

REPORT REFERENCE NO.	HRMDC/16/12
MEETING	HUMAN RESOURCES MANAGEMENT & DEVELOPMENT COMMITTEE
DATE OF MEETING	16 SEPTEMBER 2016
SUBJECT OF REPORT	REDUNDANCY COMPENSATION RATES
LEAD OFFICER	Director of People and Commercial Services
RECOMMENDATIONS	<p><i>That the Committee reviews the current redundancy compensation rate with a view to recommending that the Authority:</i></p> <p><i>(a) Retains its current compensation rate (a multiplier of 1 using actual week's pay) for all uniformed and support staff.</i></p> <p><i>(b) That the compensation rates be reviewed at least annually by the Committee, with any proposed changes being recommended to the Authority.</i></p> <p><i>(c) That any future proposed revision of the compensation rates would be subject to consultation with the trade unions.</i></p>
EXECUTIVE SUMMARY	<p>At the meeting on 16 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. 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 7 October 2015, to take immediate effect.</p> <p>The Authority also endorsed the Committees recommendation to review the compensation rates at least annually, hence the submission of this paper which also sets out the background on how redundancy compensation payments are applied.</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 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 This paper now sets out findings from the review carried out this year, in accordance with the Authority decision, and includes an explanation of how redundancy compensation is applied and recommends that no further change is made at this time.
- 1.4 It should be noted that offering voluntary redundancy is a managerial tool which has allowed the Devon & Somerset Fire & Rescue Service ("the Service") to reduce down staffing numbers at a greater rate than would otherwise have been the case. Since this matter was last considered by the Authority, the Service has made a number of compulsory redundancies from its non-uniformed support staff (Green Book).

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 2 for staff who are eligible to join the Local Government Pension Scheme. This was subsequently reduced to a multiplier of 1.

- 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 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 the Committee last year 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 £479).*
- 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 £479 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 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.
- 2.8 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.

- 2.9 Following the change in Corporate Plan in 2013, the Service sought volunteers for redundancy and since that time staffing reductions have been made. The Service is, however, now close to the agreed establishment levels and so the requirement for whole-time uniformed redundancies is currently diminished. Indeed, in all likelihood, with the current leaver and retirement rates, the Service is planning for potential whole-time recruitment in 2017.
- 2.10 Since the reduction in the redundancy compensation rate for support staff, there has been only 1 volunteer for voluntary redundancy. However, the Service has in any event seen an upturn in support staff turnover with 23 resignations in the first 4 months of 2016/17 compared with a total leaver turnover of 30 in 2015/16 and 16 in 2014/15. Amongst uniformed staff, there have been 4 approved voluntary redundancies since the increase in the compensatory rate.
- 2.11 All departments are considering their Strategic Workforce Plans over the next few years against various scenarios. This will inform the Organisational Development Strategy which it is intended will be submitted to the next meeting of this Committee.

3. CONCLUSION

- 3.1 The Authority has determined that it will review the level of redundancy multiplier to be applied at least on an annual basis. Having modified the redundancy multiplier in 2015-16, there appears to be no reason to make any further adjustment at this time and it is therefore recommended that this remains unchanged.

JANE SHERLOCK
Director of People and Commercial Services

APPENDIX A TO REPORT HRMDC/16/12

REDUNDANCY COMPENSATION RATES WITHIN THE SOUTH WEST

Organisation	Redundancy Compensation Dec 2010	Redundancy Compensation Feb 2012	Redundancy Compensation Jan 2014	Redundancy Compensation Mar 2015	Redundancy Compensation Sept 2016
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.	Reduced to a multiplier of 1 using the actual week's pay. The rate was extended to uniformed staff as well.
Devon & Cornwall Police	-	-	-	-	At the time of publication we are seeking further information.
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.	At the time of publication we are seeking further information.
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	At the time of publication we are seeking further information.

Organisation	Redundancy Compensation Dec 2010	Redundancy Compensation Feb 2012	Redundancy Compensation Jan 2014	Redundancy Compensation Mar 2015	Redundancy Compensation Sept 2016
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	At the time of publication we are seeking further information.
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	At the time of publication we are seeking further information.
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	No change for support staff. No decision on uniformed staff as yet but likely to apply the same rate.
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	At the time of publication we are seeking further information.
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	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	Multiplier of 1.75 using the actual week's pay for support staff. No decision on uniformed staff as yet but likely to apply the same rate.

Organisation	Redundancy Compensation Dec 2010	Redundancy Compensation Feb 2012	Redundancy Compensation Jan 2014	Redundancy Compensation Mar 2015	Redundancy Compensation Sept 2016
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 week's pay).	Multiplier of 2.5 using the actual week's pay (maximum compensation equivalent to 75 week's pay).	No change	No change	Multiplier 2.5 using the actual week's pay (subject to the statutory cap) for Green Book staff. At present, there are no plans to review this. No redundancy agreement for Grey Book staff.