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Audit and Procurement Committee

25 January 2017

**Name of Cabinet Member:**

Cabinet Member (Strategic Finance & Resources) – Councillor J Mutton

**Director Approving Submission of the report:**

Chief Executive

**Ward(s) affected:**

None

**Title:**

**Approval Process for ER/VR Applications by Audit & Procurement Committee**

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**Is this a key decision?**

No

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**Executive Summary:**

In accordance with section 40 of the Localism Act 2011, the Secretary of State for Communities and Local Government issued guidance regarding “Openness and accountability in local pay”. The guidance (which local authorities must have regard to) provides for elected Members to be offered the opportunity to vote before large salary packages are offered in respect of a new appointment and large payments are offered to staff before leaving the authority. The Secretary of State considered that £100,000 was the appropriate threshold for salary and severance packages requiring approval.

The Council’s Audit and Procurement Committee are therefore required under the Council’s Constitution to determine any salary or severance package for an employee of the Council of £100,000 or over, or such other sum as determined by legislation in respect of any new appointment or severance package.

This report considers the approach that the Council has adopted to date in determining the value of exit packages and proposes a different approach to improve openness and transparency in respect of such packages.

**Recommendations:**

Audit and Procurement Committee is recommended:

- (1) To request Officers to report all exit packages where the benefits to be paid the employee and the cost to the Council exceed £100,000 to the Audit and Procurement Committee for approval.

**List of Appendices include:**

None

**Other useful background papers:**

None

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

No

## **Report title: Approval Process for ER/VR Applications by Audit & Procurement Committee**

### **1. Context (or background)**

- 1.1 In accordance with section 40 of the Localism Act 2011, the Secretary of State for Communities and Local Government issued guidance regarding “Openness and accountability in local pay”. The guidance (which local authorities must have regard to) provides for elected Members to be offered the opportunity to vote before large salary packages are offered in respect of a new appointment and large payments are offered to staff before leaving the authority. The Secretary of State considered that £100,000 was the appropriate threshold for salary and severance packages requiring approval.
- 1.2 The Council’s Audit and Procurement Committee is, therefore, required under the Council’s Constitution to determine any salary or severance package for an employee of the Council of £100,000 or over, or such other sum as determined by legislation in respect of any new appointment of severance package.
- 1.3 The guidance states when presenting the information regarding severance packages to Audit and Procurement Committee, the components of the severance package must be set out clearly. Such components may include salary paid in lieu, redundancy compensation, pension entitlements, holiday pay and any bonuses, fees or allowances paid.
- 1.4 Historically, Audit and Procurement has been asked to approve severance packages where the entitlement to be received by the employee exceeds £100,000. This is consistent with the guidance, which was aimed at increasing transparency in public sector pay, particularly in relation to the highest paid officers.
- 1.5 In May 2016, the Enterprise Act 2016 received Royal Assent. This Act will make further changes to public sector exit payments in order to increase openness and transparency but also to ensure that exit packages deliver best value for money for local taxpayers. The changes, which are yet to come into force will include capping the value of exit packages at £95,000. When calculating the value of an exit package, it is anticipated that local authorities will be expected to calculate and include the costs to the authority as well as payments/benefits to the employee.
- 1.6 This means that pension strain costs will need to be included within the calculations. Pension strain is an additional one-off sum that an employer is required to pay to the Pension Fund in order to allow the early release of pension benefits without actuarial reduction.
- 1.7 Where previously Member approval has been required to approve the exit packages for the most senior, highest paid officers, these changes will mean that less senior officers with significant length of service will be covered by the new rules. For example, the severance package of a Grade 6 officer over 55, with 36 year’s service comprises £20,000 redundancy and over £80,000 in pension strain, taking the whole exit package over £100,000.
- 1.8 Prior to the enactment of the Enterprise Act 2016, there has been significant public debate and commentary on the approach taken in relation to public sector exit payments and the importance of accountability, transparency and value for money. Officers have had regard to this commentary, particularly in relation to its current ERVR programme and whether or not ERVR packages, which reach the £100,000 threshold when pension strain is included should be approved by the Audit and Procurement Committee.

