

<b>MERSEYSIDE FIRE AND RESCUE AUTHORITY</b>			
<b>MEETING OF THE:</b>	<b>POLICY &amp; RESOURCES COMMITTEE</b>		
<b>DATE:</b>	<b>27<sup>TH</sup> NOVEMBER 2014</b>	<b>REPORT NO:</b>	<b>CFO/121/14</b>
<b>PRESENTING OFFICER</b>	<b>DEPUTY CHIEF FIRE OFFICER</b>		
<b>RESPONSIBLE OFFICER:</b>	<b>DIRECTOR OF PEOPLE AND ORGANISATIONAL DEVELOPMENT</b>	<b>REPORT AUTHOR:</b>	<b>DIRECTOR OF PEOPLE AND ORGANISATIONAL DEVELOPMENT</b>
<b>OFFICERS CONSULTED:</b>	<b>KIERAN TIMMINS DEPUTY CHIEF EXECUTIVE JANET HENSHAW DIRECTOR OF LEGAL SERVICES</b>		
<b>TITLE OF REPORT:</b>	<b>VOLUNTARY SEVERANCE GREY BOOK EMPLOYEES</b>		

<b>APPENDICES:</b>	
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### **Purpose of Report**

1. To update members on the potential use of Voluntary Severance (VS) agreements for firefighting staff as a mechanism to achieve the required savings to meet the ongoing financial challenge faced by the Authority.

### **Recommendation**

2. That Members
  - a) note the contents of this report and the potential to utilise VS for Grey Book employees if required as part of the Budget savings options.
  - b) approve the approach advanced in this report regarding applications for VS from firefighting staff.
  - c) delegate responsibility for the management of such applications to the Chief Fire Officer in the same way as with non-firefighting staff in order to best meet future staffing requirements.

### **Introduction and Background**

3. The Authority regularly receives queries from firefighters about the potential opportunity to take early (enhanced) retirement and/or VS. Whilst this has been considered in the past it has never been progressed, with the exception of a small trial in group in 2006, because:-
  - The use of natural retirement rates combined with the use of reserves to avoid compulsory redundancy has meant this approach has not been necessary to deliver the required savings.

- There have been legal barriers to offering the same package that can be offered to staff in the Local Government Pension Scheme (LGPS) under the rules of the Firefighters Pension Scheme (FPS).
  - The position regarding double accrual means that for most firefighters it would be expensive to 'buy out' service or it would leave them in a compromised financial position.
4. The financial challenges faced by the Authority have fundamentally changed over the course of the current spending review, particularly in relation to staffing issues and the clear requirement to strive to do the same with less. This has been brought about in no small part due to the desire of the Authority to seek to maintain a wholetime crewing model rather than the far more financially efficient but less effective retained alternative.
  5. The reality is however that for the Authority to maintain a predominantly wholetime crewing model, the Service, whilst at the same time meeting the current and future financial challenges must maximise its efficiency and effectiveness through a flexible and engaged workforce. This reality, in conjunction with the changes to the FPS, may cause some staff to re-evaluate their career with the Service leading to them to consider opportunities elsewhere. This is a position that is recognised and understood by the Authority.
  6. The scale of the financial challenges faced by the Authority make it increasingly difficult to deliver a reserves strategy that avoids compulsory redundancy particularly if, as expected, there are further spending cuts beyond 2015/16.
  7. The Authority therefore agreed to explore the use of VS for firefighters at its meeting on 26<sup>th</sup> June 2014 (CFO/077/14). An email to all staff was sent seeking expressions of interest on 8<sup>th</sup> July 2014. To date 64 expressions of interest have been received.

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### **Statutory Background**

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8. Despite Authorities requesting over a number of years that changes are made to the Firefighter Pension Schemes by the Secretary of State to introduce similar discretions to those contained within the LGPS that provide for enhanced severance packages, the appropriate legislation is still in not in force. Consequently Authorities faced with extreme financial challenges remain unable to facilitate voluntary early retirement for FPS staff
9. However recent legal advice received by the Authority, in connection with a number of other Authorities who are faced with similar challenges has concluded that it is lawful for a Fire and Rescue Authority to make an enhanced Redundancy/ termination payment under section 5A(1) of the Fire and Rescue Services 2004 Act (as amended by the Localism Act 2011).

10. In recent budgets and restructuring exercises the offer that the Authority has made to non-uniformed staff when seeking candidates for voluntary severance has been twice the statutory minimum. It is possible that the Authority could make the same offer to firefighting staff. The Authority's advice is very clear that Authorities would be at risk should they decide to enhance the packages available beyond that previously paid to those staff employed under the LGPS. This is because a higher proportion of female staff are employed under those conditions and so higher payments to Grey Book employees would potentially expose the Authority to indirect discrimination claims. The level of payment in respect of any individual is calculated based upon their age and length of service.
11. The Authority can now consider voluntary termination through the use of a Settlement Agreement for all staff who wish to leave the Service and defer their Pension until their normal retirement age. What the legal advice does not allow is for the Authority to grant enhanced Early Retirement for firefighters. It does however have the discretion to consider enhanced early retirement for staff in the LGPS.
12. The first £30,000 of any Settlement Agreement would be tax free.
13. In line with the Authority policy for consideration of any voluntary severance or early retirement application there is a need to develop a full business case that ensures that any such approach delivers value for money and protects the public purse,

