

Title of report	Exit approval process (for redundancy and compensatory pay and release of pension benefits involving strain on fund costs)
Public/confidential	Public
Action	For decision
Summary/purpose of report	Sets out a revised process for the approval of redundancies including the release of pension benefits where there are strains on fund costs.
Recommendations	<p>The Committee is asked to:</p> <ol style="list-style-type: none"> 1. note the contents of this report 2. approve the recommendations set out in paragraphs 8.1, 8.2 and 8.3 3. approve a revised process between the SSSC and the Tayside Pension Fund attached in appendix two
Link to Strategic Plan	The information in this report links to Strategic Priority 6 – High Standards of Governance
Link to the Risk Register	The information in this report links to risk number 5. The SSSC does not have sustainable resources to support the delivery of Strategic Plan objectives (i.e. the strategic planning growth assumptions are not financially sustainable).
Author	<p>Scott Reid</p> <p>Senior Human Resources Adviser</p> <p>01382 207156</p>
Documents attached	<p>Appendix 1 – Current Tayside Pension Fund Approval Process</p> <p>Appendix 2 – Revised Tayside Pension Fund Approval Process</p>

1. INTRODUCTION

- 1.1 As a public body, the SSSC is expected to have good governance arrangements in place for the approval of exit payments. These include redundancy pay, compensatory pay (an enhanced payment made to those in the Local Government Pension Scheme) and the release of pension benefits where the organisation incurs an additional cost.
- 1.2 The current arrangements are set out in the Retirement Policy and the Resources Committee's terms of reference. These arrangements have always been followed in the past, however a recent scenario has highlighted that certain circumstances may merit a different process.
- 1.3 This paper sets out a recommendation for which cases involving exit payments require advanced approval by the committee and which should not. It also sets out a new approval process for the SSSC to approve strain on fund costs with the Tayside Pension Fund.

2. REDUNDANCIES

- 2.1 The Employment Rights Act 1996 defines redundancy and the scenarios where a redundancy payment should be made. Generally speaking, where an employee with two or more years' continuous service is dismissed for reason of redundancy, they are entitled to a redundancy payment. This is true whether they are a fixed term or permanent employee.
- 2.2 There are a number of scenarios that may lead to redundancies such as the organisation ceasing operations or moving location, but the one most relevant for the SSSC is where "the needs of the business for employees to carry out work of a particular kind cease or diminish".
- 2.3 Due to the Scottish Government's 'no compulsory redundancy' commitment, the redundancy scenarios that usually occur are voluntary. There are however some scenarios where redundancy can occur that are not covered by this commitment. For example, if grant funded work ends or if a temporary project role ends.
- 2.4 Where posts linked to grant funded or project work come to an end, they often meet the definition of redundancy. Where the post holder has two or more years' continuous service, they are due redundancy pay upon their exit. In the case of those in the Local Government Pension Scheme, they may be due a compensatory payment. For the purpose of this paper we will refer to these scenarios where the ending of fixed terms posts result in a redundancy as '**technical redundancies**'.
- 2.5 It is important to mention that it is not simply because a fixed term contract comes to an end that a redundancy occurs; it is to do with the post no longer continuing.
- 2.6 In most scenarios where a fixed term contract is not renewed, eg a substantive post holder returns from maternity, it does not meet the criteria for redundancy. Similarly, it would not apply where a permanent SSSC employee performing a temporary project role returns to their substantive post on the project's completion.

3. PENSION STRAIN ON FUND COSTS

- 3.1 As an admitted body of the Tayside Pension Fund, all SSSC employees are eligible to join the Local Government Pension Scheme.
- 3.2 In the current scheme, employee pension accrues at 1/49th of an annual salary for each year in the scheme with reference to a normal retirement date equal to their state pension age (with a minimum of 65). Where pension benefits are released before this normal retirement date, benefits are reduced through an actuarial reduction. There are certain circumstances however where pension benefits can be released early without an actuarial reduction. These normally incur an employer cost known as a 'strain on fund cost'.
- 3.3 The usual scenarios where strain on fund costs occur for the SSSC are voluntary redundancy or early retirement in the efficiency of the service.
- 3.4 In any case of redundancy, employees age 55 or over (50 or over for those with protections) can access their pension without actuarial reduction (subject to having 2 years' membership in the LGPS).

