

This Report will be made public on 4 March 2024

Report Number **P/23/07**

To: Personnel Committee
Date: 12th March 2024
Status: Non-executive Decision
Chief Executive: Dr Susan Priest
Chief Officer: Andrina Smith

SUBJECT: VOLUNTARY REDUNDANCY

SUMMARY: This report provides an update on the voluntary redundancy scheme which took place at the end of 2023 and provides information on the redundancy and pension costs for employee 14290.

REASONS FOR RECOMMENDATIONS:

Voluntary redundancy was agreed for employee 14920 in October 2023 however the final costs from the Local Government Pension Scheme have far exceeded the estimate meaning that this must now be brought to the attention of Council. This committee needs to be satisfied that the costs relate purely to the contractual obligations of the council when making a post redundant and officers recommend that council approve this decision.

RECOMMENDATIONS:

1. To receive and note Report P/23/07
2. To recommend to council that they note that the redundancy and associated costs for employee 14290 were agreed and paid from the Transformation Fund, as set out in the council report A/23/15 included in the 23/24 budget.

1. INTRODUCTION

- 1.1 In January 2023 the Taking Stock project commenced which culminated in a council-wide restructure starting in Q3 2023/24 with Council approving a £1.5m Transformation Fund in September 2023 (report A/23/15). Ahead of the restructure consultation starting it was agreed to run a Voluntary Redundancy scheme that would be open to all members of staff. This is in line with our Managing Organisational Change Policy which states that the Council will consider steps to avoid compulsory redundancies which include consideration of voluntary redundancy.
- 1.2 The Corporate Leadership Team considered all of the applications received for Voluntary Redundancy in October 2023 and agreed for 13 to be progressed and the employees issued the relevant notice letter taking account of their contractual statutory notice periods.

2. COSTS ASSOCIATED WITH REDUNDANCY

- 2.1 Before making any decisions associated with voluntary redundancy, in April 2023 the HR Team applied to the Kent Pension Fund (KPF) of the Local Government Pension Scheme (LGPS) for **a bulk estimate** of all employees who would be 55 years or over on 31st October 2023. A bulk estimate is the process recommended by the LGPS when requesting information for more than 5 employees at one time. The bulk estimate included employee 14290 who had been employed by F&HDC since November 2017. This request is in line with LGPS requirements as only one full pension estimate can be requested by the employer within a 12 month period. It is important for any employee to have the most up to date information relating to their pension in the last few weeks running up to their actual leaving date, therefore it is standard practice for a local authority to request a bulk estimate rather than a **full pension estimate**.
- 2.2 The pension estimate that was provided for employee 14290 was £64,075.89, and their redundancy payment of £9,616.56 was under the financial threshold requirement (of £100k) to advise this committee and subsequently council of the costs being incurred for the voluntary redundancy. In addition, based on the employee's annual salary, the payback period for these payments was 13.5 months which was well within the 24 month payback limit set by CLT. Therefore CLT agreed that this employee could leave under voluntary redundancy and, based on the relevant notice period, the leaving date was agreed as 30th November 2023.
- 2.3 In October, once the employee had signed agreement to the termination of their contract on 30th November 2023 by way of voluntary redundancy, the HR team immediately notified the KPF for final confirmation for the full cost of the pension strain due to the employee being over the age of 55.

- 2.4 The detailed full cost was not received from KPF until 2nd February 2024 when the final cost of the pension strain was stated as being £151,305.17, significantly more than the estimate of £64,075.89 given in October 2023.

Added to the redundancy cost of £9,616.56 paid to the individual, this means the total cost to the council is £160,921.73, well above the financial threshold of £100K for reporting and approval purposes.

- 2.5 This drastic increase in the cost of the pension strain for employee 14290 was immediately questioned and challenged by the HR Team. Of note is that when the bulk estimate costs were received there were no 'red flags' against this employee to indicate that there may be ongoing work or underlying issues that would lead to the estimate changing by KPF to any large degree, as is normal practice.
- 2.6 Of course, with any estimate, it is feasible that it will change to a small degree either increasing or decreasing however it is worth noting that of the other 7 voluntary redundancies recently agreed for employees aged 55 or over, **all have come in at a lower amount** than the initial bulk estimate due to the actual leaving date being later than the estimated 31st October 2023.
- 2.7 Under the LGPS, the normal retirement age for members is based on their state pension age. In redundancy situations unreduced benefits are payable immediately if the member is aged 55 or over and the employer **must** cover the cost of paying the pension benefits early – this is what is called the Pension Strain.

2.8 Pension Strain Explanation

The funding of a pension scheme is based on all members retiring at their normal retirement age and receiving their benefits for a certain number of years. If benefits are paid before they were expected to be, the pension fund suffers a detriment resulting in a 'strain' on the pension fund.

As an example:

Based on a normal retirement age of 67 with a life expectancy of 90, the LGPS will expect to pay the members pension for 23 years.

If the member retires at 60, then the pension is going to have to be paid for 30 years which is 7 years longer than planned and therefore there will be a shortfall of monies in the fund.

