

REPORT REFERENCE NO.	HRMDC/17/13
MEETING	HUMAN RESOURCES MANAGEMENT & DEVELOPMENT COMMITTEE
DATE OF MEETING	18 SEPTEMBER 2017
SUBJECT OF REPORT	REDUNDANCY COMPENSATION RATES
LEAD OFFICER	ASSISTANT CHIEF FIRE OFFICER – SERVICE IMPROVEMENT
RECOMMENDATIONS	<i>That the Committee recommends to the Authority that it retains its current compensation rate (a multiplier of 1 using actual week's pay – the statutory minimum) for all uniformed and support staff and that in light of this, the compensation rates are no longer reviewed on an annual basis.</i>
EXECUTIVE SUMMARY	<p>At the meeting on the 16th September 2015, the Committee recommended to the Fire & Rescue Authority that the redundancy compensation rate be reduced from a multiplier of 2 to 1 for support staff having previously reduced down from a multiplier of 2.5. The Committee also recommended that the redundancy multiplier for uniformed staff be increased from the statutory minimum (which caps the compensatory week's pay to the actual pay) to align with that applied for support staff.</p> <p>The recommendations made were agreed by the Authority meeting on the 7th October 2015 and the Authority also endorsed the Committees recommendation to review the compensation rates at least annually. The rates were reviewed at the Committee meeting on the 16th September 2016 and no further changes were made. Since the current arrangements are for this rate to be reviewed annually this paper is submitted for this meeting.</p> <p>Since the current redundancy compensation rates are at a multiplier of 1, it is recommended that this rate is no longer reviewed on an annual basis but that should the Service, at any stage wish to review the rate then it would be brought back to the Committee.</p>
RESOURCE IMPLICATIONS	Financial and dependent on the 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	None
LIST OF BACKGROUND PAPERS	None

1. INTRODUCTION

1.1 At its meeting held on the 16 September 2015, this Committee considered the matter of redundancy compensation rates to apply and resolved to recommend that the Devon & Somerset Fire & Rescue Authority (the Authority) (Minute HRMDC/11 refers):

- (a) *reduce its current compensation rate to a multiplier of 1 using the actual week's pay for both voluntary and compulsory redundancy and that this multiplier be extended to uniformed staff;*
- (b) *implement the multiplier of 1 with effect from 7 October 2015;*
- (c) *endorse, 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;*
- (d) *That any future proposed revision of the compensation rates would be subject to consultation with the trade unions.*

1.2 These recommendations were approved by the Authority at its meeting on 7 October 2015 (Minute DSFRA/26(c) refers).

1.3 At its meeting held on the 16 September 2016, this Committee considered the matter again as part of an annual review and recommended that the Authority:

- (a) *retain the current compensation rate (a multiplier of 1, using the an actual week's pay) for all uniformed and support staff;*
- (b) *that the Committee reviews the compensation rates at least annually, with any proposed changes being recommended to the Authority following consultation with the trades unions.*

1.4 These recommendations were approved by the Authority at its meeting on the 30 September 2016.

1.5 Since the current arrangements are for this rate to be reviewed annually this paper is submitted for this meeting. This paper and includes an explanation of how redundancy compensation is applied and recommends that no further change is made at this time.

2. REDUNDANCY MULTIPLIER

2.1 The Service employs the majority of staff on two sets of terms and conditions which are commonly referred to as the 'Grey Book' and 'Green Book'. There are also several pension schemes covering the different categories of staff. For uniformed staff there is the Firefighters' Pension Scheme and the New Firefighters' Pension Scheme which are now closed to new members and the 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 rules of the Local Government Pension Scheme require a service to have a policy on pension discretions to apply in certain situations including that of redundancy. As such, the Service has a policy on pension discretions and following the previous Authority decision and consultations with trade unions, the multiplier was set at a rate of 1 for staff who are eligible to join the Local Government Pension Scheme.
- 2.3 The Firefighters' Pension Schemes do not contain any reference to discretions for enhanced redundancy pay. 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. This position was, however, subsequently challenged by two fire and rescue authorities and the Queens' Counsel opinion was obtained. This was 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 Queens' Counsel opinion also advised that, should an authority be minded to apply enhancements, it should do so evenly (i.e., the same enhancement for staff conditioned to the Local Government Pension Scheme as for those conditioned to the Firefighters' Pension Scheme) to eliminate the risk of potential challenge under the equalities legislation. This information was presented to this Committee in September 2015 and informed its subsequent recommendation to the Authority on redundancy compensation rates to be applied.
- 2.4 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 £489).*
- 2.5 For staff within the Local Government Pension Scheme, 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.
- 2.6 Most enhanced redundancy schemes in the public sector use the actual week's pay in the calculation (rather than the £489 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.
- 2.7 The Authority is committed currently 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.

2.8 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.

3. CONCLUSION

3.1 The Authority has previously determined that it will review the level of redundancy multiplier to be applied at least on an annual basis. Since we are now at a multiplier of 1 there appears to be no reason to make any further adjustments or reviews to this compensation rate.

3.2 It is therefore recommended that the Redundancy Compensation rate is no longer reviewed on an annual basis but that should the Service, at any stage, wish to review the rate then it would be brought back to the Committee.

GLENN ASKEW

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