

Public Document Pack

SOLIHULL METROPOLITAN BOROUGH COUNCIL

Remuneration Committee

Monday 14th December at 4pm

ARRANGEMENTS FOR PUBLIC ACCESS TO REMOTE MEETINGS

During the Covid 19 pandemic virtual meetings are taking place.

PLEASE NOTE that any member of the press and public may listen to proceedings at this virtual meeting via a weblink which will be publicised on the Council website at least 24hrs before the meeting.

To view live paste this link into your browser:

<https://www.youtube.com/channel/UC7DDSVoAlgTnwgp0Ku8iFLQ>

Members of the press and public may tweet, blog etc. during the live broadcast, as they would be able to during a regular Committee meeting in the Council Offices. It is important, however, that Councillors can discuss and take decisions without disruption, so the only participants in this virtual meeting will be the Councillors concerned and the officers advising the Committee.

Disclosing Pecuniary Interests - What Must You Do?

(a) You must complete a declaration of your disclosable pecuniary interests, including those of your spouse/civil partner (or someone with whom you are living as such) and send it to the Monitoring Officer within 28 days of your election or appointment to the Council.

(b) When you attend a meeting of the Council, Cabinet, Scrutiny Board, Committee, Sub-Committee or Joint Committee etc, and a matter arises in which you have a disclosable pecuniary interest, unless you have been granted a dispensation, **you must:**

- Declare the interest if you have not already registered it
- Not participate in any discussion or vote
- Leave the meeting room until the matter has been dealt with
- Give written notice of any unregistered interest to the Monitoring Officer within 28 days of the meeting

(c) If you are the Leader or a Cabinet Portfolio Holder you may not exercise any of your delegated powers as a single member in relation to a matter in which you have a disclosable pecuniary interest or take any other step except to give written notice of any unregistered interest to the Monitoring Officer within 28 days of your becoming aware of the interest, or arrange for another person or body to deal with the matter.

Disclosable Interest	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain by you or your partner.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within 12 months of your declaration of interests in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.
Contracts	Any contract between you or your partner (or a firm or body corporate in which you or your partner is a partner or a director, or in the securities of which you or your partner has a beneficial interest) and the Council (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the Council and which gives you or your partner a right to occupy the land or receive income.
Licences	Any licence held by you or your partner (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
Corporate tenancies	Any tenancy where (to your knowledge)— (a) the landlord is the Council; and (b) the tenant is a body in which you or your partner has a beneficial interest i.e. a firm or body corporate in which you or your partner is a partner or a director, or in the securities of which you or your partner has a beneficial interest.
Securities	Any beneficial interest held by you or your partner in securities of a body where— (a) that body (to your knowledge) has a place of business or land in the area of the Council; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class. “securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

SOLIHULL METROPOLITAN
BOROUGH COUNCIL

To:
Councillors R Sleigh OBE (Chairman),
K Meeson (Vice-Chairman), A Adeyemo,
M Brain, S Caudwell, I Courts,
T Richards OBE and Ms M Hurt

NICK PAGE
CHIEF EXECUTIVE

Council House, Manor Square
Solihull, West Midlands. B91 3QB
Tel. 0121-704 6000

Joe Suffield
Tel: 0121 704 6104
Email: joe.suffield@solihull.gov.uk

Date Friday 4th December 2020

REMUNERATION COMMITTEE - Monday 14 December 2020

AGENDA

Mayor/Chairman of the meeting to announce:

'May I remind everyone present that this meeting will be broadcast live via the internet.'

1. **APOLOGIES**
2. **DECLARATIONS OF INTEREST**
3. **QUESTIONS AND DEPUTATIONS**

To answer questions, if any, asked by any resident of the Borough pursuant to Standing Orders

4. **MINUTES OF LAST MEETING** (Pages 5 - 6)

To approve the minutes of the meeting held on 26th October

5. **PUBLIC SECTOR EXIT PAYMENTS** (Pages 7 - 12)

To provide the Remuneration Committee with an update on the Public Sector Exit Cap Regulations and their implications for the Council.