4. THE CURRENT APPROVAL PROCESS

- 4.1 The SSSC's current process is described in the Retirement and Redundancy Policy and the Resources Committee terms of reference. The policy outlines the benefits we offer and the scenarios in which they are paid. The terms of reference highlight that it's within the Resources Committee's remit "to consider cases for early retirement, or termination on the grounds of efficiency of the service or redundancy for all employees of the Council in accordance with the law and relevant Council policies."
- 4.2 The terms of reference imply that all cases of redundancy will be considered by the committee, and to date, all situations involving exit payments have always followed this route prior to payment of any benefits. These however have all been cases where the status quo is changing and there is a significant decision to be made.

5. PROBLEMS WITH THE CURRENT APPROVAL PROCESS

- 5.1 The terms of reference for the Resources Committee do not differentiate between redundancies and 'technical redundancies' (see 2.4). As highlighted in paragraph 4.2, the normal scenarios that are considered by Committee tend to be cases where there is a significant decision to be made and the status quo is changing (e.g. voluntary redundancies for business efficiency).
- 5.2 While these are the normal scenarios for exit payments, there are other situations where the exit payment was something that was always expected. An example would be where a redundancy payment and strain on fund cost are required upon the conclusion of a fixed term contract (as described in paragraph 2.3). These differ to the normal scenarios the Resources Committee consider because the payment of the benefit is a result of the status quo continuing (i.e. the contract concluding on its intended end date) rather than through the result of a significant change.

Where these posts end on their intended end date and meet the criteria for redundancy, we have no choice but to pay the costs.

- 5.3 While certain pieces of work (such as grant funded work) diminishing may be known well in advance, the specifics and costs of who will face redundancy may not be known until nearer the contract end date (for example, where funding for 4 posts reduces to 3 posts). Referring this to the Resources Committee first may not be practical in terms of time scales, and may also delay the opportunity for an early release where it is possible.

6. THE CURRENT APPROVAL PROCESS WITH TAYSIDE PENSION FUND

- 6.1 The following procedure was setup in 2015 at the request of the Tayside Pension Fund in relation the release of pension benefits where there are employer strain on fund costs.
- 6.2 The current procedure is set out in appendix one.

7. PROBLEMS WITH THE TAYSIDE PENSION FUND APPROVAL PROCEDURE

- 7.1 In the existing procedure, those who were in the posts with approval responsibility are specifically named and some of them are no longer in the organisation. In addition to this, a temporary arrangement is in place for the Head of Shared Services to perform duties of the Director of Corporate Services for the SSSC and this is not reflected in the current procedure.
- 7.2 The procedure also requires the signed minutes of the Resources Committee for the pension benefits are released. This is not always practical.

8. RECOMMENDATIONS

In the case of 'technical redundancies'

- 8.1 It is recommended that exit payments such as redundancy pay, compensatory pay and pension strain on fund costs should be made by the SSSC in cases of 'technical redundancy' without prior approval from the Resources Committee. All such payments would be highlighted at the next available Resources Committee. The existing process for all other cases involving exit payments would remain unchanged.

In the case of our process with the Tayside Pension Fund

- 8.2 To ensure this can be easily managed going forward, it is recommended that the procedure will refer to job titles only and the HR team will keep the Tayside Pension Fund up to date with the names of the relevant post holders.
- 8.3 It is recommended that the part of the process requiring signed minutes of the Resources Committee is removed. Ensuring the correct process is

followed will be solely the responsibility of the SSSC and those signing off the release of benefits.

8.4 The new procedure is set out in appendix two.

9. RESOURCE IMPLICATIONS

9.1 There are no direct resource implications as a result of this report.

10. EQUALITIES IMPLICATIONS

10.1 There are no equalities implications as a result of this report.

11. LEGAL IMPLICATIONS

11.1 In the case of any redundancy, employees with the right qualifying criteria have the statutory right to redundancy pay. For those in the Local Government Pension Scheme, we also have the obligation to pay compensatory payments and pension costs in certain scenarios. Where a redundancy occurs we have no choice in the matter around whether to pay these or not.

12. STAKEHOLDER ENGAGEMENT

12.1 The Tayside Pension Fund has been consulted about this process.

13. IMPACT ON USERS AND CARERS

13.1 The content of this report will not have an impact on users and carers.

14. CONCLUSION

14.1 In conclusion, the changes will update our procedure to ensure there are enough signatories registered with the Tayside Pension Fund going forward. It will also help to ensure 'technical redundancy' scenarios can be dealt with promptly and efficiently.

15. BACKGROUND PAPERS

15.1 SSSC Retirement and Redundancy Policy.

15.2 SSSC Resources Committee Terms of Reference.