

**Agenda Item No:** 9

**Report To:** Cabinet

**Date:** 11<sup>th</sup> May 2017

**Report Title:** Health, Parking & Community Safety Restructure: Approval of costs associated with early release of Local Government Pension Scheme benefits due to redundancy

**Portfolio Holder:** Councillor Bradford - Portfolio Responsibility for Health, Parking and Community Safety

**Report Author:** Sheila Davison - Head of Health, Parking & Community Safety

**Summary:**

A review of the Health, Parking & Community Safety structure has identified a number of changes that once implemented will improve service delivery. The changes have staffing implications that are of a material nature and in the case of one post a redundancy recommendation has been made.

This report relates specifically to the redundancy and explains that the affected post holder is entitled to the early release of their Local Government Pension Scheme benefits due to reasons of redundancy.

It is the Council's policy with regard to the application of pension scheme discretions that the costs associated with early release of the Local Government Pension Scheme benefits must be approved by Council.

**Key Decision:** No

**Affected Wards:** None specifically

**Recommendations:** The Cabinet be asked to recommend to Council that it:-

**(i) Approve the costs of the early release of Local Government Pensions Scheme Benefits for affected post holders for reasons of redundancy.**

**Policy Overview:** The Council's policy on the application of pension scheme discretions is that all costs associated with early release of the local government pension benefits must be approved by Council.

**Financial Implications:** Cost implication of early release of the LGPS pension.

The total pension liability, cost to the Council, is shown at the Exempt Appendix 1.

<b>Risk Assessment:</b>	No
<b>Equalities Impact Assessment:</b>	Yes - See Appendix 2.
<b>Other Material Implications:</b>	None
<b>Exemption Clauses:</b>	<b>YES – Appendix 1 only</b> <b>Not For Publication by virtue of Paragraph 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972 and the public interest in maintaining the exemption outweighs the public interest in disclosing the information</b>
<b>Background Papers:</b>	None
<b>Contacts:</b>	Sheila Davison, Head of Health, Parking & Community Safety - (01233) 330 224

**Report Title: Health, Parking & Community Safety  
restructure: Approval of costs associated  
with early release of Local Government  
Pension Scheme benefits due to redundancy**

**Purpose of the Report**

1. The report seeks to gain Council approval for the early release of Local Government Pension Scheme benefits for the affected post holder in the event that their employment ends for reasons of redundancy.
2. The report seeks to comply with the Council's policy with regard to the application of pension scheme discretions, in that the costs (liabilities to the Council) associated with early release of the Local Government Pension Scheme benefits must be approved by Council.

**Background**

3. A number of staffing changes have been made or are being proposed within the Health, Parking & Community Safety Service (HPC). The changes affect several areas of the service varying in terms of scale and impact, consultation process followed and implementation timetable.
4. While not all the changes are of a material nature, some have a significant impact on individuals and were considered by the Joint Consultative Committee (JCC) that took place on the 27<sup>th</sup> April 2017 (minute reference JCC 04 04/17) including a recommendation to make an administrative post redundant.
5. This particular recommendation can about after a review of the Business Support Team identified that the work of a full time administrative post had reduced considerably. This is a consequence of a move away from several manual administration processes, greater use of the customer contact centre for service enquiries and channel shift transformation. It was noted that the post-holder's job description had been recently updated to ensure it reflects the actual duties undertaken, however, the review has identified that the duties associated with this post have reduced. Attempts had been made to transfer additional administrative duties to this post but this is no longer realistic or indeed possible within the service.
6. Prior to the JCC report the proposals had been considered and approved by the Chief Executive and Directors on the 7<sup>th</sup> February 2017. Management Team have been advised of the changes and Human Resources have provided guidance during the development of the proposals and supported during the consultation process.

7. Full details of the restructure can be found within the above-mentioned JCC report and also the report to Cabinet regarding the Business Support Team and parking enforcement resources (minute reference CA 259 01/2017).