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REMUNERATION COMMITTEE - 26 October 2020

REMUNERATION COMMITTEE

26 OCTOBER 2020

Present: Councillors: M Brain, S Caudwell, I Courts, K Meeson (Vice-Chairman),
T Richards OBE and R Sleigh OBE

Officers: Julie Cooper – Head of Financial Operations
Tracey Ellis – HR Business Manager
Alison McGrory – Assistant Director for Economy and Infrastructure
Joe Suffield – Democratic Services Officer

1. **APOLOGIES**

Apologies were received from Mrs Hurt and Cllr Adeyemo.

2. **DECLARATIONS OF INTEREST**

No declarations of interests were received.

3. **QUESTIONS AND DEPUTATIONS**

There were no questions or deputations.

4. **MINUTES OF PREVIOUS MEETING**

The minutes of the meeting held on 21 January 2020 were presented for approval.

RESOLVED

That the minutes of the meeting held on 21 January 2020 were agreed as a correct record.

5. **SEVERANCE CASES APPROVED 2019/20**

The Committee was informed of the Severance cases approved during 2019/20.

Members were reminded that Severance Reserve was only utilised when there were significant costs, either arising from large scale restructuring and change programmes or where the service could not be expected to fully fund these costs. Funding from the Severance Reserve had to be approved by the Corporate Leadership Team (CLT). Services funded by grant (including Dedicated Schools Grant) were still expected to fully fund all of the costs relating to any of their early leavers, unless an exception to the rule was agreed.

REMUNERATION COMMITTEE - 26 October 2020

A breakdown of the severances were listed in Appendix A to the report, and the total cost of the 57 cases was £1.182m, and needed to be viewed in the context of the savings identified as part of the MTFs which was targeted at £11.167m for 2019/20.

A Member asked about whether there had been plans put in place to prepare for the cap. The HR Business Manager explained that the implications of these changes had been considered for the future.

RESOLVED

- a) That the committee noted the report.
- b) A report would be taken to a future Remuneration Committee meeting on the changes to the pension cap.

6. STRONGER COMMUNITIES RESHAPE

The committee were invited to support the severance costs associated with the reshape of the Stronger Communities Division as laid out in the report.

Following a review of the Neighbourhood and Regulatory Service function, a new staffing structure commenced on 1 April 2020. This included the proposal that the role of Office Manager was no longer required and should be deleted as part of this management of change.

The employee had been consulted under the Council's Management of Change Policy since the start of this process and had been on the First Consideration Register since February 2020; First Consideration would provide priority access to job opportunities to enable redeployment wherever possible. The transition to the new structure had taken place and to date, no suitable redeployment opportunities had been identified.

The annual salary for the employee, including on-costs was £39,148. The total cost of severance based on a leaving date of 31 October 2020 was £45,275.48 and included a redundancy payment of £30,630.42 and a pension strain of £14,645.06.

RESOLVED

That the Committee approved payment of severance costs outlined in section 5.4 of the report.

The meeting finished at 3.15 pm

Meeting date: 14 December 2020
Report to: Remuneration Committee
Subject/report title: Public Sector Exit Payments
Report from: Director of Resources and Deputy Chief Executive
Report author/lead contact officer: Adrian Cattell (Head of Human Resources)
acattell@solihull.gov.uk



Wards affected:

- All Wards | Bickenhill | Blythe | Castle Bromwich | Chelmsley Wood |
 Dorridge/Hockley Heath | Elmdon | Kingshurst/Fordbridge | Knowle |
 Lyndon | Meriden | Olton | Shirley East | Shirley South |
 Shirley West | Silhill | Smith's Wood | St Alphege

Public/private report: Public

Exempt by virtue of paragraph:

1. Purpose of Report

- 1.1 To provide the Remuneration Committee with an update on the Public Sector Exit Cap Regulations and their implications for the Council.

2. Decision(s) recommended

- 2.1 The Remuneration Committee is asked to note the contents of the report in advance of receiving an updated Pay Policy Statement for consideration at its meeting on 26 January 2021.

