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To: The Chair and Members  
of the Procedures  
Committee

County Hall  
Topsham Road  
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Date: 27 June 2022

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## **PROCEDURES COMMITTEE**

Tuesday, 5th July, 2022

A meeting of the Procedures Committee is to be held on the above date at 10.30 am via Microsoft Teams to consider the following matters.

Phil Norrey  
Chief Executive

## **A G E N D A**

### **PART I - OPEN COMMITTEE**

1 Apologies for absence

2 Minutes

Minutes of the meeting held on 8 February 2022, previously circulated.

3 Items requiring urgent attention

Items which in the opinion of the Chair should be considered at the meeting as a matter of urgency.

## **MATTERS FOR DECISION**

4 **Statutory Guidance on the Making and Disclosure of Special Severance Payments (Pages 1 - 4)**

Report of the County Solicitor (Interim) (CSO/22/13) on the Statutory guidance on the making and disclosure of Special Severance Payments and additional Governance required, attached.

*Electoral Divisions(s): All Divisions*

5 **Proposed Amendment to Standing Orders (Postponing Meetings)**

A piece of work has been undertaken to assess the potential impact of Operation London Bridge on County Council meetings.

There could be a requirement to postpone meetings or take any urgent decisions under delegated powers which is permissible under the Constitution. However, if an agenda has been published, we currently have no mechanism to then postpone if this was required.

Without any ability to hold meetings any meetings under the Local Government 1972 or those with Executive functions remotely, it also poses an issue with circumstances such as severe weather conditions which could prevent may attendees from physically attending the meeting.

It is therefore proposed to amend Standing Orders to include a provision along the lines of below.

*If the Chair considers that severe weather conditions or some other unforeseen circumstance warrant it, they may postpone for a period of not more than 14 days the date fixed for a meeting of the Authority or Committee.*

The Committee are asked to endorse this proposal.

*Electoral Divisions(s): All Divisions*

## 6 Casual Vacancy - Declarations

[Section 86 of the Local Government Act 1972](#) describes the declaration by the Local Authority of vacancy in office in certain cases, either through ceasing to be qualified as a Member of the authority; or becoming disqualified or by reason of failure to attend meetings of the authority.

The casual vacancy does not occur until the Council declare the office to be vacant (which should happen forthwith after the person has ceased to be a member of the authority).

We recently received guidance from [ADSO and Lawyers for Local Government](#) which said 'provided the Council's Constitution has granted the proper officer the power to declare the office of councillor vacant, they can do so immediately after the person has ceased to be a member'.

Where no such power exists the vacancy must be declared at a Council meeting, which means a delay between the person ceasing to be a member and the vacancy occurring, as it is very much dependent on the date of the next Council meeting.

The paper recommends that Council's Constitutions provide delegated authority to the proper officer of the Council to declare vacancies that occur in relation to Section 86 of the Local Government Act 1972. The requirement for the Council to forthwith declare the office to be vacant places an expectation that this will happen without delay.

Whilst the Leader is permitted to agree the Scheme of Delegation, the Committee is asked to endorse the delegation to the proper officer, so that such vacancies can be declared in the timely manner as anticipated by the legislation.

*Electoral Divisions(s): All Divisions*

### **MATTERS FOR INFORMATION**

NIL

### **PART II - ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF PRESS AND PUBLIC ON THE GROUNDS THAT EXEMPT INFORMATION MAY BE DISCLOSED**

NIL

*Members are reminded that Part II Reports contain exempt information and should therefore be treated accordingly. They should not be disclosed or passed on to any other person(s). They need to be disposed of carefully and should be returned to the Democratic Services Officer at the conclusion of the meeting for disposal.*

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Report of the County Solicitor (Interim):

***Please note that the following recommendation is subject to consideration and determination by the Committee before taking effect.***

## Recommendation

The Committee is asked to;

- (a) note the contents of the Statutory guidance on the making and disclosure of Special Severance Payments;
- (b) recommend that Council amends the terms of reference for the Appointments, Remuneration and Chief Officer Conduct Committee to incorporate its consideration of Special Severance payments of over £100,000 and make appropriate recommendation to the Full Council, in line with the Localism Act 2011;
- (c) endorse a new delegation to the Chief Executive for Special Severance Payments of £20,000 and above, but below £100,000, to include Leader approval (and others involved in payment sign off) as well as the Director of Finance and Public Value;
- (d) endorse a further delegation to the Director of Legal and Democratic Services and Chief Finance Officer (Director of Finance and Public Value) to determine Special Severance payments below £20,000; and
- (e) agree that when the proposed payment is to the Head of Paid Service, ensure it is approved by a panel (Appointments, Remuneration and Chief Officer Conduct Committee) and the two independent persons and the appropriate amendments be reflected in the terms of reference for the Committee.

## 1. Introduction

1.1 The Statutory guidance on the making and disclosure of Special Severance Payments was published by the Department for Levelling Up, Housing and Communities on 15 May 2022.