## **Policy Background - Council's Retirement, Redundancy and Discretionary Compensation Policy statement**

8. The officer is a Local Government Pension Scheme (LGPS) Member. Under the Pension Scheme Regulations, if a scheme member aged 55 or over, is made redundant the individual is entitled to early release of their pension. The affected officers would be eligible to early release of their pension, i.e. they are aged 55 or over. The Council's policy on the application of pension scheme discretions is that all costs associated with early release of the LGPS benefits must be approved by Council.
9. No other redundancy costs require a full council approval, the Council's Retirement, Redundancy and Discretionary Compensation Policy statement sets out the thresholds at which the approval must be referred to full Council; currently the threshold is £100,000. The Chief Executive, with the concurrence of the Leader, recommendation of the Portfolio Holder and in consultation with Management Team, has the delegated authority to approve amounts where the total capital cost is below this threshold.

## **Other Options Considered**

10. The early release of Local Government Pension Scheme benefits for the affected post holder would only be actioned in the event that no suitable alternative work (as defined under Section 141 of the Employment Rights Act 1996 and as set out in Council's policy Redundancy and Organisational Change) can be found for the affected officer.

## **Consultation**

11. Early informal consultation with the affected employee commenced on the 9<sup>th</sup> March 2017 and formal consultation has been ongoing since that that point. A number of consultation meetings have taken place thus far.
12. The Unison Branch Chair and Secretary were briefed on the proposed changes on the 9<sup>th</sup> March and have not raised any initial concerns.
13. During the consultation meetings the affected employee has accepted the rationale for the proposed restructure and has not put forward any alternative suggestions for consideration. A requested and subsequently accepted amendment to the report was incorporated within the body of the consultation document. Personal comments regarding individual matters were in the main addressed and responded to within the consultation meetings. The post-holder raised some concerns regarding the provision of administration support for the food team officers. This point was addressed during the consultation meeting, it was explained that the introduction of remote working technologies will enable a large amount of administration to be completed by the officers

whilst on site; therefore reducing the requirement for this to be undertaken by a member of the Business Support team.

14. The consultation has included the exploration of alternative courses of action including retraining to another position within the same team and re-deployment.
15. The affected post-holder was provided with the opportunity for an additional consultation meeting but they did not feel that this was required.
16. As is demonstrated the proposed changes have been through a programme of consultation involving both the affected employee and Unison.
17. Further Consultation has taken place via the JCC and with Staff Side representatives to ensure the views of all those affected are able to be put forward and taken into account in the final version of this report.
18. The JCC considered the HPC restructuring report on the 27<sup>th</sup> April 2017 and the feedback to the report and the consultation process was positive.

## **Implications Assessment**

19. The financial implication of agreeing to this early release of LGPS benefits for the affected post holder shown at the Exempt Appendix 2.

## **Handling**

20. If Members are minded to approve this report the implications would be effective from August 2017.

## **Conclusion**

21. Early release of Local Government Pensions Scheme benefits are sought in line with Council policy and would take place in the event that the post holder is displaced, following all reasonable redeployment opportunities being explored.

## **Portfolio Holder's Views**

22. I am supportive of the recommendation contained within this report.

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## Appendix 2

# Equality Impact Assessment

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1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

### Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation;
  - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) Foster good relations between persons who share a relevant protected

characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

### Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:
- Age
  - Disability
  - Gender reassignment
  - Marriage and civil partnership\*
  - Pregnancy and maternity
  - Race
  - Religion or belief
  - Sex
  - Sexual orientation

\*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

### Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
- removing or minimising disadvantages suffered by people due to their protected characteristics.

- taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
  - encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.
7. How much regard is 'due' will depend on the circumstances. The greater the potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.
8. In terms of timing:
- Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
  - Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
  - The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.
- decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
  - The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
  - The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
  - The duty is a continuing one so that it needs to be considered not only when a policy, for example, is being developed and agreed but also when it is implemented.
  - It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
  - A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
  - A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

### Case law principles

9. A number of principles have been established by the courts in relation to the equality duty and due regard:
- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
  - Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a

The Equality and Human Rights Commission has produced helpful guidance on "Meeting the Equality Duty in Policy and Decision-Making" (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. *[Equality Duty in decision-making](#)*

