

Report of the Chief Executive

Somerset Council Redundancies Requiring Full Council Approval under the Localism Act Arising from (i) the Voluntary Redundancy Scheme and (ii) Implementation of the restructuring in Partnerships & Localities and Strategic Asset Management as part of Local Government Reorganisation

Executive Member(s): Councillor Bill Revans, Leader of the Council

Local Member(s) and Division: N/a

Lead Officer: Duncan Sharkey, Chief Executive and Head of Paid Service

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1. Summary

1.1 The purpose of this report is to present details of the proposed dismissals by reason of redundancy in relation to,
(i) the Voluntary Redundancy Scheme
(ii) the restructuring of Partnerships and Localities and Strategic Asset Management as part of Local Government Reorganisation.

1.2 It provides recommendations on the role of Full Council in relation to these dismissals and requests the necessary delegation to the Head of Paid Service to finalise details of the payments associated with the redundancies, in line with appropriate legislation and policies.

1.3 Appendix A presents the cost of the redundancies to the Council. All payments are in accordance with statutory and contractual obligations. The payments are split out to show the costs to the authority and the payment received by the officer.

2. Recommendations

2.1 Approve the redundancy costs for 49 posts as set out in Appendix A, as Full Council approval is required for costs that exceed £100,000.

2.2 Delegate authority to the Chief Executive to agree the final date of dismissal and the final redundancy packages, noting that such

settlements will not exceed contractual redundancy pay or the payment required under statute to the Local Government Pension Scheme/NHS Pension Scheme.

2.3 Approve the dismissal and redundancy costs of the Executive Director Corporate and Resources (Section 151 Officer) by reason of redundancy (voluntary) as per the recommendation of the Special Members Panel.

2.4 Delegate authority to the Chief Executive to agree the final date of dismissal and the final redundancy package of the Executive Director Corporate and Resources (Section 151 Officer), noting that such settlement will not exceed contractual redundancy pay or the payment required under statute to the Local Government Pension Scheme.

3. Background

3.1 Voluntary Redundancy Scheme

3.1.1 The Executive endorsed a new vision for the Council, emphasising a leaner and more productive organisation with fewer staff and managers, including senior directors. This requires an approach to whole Council transformation which will bring together transformation and change programmes across the organisation to ensure whole council oversight and prioritisation of resources and investment.

3.1.2 As part of the work to support the long-term financial stability of the Council, a report on the Transformation and Improvement Programme which includes a Workforce Programme has been developed and presented to the Executive and the Scrutiny Committee – Corporate and Resources. Part of the Workforce Programme is to reduce the size of the workforce which will not in itself reshape the Council. The other two programmes running in parallel to this activity; organisational design and innovation, and partnerships and devolution, along with the original vision of the LGR strategy, will shape what a good council looks like.

3.1.3 As part of the workforce reduction programme the Council committed to minimising will strive to minimise compulsory redundancies by actively pursuing several lines of enquiry to reduce the pay bill, including reduction of agency, interims and consultants, removal of budgeted vacancies, voluntary reduction of contract hours and a review of fixed term contracts as well as a Voluntary Redundancy Scheme. Trade unions have been engaged throughout the consultation period on the Voluntary Redundancy Scheme.

3.1.4 The Voluntary Redundancy Scheme was open to all staff including chief officers and deputy chief officers except those employed in posts on an exempt list agreed by the Executive Leadership Team.

3.1.5 The voluntary redundancy scheme closed on 24 March 2024 and a total of 372 applications were received. All applications have been assessed using the following criteria.

- Can the post be removed from the establishment and not replaced? In other words, is this a genuine redundancy?
- If the post carries a designation/role that is required under statute, can this designation/role be transferred to another post?

A cost benefit analysis has also been completed to establish whether savings can be made within an agreed payback period. 201 applications have been endorsed by the Voluntary Redundancy Panel.

