

REPORT FOR: **COUNCIL**

Date of Meeting:	16 September 2013
Subject:	Delegations to the Chief Officers' Employment Panel
Exempt:	No
Enclosures:	Appendix 1 - Draft Revised Terms of Reference for the Chief Officers' Employment Panel Appendix 2 - Draft Revised Council Pay Policy Statement 2013/14

Section 1 – Summary and Recommendations

This report seeks Council approval to delegate to the Chief Officers' Employment Panel the powers and duties to determine whether remuneration packages should be offered or severance payments made where the amount concerned is £100,000 or greater.

Recommendations:

Council is requested to agree, with effect 17 September 2013:

1. to amend the delegation to the Chief Officers' Employment Panel to include determination of any remuneration package of £100,000 or greater and;
2. to amend the delegations to the Chief Officers' Employment Panel to include determination of any payments on termination of employment of £100,000 or greater.
3. that a summary of any remuneration packages or payments on termination of employment amounting to £100,000 or greater approved by the Chief Officers' Employment Panel be reported for information to full Council.
4. the revised wording for the constitution (Appendix 1) and the Council's Pay Policy Statement 2013/14 (Appendix 2), which have been amended to reflect the changes set out above.

Section 2 – Report

- 2.1 The Localism Act 2011 (the Act) became statute in November 2011. The Act introduces the requirement for Local Authorities to agree and publish an annual Pay Policy Statement commencing 2012/13. The Department for Communities and Local Government (DCLG) also published statutory guidance on 'Openness and accountability in local pay'.
- 2.2 On 20th February 2013, the DCLG issued supplementary statutory guidance 'Openness and accountability in local pay: Guidance under section 40 of the Localism Act 2011'. Authorities in England are required to take account of the supplementary guidance when preparing their pay policy statements for 2013-14 and each subsequent financial year.
- 2.3 The DCLG guidance is that full Council should be asked to determine whether it wishes to vote on any remuneration package or payment on termination of employment of £100,000 or greater.
- 2.4 At its meeting on 16th February 2013, Council agreed the Pay Policy Statement 2013-14, which included that where payments on termination amount to £100,000 or greater, full council will be asked to determine whether it wishes to vote on the decision.
- 2.5 In accordance with the current Pay Policy Statement, at its meeting on 4th July 2013, Council were asked to consider a report seeking approval to payment of the contractual and statutory payments to an employee who had been given notice of the termination of their employment on the grounds of redundancy.
- 2.6 Following that meeting the Policy was reviewed and the Leaders of the Council and opposition groups have been consulted on the recommendations in this report.

Remuneration Packages

- 2.7 The Council already delegates authority to the Chief Officer Employment Panel to:
 - make recommendations to Council on the appointment of the Head of Paid Service
 - make appointments of Chief Officers in accordance with the Council's Pay Policy
- 2.8 In the main, only Chief Executive and Chief Officer appointments attract remuneration packages of £100,000 or more. However, the labour market for a small number of 'non-chief officer' posts is such that market supplements may be paid to attract and retain applicants with the required knowledge skills and experience, so that their total remuneration package is £100,000 or more.

- 2.9 It is therefore recommended that the Chief Officer Employment panel delegations be amended to include determination of any remuneration packages of £100,000 or greater, which will include those for non-chief officer posts.

Severance Payments

- 2.10 The statutory guidance states: *‘the components of relevant severance packages ...may include salary paid in lieu, redundancy compensation, pension entitlements, holiday pay and any bonuses, fees or allowances paid’.*
- 2.10 A significant proportion of the Council’s staff are members of the Local Government Pension Scheme and many have long pensionable service. Those aged 55 and over also have a statutory entitlement to payment of their pension benefits in the event that their employment is terminated on the grounds of redundancy or efficiency of the service. As a consequence although, in the main, only Chief Officers are likely to be entitled to redundancy payments of £100,000 or more, there are many more employees whose total severance payments, including pension entitlements would be £100,000 or more.
- 2.11 Every employee has a contractual entitlement to their redundancy payment and (where applicable) a statutory entitlement to their pension lump sum in the event they are made redundant. In reality, elected Members are therefore being asked to consider whether the employee should be made redundant.
- 2.12 Prior to consideration by elected members an ‘Officer Sub Group’ comprised of the Council’s Chief Financial (Section 151) Officer, Monitoring Officer and Chief Personnel Officer will have reviewed the proposed redundancy. The Officer Sub Group will only approve a redundancy where it is satisfied that the redundancy is in the best interests of the Council and that no reasonable alternative employment opportunities are available.
- 2.13 However, in order to comply with the Guidance it is recommended that the Chief Officer Employment panel delegations be amended to include determination of any severance payments where the amount concerned is £100,000 or greater.

Revised Terms of Reference for the Chief Officers’ Employment Panel

- 2.14 The draft terms of reference for the Chief Officers’ Employment Panel at Appendix 1 have been revised to incorporate the recommended delegations.

Other options considered

The recommended approach is consistent with many other local authorities who have delegated determination of remuneration packages or severance payments of £100,000 or greater to appropriate sub-committees. Not delegating the determination in these cases would require each case to be considered by full Council.

Arranging a full Council meeting is a much more complex and time consuming activity compared to arranging a Chief Officer Employment Panel. Therefore, recruitment or redundancy decisions would either have to be timed to coincide with scheduled Council meetings or special Council meetings called in the event that consideration was needed before the next scheduled meeting. Neither of these options is considered to be effective or efficient alternatives and they are not recommended.

There are arrangements by which urgent decisions can be considered by the Leaders of the Council and opposition groups. However, this is considered to be too far removed from the spirit of the Guidance and is not recommended.

Implications of the Recommendation

The powers and duties to determine whether remuneration packages should be offered or severance payments made (including, where applicable, PILON, redundancy payments and pension lump sum), where the amount concerned is £100,000 or greater will be delegated to the Chief Officer Employment Panel.

Equalities impact

There is no discernable equalities impact.

Legal comments

The Council has the discretion to delegate to subsidiary Committees and Panels such powers and duties as it considers appropriate to enable the effective discharge of its duties.

In accordance with Regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, the Licensing and General Purposes Committee issued the Council's mandatory policy statement on how redundancy payments are to be calculated. Until such time as a new policy statement is issued the discretionary compensation element of the payment is contractual.

The Council's Pay Policy Statement 2013/14 currently states 'where payments on termination amount to £100,000 or greater, full council will be asked to determine whether it wishes to vote on the decision.' In practice, the components of the severance package including pensions are contractual and any refusal to approve them would be a breach of contract and could result in a legal challenge for breach of contract and/or constructive dismissal.

Financial Implications

The cost of those posts where remuneration exceeds £100,000 must be contained within the relevant budget for the service.

The cost of redundancy payments must also be met from the service budget or from a provision included within the MTFS. Pension entitlements will be funded from the Pension Fund.

Section 3 - Statutory Officer Clearance

Name: Simon George	<input checked="" type="checkbox"/>	Chief Financial Officer
Date: 7 August 2013		
Name: Linda Cohen	<input checked="" type="checkbox"/>	On behalf of the Monitoring Officer
Date: 7 August 2013		

Section 4 - Contact Details and Background Papers

Contact:

Jon Turner, Divisional Director Human Resources, Development & Shared Services DD: 0208 424 1225

Background Papers:

Report to Council 28 February 2013 - Pay Policy Statement 2013/14
Report to Council 4 July 2013 - Severance payments of £100,000 or greater