



## GOVERNANCE COMMITTEE

**TUESDAY, 8 DECEMBER 2020**

**11.00 AM (OR AT THE CONCLUSION OF THE CABINET, WHICHEVER IS THE LATER)**  
**ROOM CC2 – COUNTY HALL, LEWES**

**++Please note that this meeting will be taking place remotely++**

MEMBERSHIP - Councillor Keith Glazier (Chair)  
Councillors Nick Bennett, Godfrey Daniel, Rupert Simmons and David Tutt

### A G E N D A

- 1 Minutes of the meeting held on 10 November 2020 (*Pages 3 - 4*)
- 2 Apologies for absence
- 3 Disclosures of interests  
Disclosures by all members present of personal interests in matters on the agenda, the nature of any interest and whether the member regards the interest as prejudicial under the terms of the Code of Conduct.
- 4 Urgent items  
Notification of items which the Chair considers to be urgent and proposes to take at the appropriate part of the agenda. Any members who wish to raise urgent items are asked, wherever possible, to notify the Chair before the start of the meeting. In so doing, they must state the special circumstances which they consider justify the matter being considered urgent.
- 5 Voluntary Severance Scheme (*Pages 5 - 14*)  
Report by Chief Operating Officer
- 6 Any other items previously notified under agenda item 4

PHILIP BAKER  
Assistant Chief Executive  
County Hall, St Anne's Crescent  
LEWES BN7 1UE

30 November 2020

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NOTE: *As part of the County Council's drive to increase accessibility to its public meetings, this meeting will be broadcast live on its website. The live broadcast is accessible at:*  
[www.eastsussex.gov.uk/yourcouncil/webcasts/default.htm](http://www.eastsussex.gov.uk/yourcouncil/webcasts/default.htm)

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## GOVERNANCE COMMITTEE

MINUTES of a meeting of the Governance Committee held at County Hall, Lewes on 10 November 2020.

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PRESENT Councillors Keith Glazier (Chair), Nick Bennett, Godfrey Daniel, Rupert Simmons and David Tutt

++ The Committee took the decisions remotely ++

### 25 MINUTES OF THE MEETING HELD ON 28 OCTOBER 2020

25.1 RESOLVED – that the minutes of the previous meeting of the Committee held on 28 October 2020 be confirmed and signed as a correct record.

### 26 URGENT ITEMS

26.1 It was agreed that a report on proposed amendments to the scheme of delegations to officers in relation to adult social care to reflect the new structure would be considered as an urgent item. The reason for urgency was to allow for this matter to be reported to the County Council at its meeting in December 2020.

### 27 AMENDMENT TO THE CONSTITUTION - OFFICER DELEGATIONS - ADULT SOCIAL CARE

27.1 The Committee considered a report by the Assistant Chief Executive regarding proposals to amend the Constitution for officer delegations in relation to adult social care.

27.2 The Committee RESOLVED to agree and to recommend the County Council to agree:

- 1) to amend the Officer Scheme of Delegations as set out in Appendix 1;
- 2) that the Executive Director of Adult Social Care and Health and Director of Adult Social Care be considered Chief Officers and Directors for the purpose of delegations to officers and be delegated authority accordingly; and
- 3) to amend the Constitution in light of the above and to reflect the new structure

### 28 INDEPENDENT AUDITOR'S REPORT TO THOSE CHARGED WITH GOVERNANCE AND STATEMENT OF ACCOUNTS FOR 2019/20

28.1 The Committee considered a report by the Chief Finance Officer regarding the Independent Auditor's report to those charged with governance and Statement of Accounts for 2019/20.

28.2 The Committee RESOLVED to –

- 1) note the Independent Auditor's (GT) Report to those charged with governance on ESCC Accounts and the Value for Money conclusion report;
- 2) authorise the Chief Finance Officer to sign the formal Letter of Representation to GT UK LLP; and
- 3) approve the 2019/20 Statement of Accounts for publication.

29 AMENDMENT TO CONSTITUTION - SCHEME OF DELEGATION TO OFFICERS

29.1 The Committee considered a report by the Director of Adult Social Care and Health regarding proposals to amend the Scheme of Delegation to Officers in relation to functions delegated to the Director of Public Health.

29.2 The Committee RESOLVED – to recommend the County Council to delegate the functions set out in paragraph 3.1 of the report and to amend the Scheme of Delegation to Officers accordingly.

30 LOCAL MANAGERS' PAY 2020/21

30.1 The Committee considered a report by the Chief Operating Officer regarding the pay award for LMG Managers for 2020/21.

