

REPORT REFERENCE NO.	HRMDC/15/6
MEETING	HUMAN RESOURCES MANAGEMENT & DEVELOPMENT COMMITTEE
DATE OF MEETING	16 SEPTEMBER 2015
SUBJECT OF REPORT	REDUNDANCY COMPENSATION RATES
LEAD OFFICER	Director of Corporate Services
RECOMMENDATIONS	<p><i>That the Committee reviews the current redundancy compensation rate with a view to recommending that the Authority:</i></p> <ul style="list-style-type: none"> <i>(a) retains its current compensation rate (a multiplier of 2 using actual week's pay) for staff eligible to the compensation provisions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006;</i> <i>(b) extends this multiplier to uniformed staff;</i> <i>(c) endorses, subject to (d) below, that further reviews of the compensation rates should be undertaken on an annual basis by the Human Resources Management & Development Committee, with any recommended changes to the compensation rate [and associated date for application of any revised compensation rate] being made to the full Authority</i> <i>(d) That any future proposed revision of the compensation rates would be subject to consultation with the trade unions.</i>
EXECUTIVE SUMMARY	<p>At the Authority meeting on the 22 January 2014 the redundancy multiplier for Support Staff was reviewed and left unchanged. It is intended that the multiplier is reviewed on an annual basis by this committee, with appropriate recommendations then being made to the full Authority.</p> <p>This paper sets out the background on how the redundancy compensation payments are applied and includes comparisons with other public sector organisations within the South West.</p>
RESOURCE IMPLICATIONS	Dependent upon the number of redundancies and multiplier that is used.
EQUALITY RISK & BENEFITS ASSESSMENT	The redundancy compensation rates are in accordance with the statutory formula relating to age and service.
APPENDICES	A: Redundancy Compensation Rates within the South West
LIST OF BACKGROUND PAPERS	None

1. INTRODUCTION

- 1.1 This Committee, at its meeting on 22 January 2014, considered the matter of Redundancy Compensation rates to apply and resolved (Minute HRMDC/15 refers):
- (a) *That the Devon and Somerset Fire and Rescue Authority be recommended to approve that there should be no change to the current redundancy compensation rates (a multiplier of 2), and;*
 - (b) *That the Committee continues to monitor progress with the reduction in staff numbers associated with the implementation of the Corporate Plan, and how the use of voluntary redundancies can support this, with a view to further reviewing the redundancy compensation rates in the next financial year.*
- 1.2 The intention is that redundancy compensation rates are reviewed annually by this Committee, which then makes appropriate recommendations to the full Authority. This paper includes an explanation of how redundancy compensation is applied and makes comparisons with other authorities in the South West.
- 1.3 Voluntary redundancy has been used to date as a managerial tool allowing the Service to reduce down staffing numbers at a greater rate than would otherwise have been the case. Reductions in voluntary redundancy rates, however, will have an impact on the effectiveness of this managerial tool in reducing down workforce numbers both now and in the future.

2. REDUNDANCY MULTIPLIER

- 2.1 The Service employs the majority of staff on two sets of nationally-agreed terms and conditions commonly referred to as the 'Grey Book' (for uniformed staff) and 'Green Book' (for non-uniformed staff). There are also several pension schemes covering the different categories of staff. For uniformed staff there is the Firefighters' Pension Scheme 1992 and the New Firefighters' Pension Scheme 2006 (both now closed to new members) together with the recently-introduced Firefighters' Pension Scheme 2015. For non-uniformed support staff there is the Local Government Pension Scheme (LGPS). The Firefighter's Pension Schemes are available to operational staff and the LGPS for all other support (non-uniformed) employees and also the Control Room staff.
- 2.2 The LGPS requires that the Service has a policy on pension discretions to apply in certain situations including that of redundancy. As part of its discretionary policies under the LGPS, this Service currently enhances redundancy payments using a multiplier of 2, as agreed by the Authority and following consultation with the trades unions. The Firefighters' Pension Schemes do not contain any reference to discretions for enhanced redundancy pay.
- 2.3 As a reminder, the statutory redundancy pay for an employee with at least 2 years' continuous service is based on the employee's age, salary (subject to a salary maximum) and the length of service.
- Up to the age of 21: 0.5 week's pay for each completed year of service.
 - 22 - 40 years of age: 1 week's pay for each completed year of service.
 - 41+ years of age: 1.5 weeks' pay for each completed year of service.
- A "week's pay" is subject to the statutory maximum (currently £475).*