<b>Lead officer:</b>	Sheila Davison
<b>Decision maker:</b>	Cabinet
<b>Decision:</b> <ul style="list-style-type: none"> <li>• Policy, project, service, contract</li> <li>• Review, change, new, stop</li> </ul>	Approval of costs associated with early release of pension costs associated with the review of Health, Parking and Community Safety
<b>Date of decision:</b> The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	11 <sup>th</sup> May 2017
<b>Summary of the proposed decision:</b> <ul style="list-style-type: none"> <li>• Aims and objectives</li> <li>• Key actions</li> <li>• Expected outcomes</li> <li>• Who will be affected and how?</li> <li>• How many people will be affected?</li> </ul>	<p>Following previous cabinet papers in January 2017 a revised structure is proposed for Health, Parking and Community Safety.</p> <p>The proposed structure has a redundancy implication and therefore an approval regarding the early release of pension costs is sought from Cabinet / Council.</p>
<b>Information and research:</b> <ul style="list-style-type: none"> <li>• Outline the information and research that has informed the decision.</li> <li>• Include sources and key findings.</li> </ul>	The review follows on from the Cabinet paper early this year.
<b>Consultation:</b> <ul style="list-style-type: none"> <li>• What specific consultation has occurred on this decision?</li> <li>• What were the results of the consultation?</li> <li>• Did the consultation analysis reveal any difference in views across the protected characteristics?</li> <li>• What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics?</li> </ul>	<p>There has been a thorough consultation exercise with staff, including informal consultation and formal consultation.</p> <p>A consultation paper was produced and discussed with the affected individual.</p> <p>Formal one to one consultation meetings were held with the affected post holder.</p> <p>The results of the consultation were submitted to JCC <b>on 27<sup>th</sup> April 2017</b></p> <p>Although the proposals will affect staff who may be considered to have a protected characteristic, steps have been taken to ensure that all staff have the relevant support and advice including representation from colleagues during the consultation meeting and access to union or Staff Side Representatives.</p> <p>Access to information about the support line available for all staff has been provided.</p>



	<p>Our Managing Redundancy and Organisational Change policy has been followed and adhered to.</p> <p>Unison and JCC staff side have been involved and consulted with throughout the process.</p> <p>Staff have been provided with information regarding additional sources of support including ACAS, Unison, Staff side and our Employee Assistance Helpline.</p>
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**Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.**

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

<b>Protected characteristic</b>	<b>Relevance to Decision</b> High/Medium/Low/None	<b>Impact of Decision</b> <b>Positive</b> (Major/Minor) <b>Negative</b> (Major/Minor) <b>Neutral</b>
<u>AGE</u> Elderly	None	Neutral
Middle age	None	Neutral
Young adult	None	Neutral
Children	None	Neutral
<u>DISABILITY</u> Physical	None	Neutral
Mental	None	Neutral
Sensory	None	Neutral
<u>GENDER RE-ASSIGNMENT</u>	None	Neutral
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	None	Neutral
<u>PREGNANCY/MATERNITY</u>	None	Neutral
<u>RACE</u>	None	Neutral
<u>RELIGION OR BELIEF</u>	None	Neutral
<u>SEX</u> Men	None	Neutral
Women	None	Neutral

<b>SEXUAL ORIENTATION</b>	None	Neutral
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<b>Mitigating negative impact:</b> Where any negative impact has been identified, outline the measures taken to mitigate against it.	Consideration has been given to mitigating any negative impact via the following measures; (1) consultation has taken place with affected employees via one to one consultation meetings, (2) additional time frames have been built into the process with regard to meeting lengths, preparation time and response times
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**Is the decision relevant to the aims of the equality duty?**  
Guidance on the aims can be found in the EHRC's Essential Guide, alongside fuller PSED Technical Guidance.

<b>Aim</b>	<b>Yes / No / N/A</b>
1) Eliminate discrimination, harassment and victimisation	yes
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	yes
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	N/A

<b>Conclusion:</b>	There is no unlawful discrimination arising as a result of the Review Proposals.
<ul style="list-style-type: none"> <li>Consider how due regard has been had to the equality duty, from start to finish.</li> <li>There should be no unlawful discrimination arising from the decision (see guidance above).</li> <li>Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified.</li> <li>How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported?</li> </ul>	<p>The affected staff member was given the opportunity for representation throughout the process.</p> <p>Decisions taken were not specifically directed towards those with protected characteristics.</p> <p>Relevant support networks were recommended to individuals throughout the process to ensure that they had access to independent advice and support.</p> <p>Our current Managing Redundancy and Organisational Change policy has been adhered to.</p>

<b>EIA completion date:</b>	27 <sup>th</sup> April 2017
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