30.2 The Committee RESOLVED to – agree to the pay award for LMG Managers for the financial year 2020/21 as being 2.75% (in line with the national NJC award).

31 CHIEF EXECUTIVE, CHIEF OFFICERS' AND DEPUTY CHIEF OFFICERS' PAY 2020/21

*[The Chief Executive, Chief Officers and Deputy Chief officers present at the meeting left the meeting prior to consideration of this item]*

31.1 The Committee considered a report by the Head of Human Resources and Organisation Development regarding the pay award for the Chief Executive, Chief Officers and Deputies for 2020/21.

31.2 The Committee RESOLVED (by a majority of 3 to 2) - to determine the pay award for the Chief Executive, Chief Officers and Deputy Chief Officers for 2020/21 as being 2.75% (in line with the national NJC and JNC awards)

*[Councillors Godfrey Daniel and David Tutt voted against the above resolution.]*

**Report to:** Governance Committee

**Date of meeting:** 8 December 2020

**By:** Chief Operating Officer

**Title:** Voluntary Severance Scheme

**Purpose:** To seek the Committee's agreement to the proposed updates to the Voluntary Severance Scheme

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## **RECOMMENDATIONS:**

**The Committee is recommended to agree the delegations and proposed updates to the Voluntary Severance Scheme as set out in paragraphs 2.4, 2.5, 2.6 and Appendix 1 of this report.**

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### **1 Background**

1.1 The Council has operated a Voluntary Severance Scheme for a number of years. The Scheme is open at all times and enables the Council to agree mutually acceptable terms for an employee to voluntarily leave the service of the Council.

1.2 In operating the Scheme, the Council has regard to the operational effectiveness of the service and any application for voluntary severance must be approved by a Panel comprising the Chief Executive, in consultation with the Chief Operating Officer, Chief Finance Officer and Head of HR&OD.

### **2 Supporting Information**

2.1 The Scheme has run successfully since its introduction and has become a valuable component of the range of policies the Council has in place to support workforce planning arrangements and future needs of the service, and the Council keeps the scheme under review.

2.2 The Committee will be aware that the 'Restriction of Public Sector Exit Payments Regulations 2020' (commonly known as the £95k cap) came into force on 4 November 2020. These provisions are currently subject to a number of legal challenges and we are therefore now operating in a somewhat uncertain environment in relation to severance payments. Clarity on the position is not expected until Spring next year at the earliest.

2.3 At present, the terms of severance set out in the Scheme are relatively generous and there is little provision for flexibility to agree a different amount where the business case does not support those terms set out in Section 3 of the Policy. This is particularly relevant in the face of the current uncertainty around the £95k cap regulations and their interaction with those of the Local Government Pension Scheme. It is therefore proposed to amend the Scheme to allow for flexibility to be exercised by the Panel for mutually agreed terms that are of a lesser amount than currently set out in the Scheme

2.4 It is therefore proposed to amend paragraph 1.5 of the Policy as set out in Appendix 1 to provide that:

'Whilst these are the factors to which the Panel must have regard, the Panel may, in exceptional circumstances, exercise their discretion and approve applications where these criteria are not met, providing it is in the best interests of the service. In addition, where the Panel agrees to voluntary severance in principle, the Panel may also, at their discretion, determine that the severance terms

set out in Section 3 of this policy are not appropriate and may instead agree to pay a compensatory payment of a lower or higher amount, up to the statutory limit set out in the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 or such other regulations which enact or amend them.'

2.5 In addition to the above, the officer scheme of delegation delegates to the Chief Operating Officer authority 'To agree, in consultation with the relevant Director, individual compensation settlements arising from references to the ACAS Conciliation Officer in Employment Tribunal cases.'. In recognising that it is in all parties' interests to resolve workplace issues at the earliest possible stage, as noted in the ACAS guidance, it is proposed that this delegation is also broadened to provide for severance terms to be agreed in broader circumstances, without the requirement for ACAS involvement or an ET claim having been lodged. It is therefore proposed that this delegation is reworded to: 'To agree, in consultation with the relevant Director as appropriate, individual compensation settlements and their terms, and to enter into agreements accordingly.'; and for the delegation to be broadened to include the Chief Executive and Assistant Chief Executive to reflect and be consistent with other parts of the Scheme of Delegation.

2.6 In addition to the above amendments, whilst it is current practice for the Panel to include the Chief Finance Officer, this is not actually set out in paragraph 5.1 of the Scheme and it is therefore proposed to also amend this paragraph to include the addition of the CFO as part of the Panel

2.7 The above changes will support the Council in achieving best value; for ease, the proposed updates to the policy are shown as tracked changes in the attached Appendix.