3.1.6 Full Council approval is required for the 45 applications for voluntary redundancy that have been provisionally approved by the VR Panel and a Special Members Panel (for the Chief Officer posts) because the total overall cost exceeds £100,000 and these are set out in Appendix A.

3.1.7 Local Government Reorganisation

On 21 July 2021 the Secretary of State for Housing, Communities and Local Government announced his decision to implement a single unitary council covering the whole of the administrative county of Somerset. This decision enabled implementation of the One Somerset Business case submitted on 30 July 2020. On 18 March 2022 the Secretary of State made the Somerset (Structural Changes) Order 2022 (SCO). The SCO formalised the decision to implement the business case and set out the legal framework for implementation.

3.1.8 Somerset Council was established on 1 April 2023, with the four District Councils abolished and their functions transferring to Somerset County Council, as the continuing authority. Upon the establishment of Somerset Council, staff at the four district councils employed immediately before the transfer became Somerset Council employees. This is confirmed in Regulation 3 of the Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008.

3.1.9 The One Somerset Business Case detailed proposed annual savings (£18.5m) from the implementation of local government reorganisation (LGR) in Somerset, once investment to deliver the new council has been recouped. The cost of redundancies linked to LGR will be funded from the LGR implementation budget.

3.1.10 Consultation on the proposed structures in Partnerships and Localities and Strategic Asset Management took place in early 2024, followed by a number of recruitment processes. There are four proposed redundancies that will be made as a result of the restructures in these two Directorates where the

overall redundancy package exceeds £100,000. These are set out in Appendix A. These require the approval of Full Council.

3.2 Constitutional Requirements

- 3.2.1** The Local Authorities (Standing Orders) (England) Regulations 2001 state that the dismissal of a member of staff of the authority must be discharged by the head of paid service. But this does not apply to the dismissal of the head of paid service, statutory chief officer, non-statutory chief officer, or deputy chief officer.
- 3.2.2** Somerset Council's Constitution sets out that the decision maker for dismissals on the grounds of redundancy for such officers is the Special Members Panel, subject to the executive objections process and the requirement for Full Council to approve any financial settlement exceeding £100,000. The Panel can only recommend the dismissal of the posts/postholders undertaking the statutory roles of Head of Paid Service, Section 151 Officer (also known as Chief Finance Officer) and Monitoring Officer (MO), with the actual decision taken by Full Council.
- 3.2.3** The implications of the above 2 points are:
- Somerset Council staff are dismissed by:
 - The Head of Paid Service
 - Or where they hold a chief officer or deputy chief officer post, a Special Members' Panel.
 - Or, if the Head of Paid Service, MO or S151 officer, a meeting of the Full Council.
- 3.2.4** The Special Members Panel met on 29 April 2024 to consider the voluntary redundancy applications from staff at Executive and Service Director level. The Panel's recommendation to Full Council is to accept the request for voluntary redundancy from the Executive Director Corporate and Resources (Section 151 Officer). Two other applications from the Executive Director for Public Health and the Service Director for Customers were approved by the Special Members Panel and included in Appendix A as the financial settlements require the approval of Full Council due to their total redundancy packages exceeding £100k.
- 3.2.5** Business rationale to accept the voluntary redundancy from the Executive Director Corporate & Resources (currently designated as S151 officer)
Executive Director posts are proposed to be reduced by 3 posts (from 7 to 4) in the Council restructure in 2024/25. The voluntary redundancy of this post will negate the need for a competitive process to the new post of 'Executive Director Strategy, Transformation and Resources' and prevent the need for a compulsory redundancy.

- 3.2.6** If voluntary redundancy is not granted, subject to consultation on the new structure, the current post will be removed and the postholder will likely be subject to either a compulsory redundancy or a ringfence process for a new Executive Director position (created by combining two existing Directorates).
- 3.2.7** The S151 Officer designation can be held by an alternative CIPFA appropriately qualified, experienced, and competent person. In the short term this may be covered by an experienced Interim S151 to lead the 2025/26 budget setting process and strategy for the ongoing Medium Term Financial Plan. Alternatively, the current postholder would need to be retained until end February 2025.
- 3.2.8** The statutory S151 Officer designation is proposed to transfer to a Service Director Finance postholder by April 2025 which is a level lower than Executive Director. The S151 post will remain a member of the Executive Leadership Team, reporting into an Executive Director, with a dotted reporting line to the Chief Executive.

