

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.

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).

## 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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