### **3. Conclusion and Recommendations**

3.1 The Voluntary Severance Scheme has served the Council well in enabling it to support applications from employees to leave the Council in circumstances that are beneficial to both. Agreeing to the proposed amendments set out in paragraphs 2.4, 2.5 and 2.6 above will provide the Council with greater flexibility and enable it to continue to agree voluntary severances of employment, and the terms applicable, with confidence and therefore provide a bridge until the outcome of the current legal challenges to the £95k cap regulations are known.

3.2 The Committee is therefore recommended to agree the proposed updates to the Voluntary Severance Scheme as set out in paragraphs 2.4, 2.5, 2.6 and Appendix 1 of this report.

**Kevin Foster**  
**Chief Operating Officer**

Contact Officer:  
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# Voluntary Severance Scheme

**Date:** ~~November 2019~~ December 2020

## Document summary

This scheme sets out the principles and processes for County Council employees to apply for voluntary severance.

## Enquiries

HR Advisory Team, 01273 481300 [VoluntarySeverance.Scheme@eastsussex.gov.uk](mailto:VoluntarySeverance.Scheme@eastsussex.gov.uk)

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## Key points

- This scheme is open at all times to all employees who would be eligible for the LGPS except for school-based staff.
- Applications will be considered by a panel which includes Chief Officers.
- In order to be approved, applications must demonstrate a sound business case.
- Managers may contact HR for support and advice regarding the Scheme, making a business case and to request pension estimates: 01273 481300

**01 December 2020: The Public Sector Exit Payment Regulations 2020, restricting exit payments to a maximum of £95k, were implemented on 4 November 2020. The cap comprises all related exit payments, such as redundancy/severance pay, as well as pension strain costs. The LGPS regulations have not yet been amended to reflect the provisions of the £95k cap regulations and the position is currently therefore uncertain. For further information, please contact the HR&OD Team.**

## 1. Introduction

- 1.1. The County Council normally offers both voluntary early retirement and voluntary redundancy as part of organisational restructures completed in accordance with the [Managing Change Policy](#).
- 1.2. This Voluntary Severance Scheme ('the Scheme') allows County Council employees to apply for voluntary severance at any time.
- 1.3. The Scheme will be run to:
  - help ensure the efficient running of the County Council;
  - help the County Council reach its cost reduction targets; and
  - minimise the need for compulsory redundancies in the future.

If their application is approved, an employee will receive the benefits set out below upon voluntary severance of employment, subject to the statutory limit provided for in the Restriction of Exit Payment Regulations 2020 i.e. the £95k cap.

- 1.4. For the purposes of the Scheme, voluntary severance of employment will only be considered in the following circumstances:
- where the post occupied by the employee volunteering under the Scheme can be deleted;
  - the staffing costs can be released;
  - there is a payback period of not more than 24 months; and
  - the skills of the employee do not need to be retained in another post or capacity.
- 1.5. Whilst these are the factors to which the [Panel](#) must have regard, the [Panel](#) may, in exceptional circumstances, exercise their discretion and approve applications where these criteria are not met, providing it is in the best interests of efficient exercise of the service. County Council's functions. In addition, where the Panel agrees to voluntary severance in principle, the Panel may also, at their discretion, determine that the severance terms set out in Section 3 of this policy are not appropriate and may instead agree to pay a compensatory payment of a lower or higher amount, up to the statutory limit set out in the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 or such other regulations which enact or amend them.
- 1.6. In addition to this Scheme, the Officer Scheme of Delegations delegates to the Chief Executive, Assistant Chief Executive and Chief Operating Officer authority to agree individual compensation payments.
- 1.7. The County Council reserves the right to refuse requests from employees volunteering under the Scheme where it is considered that their skills should be retained. The overriding consideration will be the continued efficient running of the County Council and the maintenance of an appropriate and high quality skills base.

## 2. To whom does the Scheme apply?

- 2.1. The Scheme applies to all non-school based employees who are covered by the Local Government Pension Scheme, including those subject to a restructure.