4. Implications

4.1 Financial Implications

- 4.1.1** At the Full Council meeting on 20 December 2023, the Council resolved to formally request a capitalisation direction from DLUHC in order to set the 2024/25 budget and avoid a Section 114 Notice. The application was made on 11 January 2024 for £76.9m, with £36.9m to balance the 2024/25 budget and £40m for the planned reduction in workforce.
- 4.1.2** The 201 total applications approved under the Voluntary Redundancy Scheme achieve an annual salary reduction of £9.417m, however of this only £8.204m is an annual saving to the General Fund as the remaining £1.213m equates to other funding streams such as the HRA or Public Health. The total cost of all the approved voluntary redundancies is £12.842m, meaning with annual savings of £8.204m the costs will be paid back in less than two years. The £12.842m costs will come from the £40m budget for workforce reduction, leaving a balance of £27.158m unallocated.
- 4.1.3** The 45 approved applications for voluntary redundancy detailed in this report, that are subject to Full Council decision, will save £2.939m annually of the overall annual salary budget reduction of £9.417m. The associated costs with these redundancies are £6.942m within the overall total of £12.842m.

- 4.1.4** Appendix A, of the report also details posts within Partnership and Localities and Strategic Asset Management that require Full Council approval. These posts are related to the original Local Government Reorganisation programme, and the restructuring of the services that have recently taken place. The

£473.4K cost associated with these redundancies will be funded from the original LGR Implementation Reserve.

4.1.5 The cost of the redundancies set out in this report includes the following considerations:

- Statutory Redundancy Pay
- Contractual Redundancy Pay

Costs to the Local Government Pension Scheme if an individual is aged 55 or over at the point of redundancy (known as the 'pension strain'). There may also be costs resulting from those in the NHS Pension Scheme (this is subject to confirmation from NHS Business Services Authority).

4.1.6 The five legacy organisations all had different arrangements for the calculation of redundancy payments. These redundancy schemes are contractual and, for staff employed by Mendip District Council, Sedgemoor District Council, Somerset West and Taunton District Council, and South Somerset District Council, protected under TUPE.

An extract from each former Council's policy is below, as impacts redundancy payments (which include the required statutory redundancy payment).

4.1.7 Mendip District Council

The council exercises discretion under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006, to make compensatory payments to employees being made compulsorily redundant based on a multiplier of three times the number of weeks an employee would be entitled to under the statutory redundancy formula, inclusive of any statutory redundancy payment, up to a maximum of 90 weeks' pay.

4.1.8 Sedgemoor District Council

The Council operates a discretionary enhanced redundancy payment scheme for compensation for loss of employment on redundancy grounds.

The Council will pay a lump sum using the statutory redundancy table and applying a multiplier of three times the statutory redundancy figure based on actual weeks' pay up to a maximum of 90 weeks.

4.1.9 South Somerset District Council

The Council exercises its discretion under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 to make compensatory redundancy payments to employees being made redundant using a multiplier of 2.5 times the number of weeks an employee

would be entitled to under the statutory redundancy formula in cases of compulsory and voluntary redundancy.

4.1.10 Somerset West and Taunton Council

The Council exercises discretion under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 to make compensatory redundancy payments to employees being made redundant based on a multiplier of one and a half times the number of weeks an employee would be entitled to under the statutory redundancy formula, inclusive of any statutory payment, up to a maximum of 45 weeks' pay.

4.1.11 Somerset County Council

The compensation payments for those whose employment is terminated on the grounds of compulsory redundancy is up to the statutory maximum, calculated as follows:

Actual weekly salary up to the statutory maximum weekly pay multiplied by the number of weeks entitlement under the statutory redundancy formula.