1.2 The Guidance outlines that most public sector workers have statutory and contractual redundancy or severance terms better than the minimum statutory redundancy entitlement and are usually higher than the value of redundancy or severance payments made in the private sector.

1.3 The Government's view is that paying additional, discretionary sums on top of these entitlements ("special severance payments") should only be considered in exceptional cases.

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1.4 The Guidance also sets out the criteria employers should consider in the exceptional circumstances in which it may be appropriate to make a Special Severance Payment, gives examples of the exceptional circumstances and clarification of the disclosure and reporting requirements for Special Severance Payments.

## 2. What are Special Severance Payments

2.1 Special Severance Payments are payments made to employees, officeholders, workers, contractors, and others outside of statutory, contractual or other requirements when leaving employment in public service. Employers may sometimes consider making such a payment in situations where the individual concerned resigns, is dismissed, or agrees a termination of contract.

2.2 There are a number of types of payments likely to constitute Special Severance Payments, for example, payments reached under a settlement agreement, any employee benefits / allowances allowed to continue beyond the agreed exit date, write-offs of outstanding loans, honorarium payments, hardship payments and payments for retraining. Pay or compensation in lieu of notice where the amount of the payment is not greater than the salary due in the period of notice set out in the employee's contract and pension strain payments (arising from employer discretion) or enhancements may also constitute Special Severance Payments.

2.3 Local Authorities should be able to demonstrate their economic rationale behind proposed Special Severance Payments as well as impact on efficiency and effectiveness.

## 3. Accountability and disclosure

3.1 The Government expects that any Special Severance payments should be approved according to the following process:

- payments of £100,000 and above must be approved by a vote of full council, as set out in the Localism Act 2011;
- payments of £20,000 and above, but below £100,000, must be personally approved and signed off by the Head of Paid Service, with a clear record of the Leader's approval and that of any others who have signed off the payment; and
- payments below £20,000 must be approved according to the local authority's scheme of delegation. It is expected that local authorities should publish their policy and process for approving these payments.
- Where the proposed payment is to the Head of Paid Service (Chief Executive), to avoid a conflict of interest it is expected that the payment should be approved by a panel including at least two independent persons.



## 4. Proposals to be Compliant with the Statutory Guidance

4.1 It is proposed that for payments of £100,000 and over, an amendment is made to the Terms of Reference for the Appointments, Remuneration and Chief Officer Conduct Committee, which comprises of the Leader, Deputy Leader and Labour and Liberal Democrat group Leaders, so they consider such payments and make a recommendation to the Council. This would be in the same manner in which the Committee makes recommendations on the appointments of Directors, Chief Officers and Heads of Service.

4.2 For payments of £20,000 and above, but below £100,000, it is proposed to add a new delegation to the Chief Executive. This would include the requirement to obtain Leader approval (and others that had signed off the payment). It is also proposed that the Director of Finance and Public Value is one of the signatories to any approval.

4.3 For payments below £20,000, the Statutory Guidance suggests that this should be in accordance with the Authority's scheme of delegation. There is an existing delegation to the Director of Legal and Democratic Services and Chief Finance Officer (Director of Finance and Public Value) to authorise the commence of redundancy processes and at conclusion to authorise redundancy payments for individual members of staff, so it is proposed to add a further delegation which authorises them to determine special severance payments below £20,000. It would be a matter for those Directors if they wished to further delegate these to the Head of Human Resources for sign off.

4.4 For any Special Severance Payment to the Head of Paid Service (Chief Executive), and the requirement that the payment should be approved by a panel including at least two independent persons, it is proposed that this be dealt with in a similar manner to the dismissal process in place for a Head of Paid Service. In the case of dismissal, an Independent Panel comprised of at least two independent persons appointed by the Council, for the purposes of the Council Members' conduct regime under section 28(7) of the Localism Act 2011, review a recommendation of the Appointments, Remuneration and Chief Officer Conduct Committee proposing the dismissal and their views, along with any representations made by the Chief Executive are then considered by the Council. In the case of a Special Severance Payment the Appointments, Remuneration and Chief Officer Conduct Committee recommendation would need to be ratified and approved by those two Independent Persons (already appointed for the purposes of the Council Members' conduct regime under section 28(7) of the Localism Act 2011).

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## 5. Conclusion / Summary

5.1 The Statutory guidance on the making and disclosure of Special Severance Payments from the Department for Levelling Up, Housing and Communities places four new requirements on the Council in relation to approval processes for different levels of Special Severance Payments.

5.2 The requirements of the guidance are outlined in section three and the proposals to be compliant outlined in section four of the Report.

5.3 Members are asked to consider the recommendations outlined at the start of the Report in order that the relevant changes can be made to the Constitution, including terms of reference for the Appointments, Remuneration and Chief Officer Conduct Committee and the Scheme of Delegation.

## 6. Financial / Risk Management Considerations

6.1 The would be undertaken on a case by case basis.

## 7. Equality, Environmental Impact and Public Health Considerations.

7.1 No unmanageable risks have been identified.

**ANDREW YENDOLE**

### **Electoral Divisions: All**

Local Government Act 1972: List of Background Papers:

None

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