists of five elected Members.
- 6.2 The VER Panel considered the application at Appendix 1, along with a number of other requests at its meeting of the 16th November 2016.
- 6.3 Whilst the VER Panel was able to formally agree all other requests at the meeting, as this application and severance package was over £100,000, it could not be formally approved by the Panel in view of the Welsh Government Guidance noted above. The Panel therefore resolved to recommend to full Council that the application at Appendix 1 be approved by full Council at its next meeting.
- 6.4 The VER Panel also requested that the long and valuable service of the employee in question to the Council be formally recorded as part of the minutes of the Panel.

7. PEOPLE IMPLICATIONS

Details of the Council's statutory and contractual obligations are detailed within the body of the report, and the discretion of the Council not to approve the severance package as outlined in Appendix 1 has been set out.

APPENDIX 1

DETAILS OF SEVERANCE PACKAGE OVER £100,000

Employee	Estimated Annual Salary Savings (including on-costs)	Salary in lieu of notice (see note 1)	Statutory Redundancy payment (see note2)	Discretionary Redundancy (see note 3)	Statutory Pension Strain (see note 4)	Total severance cost (Sum of 1, 2, 3 & 4)	Total redundancy received by individual
A	£84,637	£0	£35,009	£58,325	£87,283	£180,617	£93,334

Notes

1. Salary in lieu of notice is a legal obligation of the Council when it gives the employee less than the contractual period of notice to terminate their employment.
2. This element is the statutory redundancy payment which the Council is legally obliged to pay under the Employment Rights Act and the statutory redundancy scheme.
3. This element is the discretionary part of the lump sum redundancy payment. It is advised that for as long as a particular pay policy is in force, the Council would have little scope not to honour this discretionary payment for an employee facing a redundancy situation.
4. The Pension Strain on the fund, is a payment which is included in the definition of Severance Package for employees aged 55 or over at their leaving date. It is not paid to the employee but from the Council into the overall pension fund itself.