## 3. What are the severance terms on offer?

- 3.1. As set out in paragraph 1.5 above, the Panel may exercise their discretion and pay a different amount to the terms set out below.
- 3.2. **Employees aged 55** or over at the point the termination of their employment becomes effective will be able to receive:
- a) the early unreduced release of their pension benefits (estimates to be requested from the payroll provider via HROD – see contact details below)  
**and**
  - b) a lump sum discretionary compensatory payment equivalent to the County Council's current redundancy payment, which has a multiplier of 1.75 applied. The value of the payment can be calculated as follows:

	Weeks entitlement	x	$\frac{\text{Annual gross salary}}{52.14}$	x	1.75	=	Severance payment value
<i>Example:</i>	10	x	$\frac{\pounds 20,000}{52.14}$	x	1.75	=	£6,730.77

- 3.3. Note: to calculate the weeks entitlement, see the ready reckoner in the [Managing Change Policy](#). For the purposes of calculating the discretionary compensatory payment, the employee's gross weekly salary will not be considered to include pension contributions made by the employer, or any other payments that are not normally made direct to the employee.
- 3.4. **Employees aged under 55** at the point the termination of their employment becomes effective, will be eligible to receive the lump sum discretionary compensatory payment as set out above. Notwithstanding the above, the Panel retains the discretion, in exceptional circumstances, to pay a sum up to the statutory limit set out in the Local Government (Early Termination of Employment) (Discretionary Payments) (England and Wales) Regulations 2006, or such other regulations which re-enact or amend them.
- 3.5. There is a presumption against re-employment or re-engagement of employees whose employment ends under the scheme for the business reasons outlined in the [Introduction section](#) above, particularly during the 24 month pay back period. Re-engagement includes consultancy arrangement or third party arrangements such as recruitment agencies.
- 3.6. However, where re-employment is in the best interests of the service and there is a clear business case to do so, this can be agreed by the relevant Assistant Director in conjunction with the Head of HR& OD.
- In approving a re-employment, the Assistant Director and Head of HR&OD will need to be satisfied that the rate of pay applied to the work undertaken by the re-engaged employee should be that appropriate to the work to be done and not the grading which applied to the employee prior to the end of their current contract.
- 3.7. Employees should note that, accepting re-employment with the County Council, local government or another related employer, or continuing employment with one of the above, may mean their pension benefits may be reduced or abated completely. Please see the Pensions Abatement section of the Managing Change policy for more information.
- 3.8. Line managers may contact HROD for support and advice regarding the Scheme, making a business case and to request pension estimates.

Tel: 01273 481300

Email: [VoluntarySeverance.Scheme@eastsussex.gov.uk](mailto:VoluntarySeverance.Scheme@eastsussex.gov.uk)

- 3.9. Employees should also familiarise themselves with the Voluntary Severance Scheme: Frequently Asked Questions document available on the intranet, which includes information about redundancy payments and pensions.

## 4. Application Process

- 4.1. Employees wishing to take advantage of the volunteer for severance under this Scheme should discuss this with their line manager and may be required to complete the application form attached at [Appendix 1](#). ~~in consultation with t~~ The ir line manager ~~, who~~ will provide support in obtaining a prior estimate of the likely severance payment, or pension benefits as appropriate, should the application be successful.

- 4.2. **Employees aged 55 or over** at the time of the termination of their employment wishing to apply under the Scheme and electing to receive early unreduced release of their pension benefits and a lump sum discretionary compensatory payment equivalent to a statutory redundancy payment with a multiplier of 1.75, should tick this option on the application form attached at [Appendix 1](#).
- 4.3. **Employees aged under 55** at the time of the termination of their employment, wishing to apply under the Scheme and electing to receive a lump sum discretionary compensatory payment equivalent to a statutory redundancy payment with a multiplier of 1.75, should tick this option on the application form attached at [Appendix 1](#).
- 4.4. Application forms setting out the business case for an application under the Scheme must be approved by the employee's line manager and scrutinised by the relevant departmental ~~L~~ead Assistant Director prior to departmental Senior Management Team authorisation. Following this process, application forms should be submitted by e-mail to [VoluntarySeverance.Scheme@eastsussex.gov.uk](mailto:VoluntarySeverance.Scheme@eastsussex.gov.uk)
- 4.5. In general, the business case will need to show that the costs of releasing the employee can be recouped within a maximum of 24 months. [The Panel](#) will have the authority to agree applications where, in exceptional cases, the criteria set out in [paragraph 1.4](#) are not met, [as detailed in paragraph 1.5](#).
- 4.6. In applying for voluntary termination of their employment under the Scheme, employees accept the terms and conditions of the Scheme as contained, or incorporated by reference in this document.