- 2.4 For staff within the LGPS, there is additional legislation in relation to redundancy payments in the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (“the Regulations”). Almost all public sector organisations and many in the private sector have previously introduced schemes which offer more than the statutory redundancy pay referred to above, however, in recent years, organisations have reviewed their schemes and some organisations have reduced the multipliers that are applied. The maximum payment permitted under the Regulations is 104 weeks.
- 2.5 Most enhanced redundancy schemes in the public sector use the actual week’s pay in the calculation (rather than the £475 statutory limit) and apply a multiplier to the number of weeks calculated using the statutory redundancy pay formula referred to above (“the multiplier”). This was modified in 2006 as the previous calculation of enhanced redundancy pay was not acceptable under the Age Discrimination Regulations.
- 2.6 The Authority is currently committed to using the actual weekly pay levels in its Reorganisation, Review, Redeployment and Redundancy (“4Rs”) policy agreed with all the recognised unions and approved by the Authority on combination. This policy, however, is silent on any multiplier to be used since it was envisaged this would be included in a future redundancy policy. Such a policy was not introduced since the 4Rs policy has been sufficient for the organisational changes that have been made.
- 2.7 The Regulations state that the maximum number of weeks of redundancy compensation is limited to 104 weeks. Since the statutory weeks of redundancy compensation is limited to 30 weeks, the maximum multiplier that could be applied would be 3.46. Appendix A to this report details the multiplier and weekly pay calculation currently in use by other South West public sector organisations.
- 2.8 For this Authority, it was previously determined that a balance had to be struck between the cost to the Authority, what would be suitable compensation for staff whose positions were at risk of redundancy on a compulsory basis, and what might be considered as a level likely to be attractive to staff who may be willing to consider voluntary redundancy. Following the Corporate Plan in 2013, the Service sought volunteers for redundancy and since that time 20 Support Staff have left the Service under these terms. A further 30 wholetime staff have accepted voluntary redundancy and 2 from Control. The Service is still receiving a small number of requests for voluntary redundancy. From a Service perspective, the existing multiplier level provides an effective basis to incentivise employees to take voluntary redundancy, which reduces the risk of having to consider making compulsory redundancies. To date, the incidence of redundancies has not been significantly high (staff reductions being largely achieved through natural turnover) and so there is little risk to the Authority, for the time being, in maintaining the existing multiplier level with the proviso that the situation continues to be reviewed at least on an annual basis.

3. REDUNDANCY MULTIPLIER FOR OPERATIONAL STAFF

- 3.1 As set out in paragraph 2.2 above, the Firefighters’ Pension Schemes are silent on the issue of pension discretions for enhanced redundancy pay. Previous advice from the National Employers was that the discretionary compensation regulations specifically exclude operational firefighters as shown in the following extract:

“The compensation provisions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 currently apply in relation to:

- (a) Employees of bodies listed in Part 1 of Schedule 2 to The Local Government Pension Scheme (Administration) Regulations 2008 (as amended). This includes local government employees and, among others, employees of police authorities, fire and rescue authorities, and further and higher education corporations (but excludes councillors, the Mayor of London, a member of the London Assembly, teachers, **operational firefighters** and uniformed police officers).”

- 3.2 There are no powers in the Firefighters' Pension Schemes or any related statutory provisions along the lines of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England & Wales) Regulations. This was previously thought to mean that fire & rescue authorities have no powers to increase a redundancy payment over and above that provided for under the Employment Rights Act 1996.
- 3.3 This position was recently challenged by two fire and rescue authorities and the Counsel opinion obtained is unequivocal in advising that enhanced redundancy payments to operational staff **are** lawful by virtue of the general power of competence as set out in Section 5A of the Fire & Rescue Services Act 2004 (as amended by the Localism Act). The Counsel advice also indicates that the only limit to such an enhanced payment would be the “Wednesbury” principle (i.e. provided that the enhancement was not so unreasonable that no reasonable person, acting reasonably, could have determined the level of enhancement).
- 3.4 This unequivocal Counsel opinion can be relied on by the Authority should it wish to apply exactly the same rate of redundancy compensation to both uniformed and non-uniformed staff. An example of the impact of such redundancy compensation for a firefighter at age 45 years with maximum service for redundancy purposes (20 years) would be to increase the compensation payable from £10,450 to £24,728.