For Voluntary Redundancies, the Authority has exercised its discretion to make payments on an actual week's salary, as opposed to the current statutory maximum.

4.1.12 Statutory Redundancy Payments

Under the Employment Rights Act 1996, redundancy payments are made to those who have two or more years of service, according to the following scale:

1. 1½ week's pay for each year of employment during which the employee was aged 41+.
2. 1 week's pay for each year of employment during which the employee was aged 22-40 inclusive.
3. ½ week's pay for each year of employment in which the employee was aged under 22.

Reckonable service is limited to the last 20 years before redundancy. The payment is therefore subject to an overall maximum of 30 weeks' pay, depending upon the number of years worked after and including the age of 41

4.1.13 Continuous Service

For the purposes of redundancies in local authorities, 'Employment' is regarded as continuous local government service.

The qualifying service in respect of receipt of redundancy payments is two years continuous service regardless of hours worked.

4.2 Legal Implications

- 4.2.1** The Local Authorities (Standing Orders) (England) Regulations 2001 state that the dismissal of a member of staff of the authority must be discharged by the Head of Paid Service. But this does not apply to the dismissal of the Head of Paid Service, statutory chief officer, non-statutory chief officer, or deputy chief officer.
- 4.2.2** Somerset Council's Constitution sets out that the decision maker for dismissals on the grounds of redundancy for Chief Officers and Deputy Chief Officers is the Special Members Panel, subject to the executive objections process and the requirement for Full Council to approve any financial settlement exceeding £100,000. The Panel can only recommend the dismissal of the Head of Paid Service, S151 and MO, with the actual decision taken by Full Council.
- 4.2.3** Full consideration has been given to policy, governance and employment law considerations relating to the redundancy process and follows discussion with Somerset Council's legal advisors and HR, Legal and Governance colleagues.

- 4.2.4** An employee who is made redundant:
- Must be given notice of the termination of their employment and must be paid for their notice period;
 - Must be paid a redundancy payment in line with statutory entitlement and any contractual entitlement; and
 - Must be paid any accrued holiday pay due to them as at the termination date.

In addition, for employees whose roles are declared redundant who are age 55 or over, their LGPS pension becomes payable, and the Council is required to pay any pension strain so that the employee takes their pension free of any actuarial reduction. Employees in the NHS Pension Scheme have the option to take their pension benefits immediately if over their minimum pension age.

- 4.2.5** Under Section 73A of the 2006 Act the Council must consult the Secretary of State (SoS) before dismissing its Director of Public Health (DPH). An authority proposing dismissal for any reason should contact an Office for Health Improvement and Disparities (OHID) regional director for advice on how to proceed with the consultation. OHID will normally provide the SoS's formal response within a maximum of 28 days. Advice is being sought from the Faculty of Public Health Regional Faculty Adviser on how or if this may impact on the process for the approval of the voluntary redundancy application from the Executive Director Public Health.

- 4.2.6** The statutory roles of Head of Paid Service, Section 151 Officer, and the Monitoring Officer are Full Council appointments and if there is a vacancy in any of these roles Full Council must appoint a replacement to undertake the statutory duties.

5. Background Papers

- 5.1 One Somerset Business Case - available at:
<https://newsomersetcouncil.org.uk/wp-content/uploads/2020/07/OneSomersetBusinessCase.pdf>
- 5.2 Somerset Council's Constitution – Part I5 Officer Employment Rules.
- 5.3 Reports to Executive (7 February 2024 and 8 April 2024) and Scrutiny Committee Corporate and Resources (7 March 2024) – Developing the approach to Transformation - Future Council.
- 5.4 Report to Special Members Panel (29 April 2024) – Somerset Council Redundancies Arising from Voluntary Redundancy Scheme.
- 5.5 Minutes of the Special Members Panel held on 29 April 2024.

Note For sight of individual background papers please contact the report author.