This means that:

- Either the member's pension needs to be reduced, or
- An extra amount of money needs to be paid into the fund by the employer to allow the pension to be paid for a longer period.

The actual pension strain cost depends on the individual member as the amount is based on several factors including age and gender with the calculation formula determined by the Government Actuary.

The employer is responsible for covering the pension strain cost in the following situations:

- If a member is made redundant or leaves on efficiency grounds and is aged 55 or over
- If a member is retired at age 55 or over on flexible retirement grounds
- If the employer chooses to waive a member's actuarial reduction and the member has left on flexible retirement.

If a member chooses to retire and take their LGPS pension before their normal retirement age then there is no cost to the employer and an actuarial reduction is applied to the members pension which could be as much as 30%.

2.9 Therefore in the current situation relating to employee 14290, as this is a true redundancy situation with the post being deleted from the council's organisational structure, F&HDC have no option but to pay the pension strain cost to KPF.

3. ADDITIONAL RELEVANT INFORMATION

3.1 When KPF were initially challenged by the HR Team, their response was that employee 14290 'had been employed by 2 previous authorities and under the regulations as these periods of membership started after 1st April 2014 these funds are automatically transferred across. We were initially aware of one of them but the 2nd one only came to light when we started the full estimate process'.

3.2 Upon further challenge by myself, KPF have stated that 'when the scheme member started they declared a period of pensionable employment working in Waltham Forest in 2017. No action was taken [by KPF] to apply for any details and unfortunately the handwriting on the declaration is so poor it is not immediately obvious that this was Local Authority membership and part of our scheme...The authority prior to Waltham Forest was not declared at all and it is not clear whether the membership was declared to Waltham Forest...Despite several annual illustrations detailing only Kent membership, [employee 14290] never raised a concern or highlighted that previous membership had not transferred.'

3.3 The HR Team had kept a copy of the LGPS declaration form completed in 2017 on the employee's personnel file (see excerpt below) and whilst the handwriting is not completely clear, the words 'Council' and 'Waltham Forest' are relatively clear along with the 'yes' option indicated to the question 'are you interested in investigating a transfer' yet KPF took no action.

Name of previous Pension Provider(s)	Place of Employment and Post held	Date Started	Date Ceased	Are you interested in investigating a transfer?	Were you paying additional contributions?
Woodward Council On the Waltham Forest	WALTHAM FOREST	4-9-17.	11-9-17.	YES/NO	YES/NO

- 3.4 If the employee had been contacted for clarity on the information provided, or the employee had queried their annual pension illustration from LGPS, the current situation would have been avoided.
- 3.5 It is worth highlighting that we are not the only authority to have experienced this problem in recent times. Having spoken to the Assistant Director (HR, Customer Services, Communications & Digitalisation) at Ashford Borough Council as part of the annual payroll delegation review, it emerged that they have had 2 similar occurrences with one taking over a year to resolve (and during this time the employee could not receive their pension payments) and one increasing by a higher amount than the one set out in this report for employee 14290.

The Kent HR Network meets several times per year and our intention is to raise awareness of this amongst our networks. The Chief Executive has also raised the matter with other Chiefs across Kent in an attempt to highlight this potential risk.

4. FUTURE MITIGATION

- 4.1 Whilst the current situation could not have been avoided by the HR Team due to inaction by KPF, we can learn from this and take some mitigating steps for the future.
- The quickest action will be to contact all of our employees who started after 2014 and contribute to the LGPS (which is when the regulations changed to automatic amalgamation of previous LGPS pensions) to alert them to check their annual illustrations and raise any relevant queries to the KPF ensuring any expected pension memberships have been accurately transferred.
 - In addition, when dealing with any future redundancy situations the HR Team will actively check an employee's previous employment history if they started after 2014 and query with KPF directly to ensure that any previous local government pensions have either been amalgamated or a conscious decision has been taken by the employee not to amalgamate.

These steps will be kept under review and any other potential additional mitigating factors will be considered and implemented.

5. SUMMARY OF COSTS

- 5.1 The redundancy payment is £9,616.56 and the final cost of the payment to be made to the Local Government Pension Scheme is £151,305.17. Therefore the total cost to the council is £160,921.73.
- 5.2 Under the annually approved Pay Policy Statement there is a requirement to advise and seek approval from the Council of all payments to be made to an employee (which currently includes pension costs) when the total of those costs exceed £100,000.

6. LEGAL / FINANCIAL AND OTHER CONTROLS / POLICY MATTERS

6.1 Legal Officer's Comments (AK)

The legal position is set out within the main body of the report.

6.2 Finance Officer's Comments (LM)

It is proposed to meet the cost from the available Transformation Fund as the post has been deleted as a result of the Council's restructuring transformation programme.

6.3 Diversities and Equalities Implications (ASm)

There are no specific Diversities and Equalities Implications arising from this report.

7. CONTACT OFFICER AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

Andrina Smith, Chief Officer – People & Customer Services
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The following background documents have been relied upon in the preparation of this report:

None