3. Matters for Consideration

- 3.1 In 2015 the government first announced plans to introduce a cap on exit payments in the public sector. The cap applies to the total amount payable when someone exits and so applies to the total of severance payments, any pension strain cost and notice payments in excess of three months.
- 3.2 The implementing regulations came into effect from 4 November 2020.
- 3.3 The regulations consist of three separate elements:

1. The implementation of a £95,000 cap on public sector exit payments, including employer contributions to pension costs. There is no provision for this figure to be index-linked.
 2. Reform of the Discretionary Compensation Payments Regulations and Local Government Pension Scheme Regulations to place additional restrictions on severance payments and limit the amounts an employer can contribute to pension strain costs where an employee aged 55 or over draws their pension early as a result of exiting.
 3. Proposals to require high earners to repay severance payments if they secure re-employment in the public sector within 12 months.
- 3.4 The proposals to require high earners to repay exit payments if they return to the public sector have previously been consulted on but there has been no further indication of if and when this proposal will be implemented. Therefore, the two most important issues currently are the implementation of the £95,000 exit payment cap and the proposed reform of the Discretionary Compensation Payments Regulations and Local Government Pension Scheme Regulations.

Directions and Guidance (HM Treasury)

- 3.5 On 29 October HM Treasury published its guidance on the Exit Cap Regulations and its Direction on the relaxation of the cap, also known as waivers.
- 3.6 Under the Direction there is a mandatory relaxation of the Regulations where the payment relates to a complaint that an employment tribunal has the jurisdiction to consider under the whistleblowing provisions of the Employment Rights Act 1996, the discrimination provisions of the Equality Act 2010, or health and safety related detriment and dismissal claims.
- 3.7 Discretionary relaxations could also apply where the Decision Maker (full council) is satisfied:
- that not exercising the power would cause undue hardship
 - that not exercising the power would significantly inhibit workforce reform
- 3.8 The Guidance sets out that where the Council exercises the discretionary power to relax the cap it has to submit a business case to MHCLG for approval by the Principal Accounting Officer (the Permanent Secretary) and the Minister before it is then submitted to HM Treasury for approval. In the case of a mandatory relaxation the authority does not need HM Treasury approval but still needs MHCLG approval. Waivers exercised must be published.

Legal Challenges to the Regulations

- 3.9 There are currently four known potential legal challenges to the Exit Cap Regulations by means of Judicial Review. Pre-action correspondence has been issued by the

BMA, UNISON, GMB and Lawyers in Local Government /SOLACE/ALACE. Whilst further developments are awaited the Regulations took effect on 4 November 2020.

Implications

- 3.10 Considerations for the Council in relation to pension strain payments prior to the LGPS rules being amended are detailed below.

Pension Strain Payments

- 3.11 Any pension paid to an employee, including an entitlement to an unreduced pension is not payable by the employer – instead it is payable by, and the responsibility of, the LGPS administering authority. The LGPS administering authority can though then request a strain payment from the Council, which could be a sum which would result in a breach of the £95k cap. Under the Exit Cap Regulations, employers can make a strain payment up to that amount, allowing for the value of other exit payments made to this individual.
- 3.12 To ensure that employees who are not subject to the cap continue to receive an unreduced pension, the Council will notify the LGPS administering authority of any employees who are subject to the cap (including strain cost) prior to the exit.
- 3.13 A letter dated 28 October from MHCLG Minister, Luke Hall, sent to LGPS administering authorities and local authority chief executives, set out the government's view that the Exit Pay Regulations effectively curtail the use of LGPS Reg 30(7) to pay an immediate unreduced pension when the cap is breached. According to this view, a 'capped' member should only receive an immediate pension under LGPS Reg 30(5) (with actuarial reductions applied), or a deferred pension, together with a 'cash alternative' payable by the employer under Reg 8 of the Exit Cap Regulations.
- 3.14 Employers and LGPS administering authorities have been advised that they need to take their own legal advice on what to do in the period between the Exit Cap Regulations coming into force on 4 November and the LGPS Regulations being amended early next year to expressly remove the entitlement to an unreduced pension under Reg 30(7) which would result in a breach of the cap. However, subject to any such advice, LGE have indicated that opinion which is based on the legal advice it has obtained, is:
- “the course of action presenting the least risk to both LGPS administering authorities and scheme employers is for the:
- LGPS administering authority to offer the member the opportunity to take a deferred benefit under LGPS regulation 6 or a fully actuarially reduced pension under LGPS regulation 30(5)
 - Scheme employer to delay the payment of a cash alternative under regulation 8 of the Exit Cap Regulations”
- 3.15 It is for the LGPS administering authority, not the employer, to decide whether to pay an unreduced pension or a reduced pension. The Council will need to ensure the

LGPS administering authority has confirmed what it intends to do, and that the employee understands the position.

