

## Divisions Affected –

### REMUNERATION COMMITTEE

– 16 OCTOBER 2023

## Proposal for Organisational Change Resulting in Proposed Redundancy

### Report by Corporate Director – Environment and Place

#### RECOMMENDATION

1. The Remuneration Committee is **RECOMMENDED** to
  - a) Approve the potential payments set out in this paper.
  - b) Recommend to Full Council that such potential payments are approved.

#### Executive Summary

2. On 12 May 2022, statutory guidance was released which provides further clarity on the approval processes required within local government when severance payments are made, which are referred to in that guidance as “special severance payments”. This supplements earlier guidance issued under the Localism Act 2011 on severance payments including those that are contractual and required by legislation such as the Local Government Pension Scheme (LGPS), where such payments reach a threshold of £100,000. Full details of the requirements and eligibility for redundancy were included in the paper to Remuneration Committee on 1 July 2022.
3. Environment and Place is going through a Transformation process which may result in staff at risk of redundancy where potential payments exceed the £100,000 threshold. Under the statutory guidance (see Legal Implications) and Pay Policy Statement (approved in February 2023), Remuneration Committee is asked to recommend the potential payments for endorsement by Full Council. ***Currently, there is a payment to one employee proposed within this paper.***

#### Exempt Information

4. The accompanying Annex A is exempt from publication as it includes sensitive and confidential information.

## Proposal

5. Annex A which is exempt from publication, sets out the detailed proposal relating to the proposed organisational change that may result in redundancy.

## Financial Implications

6. The cost of the proposed redundancy payment will be met from a central reserve in FY23/24. The employer pension strain cost can be met by the service budget. Within approximately 2 years and 7 months, the cost of the redundancy will be recouped by not paying this employee's salary.

Comments checked by:

Rob Finlayson, Finance Business Partner

## Legal Implications

7. On redundancy an employee with more than two years' continuous service is entitled to a statutory redundancy payment. In addition, Council employees are entitled to a contractual redundancy payment and those employees who are a member of the Local Government Pension Scheme will also have entitlements as a result of the LGPS Regulations if they are aged 55 or over when they are made redundant. These are entitlements which fall due as a consequence of contractual or statutory protections.
8. On 12 May 2022, the Department for Levelling Up, Housing and Communities published statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England. In summary the new guidance:
  - Defines Special Severance Payments as additional, discretionary sums paid on top of statutory and contractual redundancy or severance terms.
  - Gives examples of payments that are likely to be Special Severance Payments which includes payments reached under a settlement agreement to discontinue legal proceedings without admission of fault.
  - Gives examples of payments which may constitute Special Severance Payments including pension strain payments arising from employer discretions to enhance standard pension benefits and PILON payments.
  - Identifies payments which will not constitute Special Severance Payments including statutory redundancy payments and contractual redundancy payments whether applicable to compulsory or voluntary redundancy and whether agreed by collective agreement or otherwise, a pension strain cost where a member's retirement benefits become immediately payable without reduction, payments made as part of an ACAS early conciliation procedure and payments ordered by a court or tribunal or agreed as part of a judicial or non-judicial mediation. Provides an expected approval process for Special Severance Payments where any payment of £100,000 or more must be approved by full council,

payments of £20,000 and above but below £100,000 to be personally approved and signed off by the Head of Paid Service with a clear record of the Leader's approval and payments below £20,000 to be approved according to the authority's scheme of delegation (noting that it is expected that local authorities should publish their policy and process for approving these payments).

9. Whilst the contractual and statutory redundancy payment and pension strain cost referred to in this paper would not amount to a Special Severance Payment under the wording of the new statutory guidance, due to the impact of the Localism Act and earlier guidance issued pursuant to the Localism Act approval from Remuneration Committee and Full Council should currently be offered. Guidance under the Localism Act, issued on 12 February 2012 ("Openness and Accountability in Local Pay: Guidance under Section 40 of the Localism Act"), requires local authorities to be open and transparent in respect of terms and conditions and remuneration of senior officers' pay, particularly for officers earning more than £100,000. Supplementary guidance issued on 23 February 2013, suggests that Full Council should be given the opportunity to vote before large severance packages beyond a particular threshold are approved for staff leaving the organisation. As with salaries on appointment, the Secretary of State considered that £100,000 is the right level for that threshold. The £100,000 threshold needs to include all aspects of a severance payments such as payment in lieu of notice, accrued holiday, redundancy, and any costs of early access to pension (i.e. capital payments to the Fund). Approval is also required under the current wording of the Council's current Pay Policy Statement.

Comments checked by:

Catherine Herries-Smith, Employment Solicitor

## **Equality & Inclusion Implications**

10. The proposals contained within this report have been reviewed in accordance with the Council's duties under the Equality Act (2010) with no impacts identified.

Bill Cotton, Corporate Director

Annex: Annex A is EXEMPT on the basis it contains sensitive and confidential information.

Background papers: This report and Annex A will be retained by the Director of HR and OD.

Contact Officer: Bill Cotton, Corporate Director

September 2023