## 5. Corporate Panel

- 5.1. All applications under the Scheme will be considered by the Corporate Panel ("the Panel") comprising the Chief Executive, in consultation with the Chief Operating Officer, Business Services, [Chief Finance Officer](#) -and Head of HROD, or their representatives or delegees.
- 5.2. The Panel will ensure it applies a fair and consistent approach to the criteria, as set out in [Section 1](#) above, across the County Council when reaching its decisions. In addition, the Panel will ensure the Scheme is operated to reduce the need for compulsory redundancies, as far as is possible.
- 5.3. If more than one employee from a team or business unit makes an application under the Scheme and only one post can be deleted, then the decision will be based on the case that is the most financially beneficial to the County Council overall along with consideration of the need to retain valued skills.
- 5.4. The Scheme is operated entirely at the County Council's discretion and the Panel's decision in respect of each application will be final. Where necessary the Panel may refer applications back to departments for more information. There will be no obligation on the part of the Panel to approve applications under the Scheme. There will be no right of appeal, and no grievances against the decision of the Panel will be considered or accepted.

- 5.5. If the Panel determines that the business case is made and the application is approved, the employee will receive a formal offer in writing with the terms upon which the County Council is prepared to make an offer under the Scheme including final figures (where applicable) and a proposed date of mutually agreed termination of employment. In normal circumstances, ~~t~~The formal offer will be made within 10 working days from the date of the Panel's decision.
- 5.6. The panel may offer, and require to be accepted, pay in lieu of notice, or a sum equivalent to this where there is a mutual termination of employment. This will be in addition to the severance payment due, or the employee may be required to work their notice period. This will depend on the business case and the circumstances of their individual case. This will be set out in the formal offer letter.
- 5.7. Employees whose application is approved must accept or reject the offer in writing to be e-mailed to [VoluntarySeverance.Scheme@eastsussex.gov.uk](mailto:VoluntarySeverance.Scheme@eastsussex.gov.uk) within 5 days of receipt of the formal offer.

## Appendix 1: Application for Voluntary Severance Scheme

### Employee details

Name			
Job title			
Personnel number		Date of birth	
Team or Service			
ESCC department			
I am over 55 and wish to leave voluntarily and apply for the early release of my pension and for the lump sum discretionary compensatory payment			<input type="checkbox"/>
I am under 55 and wish to leave voluntarily, and apply for the lump sum discretionary compensatory payment			<input type="checkbox"/>
Applicant's signature		Date	

### Manager's endorsement and business case

Can the applicant's post be deleted? Note that managers will not be able to recruit staff or engage agency workers to cover the post once deleted.		Yes <input type="checkbox"/> No <input type="checkbox"/>
Details of the post to be deleted		
Proposed date of termination		
Do you intend to replace this employee? If yes, set out any likely difficulties in attracting good calibre candidates with relevant skills	Yes <input type="checkbox"/> No <input type="checkbox"/>	
<p>Further comments, addressing the following:</p> <ul style="list-style-type: none"> <li>▪ Impact of deleting the post(s) in relation to front line service delivery or achieving corporate objectives.</li> <li>▪ Impact of deleting the post in relation to skills retention and skills shortages within the Council as a whole.</li> <li>▪ Impact of deleting the post(s) in relation to other services.</li> <li>▪ Are there any duties and responsibilities to be reallocated and proposals for doing so?</li> <li>▪ Are there any other factors the Corporate Panel needs to be aware of, e.g. is the individual subject to any employee relations procedures including disciplinary action with the possibility of dismissal, unacceptable performance, attendance improvement notice or do they have a complaint or grievance under investigation?</li> <li>▪ Equality and diversity implications</li> </ul>		

**Cost / benefit analysis**

To include all associated costs such as consequent regradings of other posts compared to potential savings including salary, “employers” and any other “on costs”, essential car user allowance and other relevant factors. This analysis should show savings in over the next 2 financial years.

Based on **(INSERT EMPLOYEE NAME)** age and length of service, in accordance with the statutory ready reckoner their redundancy payment will be calculated using X weeks pay. With a salary of £X, the redundancy payment is: £salary / 52.14 weeks x X weeks = £X. As this is a redundancy, in accordance with the Council’s Policy, the 1.75 multiplier applies = £X x 1.75 = £XXXX

**Summary comments and recommendation to the panel**

Manager’s name			
Manager’s signature		Date	
Assistant Director’s name			
Assistant Director’s signature		Date	

**Panel’s decision**

Approved	<input type="checkbox"/>	Not approved	<input type="checkbox"/>
Summary comments of reasons for decision			
Terms offered by the panel			
Recommended date of termination			
Is the notice period to be worked?	Yes <input type="checkbox"/> No <input type="checkbox"/>		
Chief Executive Officer’s signature		Date	
Chief Operating Officer’s signature		Date	
Head of HROD’s signature		Date	