4. CONCLUSIONS

- 4.1 The Authority has determined to review the level of redundancy multiplier to be applied on an annual basis. Other public bodies in the South West apply redundancy multipliers that vary to some extent and there is no common approach other than multiplier levels have reduced, to a greater or lesser extent, over the past five years as has the rate applied by the Authority.
- 4.2 The existing multiplier level has to date provided an effective incentive for employees to take voluntary redundancy, thereby mitigating the risk of having to consider making compulsory redundancies. The incidence of voluntary redundancies so far has not been significantly high (staff reductions being largely achieved through natural turnover) and so there is little risk to the Authority, for the time being, in maintaining the existing multiplier level.
- 4.3 The recent, unequivocal, Counsel opinion that enhanced redundancy payments to operational staff are lawful can be relied on by the Authority should it now wish to apply exactly the same rate of redundancy compensation to both uniformed and non-uniformed staff.

MIKE PEARSON
Director of Corporate Services

Redundancy Compensation Rates within the South West

Organisation	Redundancy Compensation Dec 2010	Redundancy Compensation Feb 2012	Redundancy Compensation Jan 2014	Redundancy Compensation Mar 2015
Devon and Somerset FRS	The 4R's policy commits the Service to using the actual week's pay rather than the statutory limit but is silent on what multiplier should be used.	Initially a multiplier of 2.5 was used and this was reduced from Apr 2011 to a multiplier of 2 using the actual week's pay.	A multiplier of 2 using the actual week's pay.	Currently a multiplier of 2 using the actual week's pay.
Devon County Council	Multiplier of 2 using the actual week's pay.	Multiplier of 2 using the actual week's pay.	No change	Under review but no further details are available at this time.
Somerset County Council	Multiplier of 2 using the actual week's pay but under review.	Reviewed in April 2011 and reduced to a multiplier of 1 using the statutory weekly pay for compulsory redundancies and the actual weekly pay for voluntary redundancies. A min payment of £1500 is applied.	No change	No change
Plymouth City Council	Multiplier of 2	Reviewed in Nov 2011 and reduced to a multiplier of 1 using the statutory weekly pay i.e. no additional enhancement.	No change	No change
Torbay Council	Multiplier of 1 using the actual week's pay but under review.	Multiplier of 1 using the actual week's pay.	No change	No change
Cornwall Council	Up to April 2010 multiplier of three times actual week's pay. Post April 2010 it is 1.75 times based on the actual week's pay.	Reviewed in May 2011 and kept to a multiplier of 1.75 using the actual week's pay.	No change	No change

Organisation	Redundancy Compensation Dec 2010	Redundancy Compensation Feb 2012	Redundancy Compensation Jan 2014	Redundancy Compensation Mar 2015
Dorset County Council	Multiplier of 2.5 using the actual week's pay but under review.	Reviewed in Apr 2011 and reduced to a multiplier of 1.75 using the actual week's pay.	No change	No change
Gloucestershire County Council	Multiplier of 2.2 using the actual week's pay.	Reduced to a multiplier of 2 and from Apr 2012 will be a multiplier of 1.75 using the actual week's pay.	Multiplier of 1.75 using the actual week's pay.	No change
Wiltshire FRS	Multiplier of 1 with actual week's pay	Reviewed in 2011 and modified to a multiplier of 1.75 using the actual week's pay.	No change but NB Voluntary Redundancy is with a multiplier of 1.75 and a limit of 52 weeks, Compulsory Redundancy is with a multiplier of 1. Both use the actual week's pay.	No change
Dorset FRS	Multiplier of 2.5 using the actual week's pay.	Multiplier of 2.5 using the actual week's pay.	Multiplier reduced to 1.75 using the actual week's pay.	No change
Avon FRS	Multiplier of 2.5 using the actual week's pay (maximum compensation equivalent to 75 weeks pay).	Multiplier of 2.5 using the actual week's pay (maximum compensation equivalent to 75 weeks pay).	No change	No change