Reform of Discretionary Compensation Payment Regulations and Local Government Pension Scheme Regulations

3.16 The proposed changes include:

- Capping severance payments at a maximum of 3 weeks' pay per year of service or 15 months' salary
- Imposing a maximum salary level on which calculations for severance pay can be based (currently £80,000)
- No severance will be payable if the member receives an immediate pension with a payment made by the employer to cover the cost of early release of pension
- The amount available for any strain cost will be reduced by the statutory redundancy payment
- Making the necessary changes to the Local Government Pension Scheme to cater for these changes and the effects of the broader £95,000 cap.

Multiple Exits

3.17 Where an employee leaves more than one public sector employment within a 28 day period, then the exit payments for both combined must be below the overall cap.

Solihull Community Housing

3.18 The regulations as currently drafted do not cover SCH or any other local authority owned/controlled companies. However, when the LGPS regulations are amended it is understood that this will apply to all scheme members.

4. What options have been considered and what is the evidence telling us about them?

4.1 A key consideration for the Council will be the need to design overall compensation policies in future that comply with the proposed restrictions, whilst still providing exit packages that work for employees.

4.2 The number of options available to employees will increase substantially, which we will need to communicate carefully. Employees are also much more likely to want to seek more guidance/advice around their various retirement options and in many cases there will be an inevitable tension between the attraction of the up-front redundancy cash and the longer-term pension enhancement.

4.3 Discussions on the proposals outlined in paragraph 3.16 remain ongoing, however these proposals could potentially affect many Council employees who face redundancy above the age of 55, not just high-earners. There remains however, significant uncertainty over some of the finer details encompassed within the proposals.

- 4.4 A revised Pay Policy Statement which will incorporate the known impacts of the exit cap is being developed and will be presented to the Remuneration Committee on 26 January 2021 and then Full Council on 2 February 2021 for approval.
- 4.5 A review of current policies and procedures that the exit cap has implications for, such as Management of Change is in progress. Where appropriate the revised policies will be considered by Governance Committee.
- 4.6 The Council currently administers in addition to the Local Government Pension Scheme arrangements for the NHS and Teachers and the implications of the cap on these schemes is currently being explored.

5. Reasons for recommending preferred option

5.1 N/A

6. Implications and Considerations

6.1 State how the proposals in this report contribute to the priorities in the [Council Plan](#):

Priority:	Contribution:
Economy: 1. Revitalising our towns and local centres. 2. UK Central (UKC) and maximising the opportunities of HS2. 3. Increase the supply of housing, especially affordable and social housing.	N/A
Environment: 4. Enhance Solihull's natural environment. 5. Improve Solihull's air quality. 6. Reduce Solihull's net carbon emissions.	N/A
People and Communities: 7. Take action to improve life chances in our most disadvantaged communities. 8. Enable communities to thrive. 9. Sustainable, quality, affordable provision for adults & children with complex needs.	N/A

6.2 Consultation and Scrutiny:

6.2.1 N/A

6.3 Financial implications:

6.3.1 The calculation of early retirement strain costs and associated pensions will be based on a set of standard Government Actuary's Department strain cost factors, which differ from those currently used by the Pension Fund. The implication of using one standard set of factors, is that strain costs payable by the Council may not be sufficient to fund the associated liabilities and consequently there may be a shortfall to address when assessed at each forthcoming statutory actuarial valuation.

6.4 Legal implications:

6.4.1 A legally compliant Pay Policy Statement will be presented to the Remuneration Committee on 26 January 2021. It is expected that the Pay Policy Statement will need to be revised later in 2021 when further details are known.

6.5 Risk implications:

6.5.1 The Council must ensure that any exit payment does not exceed the cap. Appropriate arrangements in terms of the management of exit payments have been put in place.

6.6 Equality implications:

6.6.1 The exit cap regulations are a statutory requirement that will impact on employees aged 55 and over. The gender representation of employees as at 31 October 2020 was 71.5% female and 28.5% male. This is in line with the gender split of the whole Council workforce.

7. List of appendices referred to

7.1 N/A

8. Background papers used to compile this report

8.1 N/A

9. List of other relevant documents

9.1 N/A