

Chief Officers – Changes to Terms & Conditions of Employment

Special Committee

Date: 5th November 2013

Author:	Leader of the Council and Head of People and Development
Wards:	All
Locality Affected:	All
Parishes Affected:	All

1. Purpose and Reasons

- 1.1 To seek Special Committee's endorsement, on behalf of the Council, to changes in the terms and conditions of employment for existing Chief Officers.
- 1.2 The Head of People and Development does not hold specific delegated powers, under the Council's Scheme of Delegations, to agree this degree of change to the Chief Officers' terms and conditions of employment.

2. Recommendations

The Special Committee on behalf of the Council:

- 2.1 Approves the buy-out of the performance related pay element for existing Chief Officers by offering an increased contractual minimum employer notice period from three to six months. Notice required by the employee will remain at three months.
- 2.2 Agrees the implementation of a matrix approach to determine the level of severance payments made to existing Chief Officers as shown in Appendix 1.
- 2.3 Recommends that a separate review of terms and conditions for new Chief Officers be made in order that our offer allows us to be competitive in the recruitment market, whilst taking account of the wider financial context we are working in, recognising that it would be no more generous than that for existing Chief Officers
- 2.4 That the changes set out in 2.1 and 2.2 become effective with effect from 11 November 2013.

3. Detail

- 3.1 Swindon Borough Council currently has 20 employees on Chief Officer Terms and Conditions of Employment, including the Chief Executive and Board Directors.
- 3.2 In June 2005, as part of the Executive Pay Strategy approved by Full Council, agreement was given for a performance related element of pay to be introduced for Chief Officers, designed to encourage and reward performance beyond the norm. This has a value of up to 15% of salary for the Chief Executive and Board Members and up to 10% of salary for other Chief Officers. As part of the

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- negotiation to implement this change, Chief Officers agreed to a reduction in the level of their annual leave entitlement.
- 3.3 The entitlement to these payments remains but no payments have been made for the last four years and it is not anticipated that the Council will be in a financial position to make payments in the future.
- 3.4 Existing contracts of employment agree a three month notice period for either party (with the exception of the Chief Executive, where it is six months).
- 3.5 The Local Government Chief Officers' handbook states that notice periods for Chief Officers will normally be 3 months but it also gives local authorities discretion for notice periods for Chief Officers to be changed by mutual agreement.
- 3.6 Following consultation with senior councillors it was proposed that a "buy-out" of the performance related pay be put to existing Chief Officers, with an offer to replace this benefit with an increase to the level of notice the Council would give, should there be a requirement to terminate employment.
- 3.7 In line with legal requirements for a change to contractual terms and conditions of employment, this proposal was consulted on with Chief Officers and no objections were raised.
- 3.8 The Council has made a number of severance payments to Chief Officers over the last few years. In addition to consulting with external advisors in order to promote a level of consistency across the region, individual factors have been taken into account when agreeing the sums, including length of service, reasons for leaving, precedence, risk of challenge to the organisation, etc. Payments have varied between 6-12 months of salary, including pay in lieu of notice (PILON).
- 3.9 The Council has an obligation to make a statutory redundancy payment and does this for all staff. Under the terms and conditions for Chief Officers, the Council is obliged to bear in mind its powers to make an enhancement to this basic payment and the severance payment proposed for Chief Officers in this report is in addition to this basic payment.
- 3.10 Under Regulations 5 and 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, the Council has the power to make an additional lump sum severance payment of up to two years pay in cases of redundancy.
- 3.11 The number of our senior officers has reduced significantly over the past few years and we are asking more and more of them. It is more likely, now than ever, that the reason for someone senior to leave the organisation has no bearing on their personal performance and in order to retain capable leaders to
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work within this environment, a key motivator can be the knowledge of a degree of security should they be required to leave.

- 3.12 To that end, it is suggested that the criteria set out in the matrix approach outlined below be adopted. to determine the level of payment that would be make should we require a Chief Officer to leave the organisation. Detail of the matrix is shown in Appendix 1 and in summary, it includes consideration of:

3.12.1 Length of service as a Chief Officer.

3.12.2 Whether a holder of a statutory post (as listed).

3.12.3 The extent of responsibility and level of risk.

3.12.4 There is also the option to apply flexibility to manage high risk through a compromise agreement.

- 3.13 All decisions on the level of payments will be based on the matrix and will continue to be submitted for approval to by Full Council by way of its Special Committee.

4. Alternative Options

- 4.1 To retain the option of performance related pay element, in the knowledge that it is extremely unlikely payments will be made.
- 4.2 To retain the current approach, without reference to a matrix.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 The current potential annual value of the performance bonus scheme is c£200,000 per annum. An additional 3 months' notice, which will be paid only if it is agreed that the individual will leave before their notice period expires and, in these circumstances as a one-off payment, will be in the region of £18k - £35k per Chief Officer. Severance payments, on the application of the matrix to existing Chief Officers would require one-off payments of between 1-9 months' salary, which would be in addition to pay in lieu of notice if this has been agreed.

Legal and Human Rights Implications

- 5.2 Legal and Human Rights considerations have been taken fully into account in compiling this report. It is considered that the recommendations of this report are compatible with convention rights.

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All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 No other specific implications were identified in the preparation of this report.

Links to One Swindon, Strategic Objectives, Plans and Policies

- 5.4 No specific links were identified in the preparation of this report.

Diversity Impact Assessment

- 5.5 It was not considered necessary to undertake a full Diversity Impact Assessment in respect of this report as it does not impact on services. However, equality and diversity implications have been considered in the development of this report.

Risk Management

- 5.6 No specific, unmitigated risks were identified in the preparation of this report.

6. Consultees

- 6.1 The Board Director Resources (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

7. Background Papers

- 7.1 None.

8. Appendices

- 8.1 Appendix 1 – Proposed Matrix to Determine the Level of Enhancement for Chief Officer Severance Payments.