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#### Next Stages

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14. Members will note that elsewhere on the agenda is the latest quarterly Financial Review.. That report identifies that the retirement rates of firefighters has progressed in line with forecasts and the Authority is slightly ahead of where it had planned to be in delivering savings from staff reductions. Once the Authority moves beyond 2015/16 the number of expected retirements increases significantly and members will recall that even if the Authority has to make further savings, there will still be a need to recruit significant numbers of firefighters in the mid-term and certainly by the mid 2020's.
15. Having examined the applications made it has not been possible to establish a financial business case to support the use of Voluntary Severance at this time.
16. Those Employees who have already expressed an interest will be advised that their application has been registered but it will not be progressed at this time.
17. Whilst there is no business case for the use of the option at this time it is considered that voluntary severance may be of use in certain circumstances in the future and that this option should be available to officers to use in the same way delegated authority is granted regarding non-firefighting staff (subject to a business case.)

18. Members have approved a process the use of VER/VS for staff that involved the preparation of a detailed business case with a positive net present value to the Authority (the net present value is the net total saving after taking account of the severance/retirement costs). Any such business case has to be signed off by the Treasurer, Clerk and the Chief Fire Officer.

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#### **Additional Considerations**

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19. The Authority in considering its workforce and age profile also has to take cognisance of its succession planning and development strategies. Whilst the early release of Grey Book employees would have an immediate impact on the budgetary planning process, the Authority cannot afford to disregard the potential loss of knowledge and skills of such an exercise, and so the ability to solely grant the applications of those employees who meet the criteria has to be measured against the potential loss of skills, and the age profile of the remaining workforce. The Chief Fire Officer will therefore give due consideration to the organisational impact of any Settlement Agreements should this option ultimately be utilised.

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#### **Equality and Diversity Implications**

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20. Any Settlement Agreement offer would be made on an equitable basis with LGPS employees, and open to all employees to apply.
21. Approval of each application will be based purely on financial viability, and consequently have no discriminatory bias.

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#### **Staff Implications**

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22. Whilst the Authority seeks to review its numbers in light of the budgetary challenges, it must also ensure it retains sufficient knowledge within its workforce so each application will be considered appropriately in line with transparent criteria. There is no compulsion on our employees to accept any offer made; they can withdraw at any time prior to reaching a formal agreement.

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#### **Legal Implications**

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23. The Fire and Rescue Services Act 2004 section 5A(1) provides that:

A relevant fire and rescue authority may do

- a) Anything it considers appropriate for the purposes of the carrying-out of any of its functions (its "functional purposes"),
- b) Anything it considers appropriate for purposes incidental to its functional purposes,

(c) Anything it considers appropriate for purposes indirectly incidental to its functional purposes through any number of removes,

(d) Anything it considers to be connected with-

(i) any of its functions, or

(ii) anything it may do under paragraph (a), (b) or (c), and

(e) For a commercial purpose anything which it may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.

24. The legal advice received, enables the Authority to make offers of voluntary severance to certain Grey Book employees using the powers contained in section 5A(1) of the Fire and Rescue Services Act 2004.
25. The processes and documentation to be adopted are in line with those previously agreed by the Authority

### **Financial Implications & Value for Money**

26. Because firefighting can be viewed as a generic role the Authority is achieving the required reduction in firefighter posts by using natural turnover rates. This is slightly different from non-uniformed staff that have left under VER/VS since in those instances their actual posts are deleted or their teams restructured to deliver savings. There is a direct correlation between the person leaving the organisation and the saving arising.

In this instance the saving gained through the VS mechanism only represents the marginal gain in time by which the Authority achieves its required establishment levels much quicker.

27. The establishment is currently 764 posts. The financial plan assumes savings of £3.5m from up to four proposed mergers or station closures. If the Authority makes a decision to approve these following consideration of the consultation process this would not be achieved until mid-2015/16. In the meantime the Authority has planned to use reserves to manage the transition. Post 2015/16 further cuts in public spending are expected. Based on some initial modelling using Local Government Association (LGA) assumptions it is possible that the Authority may only be able to afford as few as 500 wholetime firefighters by 2020. Whilst retirement rates are moderate it will still take several years to reach that total. At this time however natural retirement rates are considered to be sufficient to deliver savings and therefore a business case cannot be developed for the individuals who have applied.
28. For any staff who left under voluntary severance and do not qualify for an immediate pension there will also be a saving to the public purse. This will be due to the fact that the pension accrued is deferred and payable at age 60 instead of earlier.

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**Risk Management, Health & Safety, and Environmental Implications**

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29. None contained within this report.

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**Contribution to Our Mission: *Safer Stronger Communities – Safe Effective Firefighters***

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30. The proposed action ensures that each employee is treated fairly, and within a transparent process that enables them to make a valid decision in relation to their future employment.

31. It also offers the Authority another option to make the savings required by the Comprehensive Spending Review, whilst continuing to avoid compulsory redundancies

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**BACKGROUND PAPERS**

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**GLOSSARY OF TERMS**

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