## **2. Options considered and recommended proposal**

### **2.1 Only seek approval from the Audit & Procurement Committee for exit packages where the benefits payable to the employee exceed £100,000 (not recommended).**

The Council could maintain the status quo and continue to only seek approval from the Audit and Procurement Committee in relation to exit packages where the benefits payable to the employee exceed £100,000 until the provisions of the Enterprise Act 2016 requiring the inclusion of pension strain/costs to the Council within the calculation come into effect. This is not recommended because this means that the audit committee would consider only exceptional redundancies such as the redundancy of a Director level post, and this is clearly not in the spirit of the guidance. This is borne out by the fact that only one redundancy package has been considered by the Committee.

### **2.2 Seek approval from the Audit & Procurement Committee for exit packages where the benefits payable and the costs to the Council exceed £100,000 (recommended).**

It is recommended that Audit and Procurement Committee are required to authorise all exit packages where the benefits payable to the employee and the cost to the Council exceed £100,000. Whilst this will encompass some less senior, lower paid employees than previously covered by such arrangements, it is important that the Council is transparent as to the cost of all exit packages, particularly in light of the current ERVR programme, which is due to close on 31 January 2017. This approach is consistent with the anticipated changes under the Enterprise Act 2017.

## **3. Results of consultation undertaken**

- 3.1 There has been no consultation on this issue. The changes proposed are reflective of the forthcoming legislation as outlined in the HM Treasury consultation on Public Sector Exit Payment Caps. It is intended that this will be shared with unions for information.

## **4. Timetable for implementing this decision**

- 4.1 If approved by Audit and Procurement Committee, the change in approach will come into effect immediately and relevant applications under the current round of ERVR, which meet the £100,000 will be considered by Audit and Procurement accordingly.
- 4.2 Whilst the Enterprise Act 2016 has received Royal Assent, the provisions and Regulations in relation to Exit Payments are yet to come into force.

## **5. Comments from Executive Director, Resources**

### **5.1 Financial implications**

There are no direct financial implications associated with report and no proposal to change the way in which the actual costs and payments relating to severance packages are calculated.

It should be noted that one-off severance costs are generally met from reserves which have been specifically earmarked and set aside for the purpose of meeting these costs and which then allow immediate savings to be made in revenue budgets once posts have been deleted.

The costs of severance, particularly redundancy and pension strain costs, are influenced by final and average salary levels, age and length of service. As a result, the costs of severance can vary significantly even for members of staff in jobs which are graded very

similarly. The average cost of severance usually equates to approximately 1 years' average salary when viewed in the round. Clearly there can often be significant variations to this when severance packages are viewed on an individual case by case basis.

## **5.2 Legal implications**

The Guidance "Openness and accountability in local pay" was introduced by the Secretary of State for Communities and Local Government in accordance with section 40 of the Localism Act 2011. Local Authorities are required to have regard to this guidance in performing their functions in preparing and approving pay policy statements.

Part 21 of the Council's Constitution "Functions of the Audit and Procurement Committee" reflect the requirement for Members to approval exit packages which reach the threshold of £100,000. The recommendations in this report clarify how that requirement is to be interpreted going forward.

The Enterprise Act 2016 makes further provision in relation to salary and exit packages for local authority employees and reduces the threshold from £100,000 to £95,000. These provisions and associated Regulations are not yet in force. Officers are considering the implications of the new requirements and will ensure that any necessary changes to the Council's arrangements are made to coincide with them coming into effect.

## **6. Other implications**

*Any other specific implications*

### **6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?**

This proposal will ensure that the Council better operates in accordance with section 40 of the Localism Act 2011, the Secretary of State for Communities and Local Government issued guidance regarding "Openness and accountability in local pay".

It strengthens our corporate governance responsibilities and ensure greater levels of scrutiny on exit payments in accordance with the anticipated changes under the Enterprise Act 2016

### **6.2 How is risk being managed?**

This proposal is designed to mitigate risk by strengthening the governance arrangements around major employment costs. The proposals also bring the Council's governance arrangements in line with the expected provisions in the legislation.

### **6.3 What is the impact on the organisation?**

This change should impact positively on the governance of exit payments across the Council and fairness in decision making particularly in cases of voluntary redundancy.

### **6.4 Equalities / EIA**

An equality impact assessment is not required for the purposes of this report. However, all ERVR applications and Human Resources activity are conducted in accordance with the Council's Equal Opportunities policy and the Public Sector Equality Duty.

**6.5 Implications for (or impact on) the environment**

None

**6.6 Implications for partner organisations?**

None

**Report author(s):**

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