

Resources
7 Newington Barrow Way
London, N7 7EP

Report of: Corporate Director of Resources

Meeting of: Audit Committee

Date: 13 September 2022

Ward(s): N/A

Subject: Settlement Protocol: Employment Disputes

1. Synopsis

- 1.1. On 12 May 2022 the Government published *Statutory Guidance on the making and disclosure of Special Severance Payments by local authorities in England* (“the Guidance”). The Guidance sets out that Special Severance Payments should only be made in exceptional circumstances and local authority employers must ensure that their Special Severance Payments arrangements are fair, proportionate, lawful and provide value for money for the taxpayer.
- 1.2. In line with legal obligations as well as good practice, the Council seeks to continually review its policies and procedures to ensure that they fit for purpose.
- 1.3. The introduction of a Settlement Protocol: Employment Disputes would implement the new Government Guidance and in its current form, apply to all settlement payments whether involving termination of employment or not. The Protocol sets out an authorisation process for all settlement payments, and the additional requirements for Special Severance Payments set out in the Government Guidance.

2. Recommendations

- 2.1. Audit Committee is asked to:
 1. note the *Statutory Guidance on the making and disclosure of Special Severance Payments by local authorities in England*,
 2. approve the Council's Settlement Protocol: Employment Disputes.

3. Background

- 3.1. The Council look to manage employment disputes with use of their internal policies and procedures and to defend claims where there is a legally defensible basis upon which to do so.
- 3.2. There is a need in certain circumstances for the Council to settle employment disputes by way of making a settlement payment.
- 3.3. The Government Guidance supports the making of settlement payments in exceptional circumstances for disputes involving a termination of employment and sets out an expected scheme of authorisation.
- 3.4. Additionally and outside of the guidance, not all employment disputes result in a termination of employment. To ensure a robust and consistent approach to settlement payments, it is proposed that the same general process as set out in the Government Guidance is adopted for all settlement payments and as set out in the protocol.
- 3.5. The protocol would require the provision and consideration of both HR advice and Legal advice before a settlement could be pursued, and include powers of intervention by the Corporate Director of Resources should the proposed course of action be considered contrary to the Council's best interests.

4. Implications

4.1. Financial Implications

- 4.1.1 The Council does not budget for settlement payments specifically and therefore any agreed exit costs must be met within service budgets. The changes proposed do not directly present a change in financial costs for the Council. The duty to secure value for money endures.
- 4.1.2 Any changes to the authority levels should be reflected within the Councils Scheme of Authorisation.

4.2. **Legal Implications**

- 4.2.1 Under s.3 of the Local Government Act 1999, the Council has a best value duty whereby it must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 4.2.2 The Council must secure value for money in spending decisions.
- 4.2.3 The Government Guidance: *Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England* forms part of the best value regime.
- 4.2.4 Whilst the Guidance provides specifically to special severance payments, the best value duty also applies to settlement payments paid in employment disputes not within this definition.

4.3. **Environmental Implications and contribution to achieving a net zero carbon Islington by 2030**

There are no environmental implications arising from the recommendations in this report.

4.4. **Equalities Impact Assessment**

- 4.4.1 The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.
- 4.4.2 An Equalities Impact Assessment is not required in relation to this report, because the recommendations in this report do not have direct impact on residents.

5. **Conclusion and reasons for recommendations**

- 5.1. The report is submitted to update members and to provide assurance that in the exceptional circumstances where it is decided that a Settlement Payment should be paid, that the arrangements continue to be fair, proportionate, lawful and

provide value for money for the taxpayer and in the case of Special Severance Payments accord with the latest government guidance.

Appendices:

- Appendix 1: [Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/statutory-guidance-on-the-making-and-disclosure-of-special-severance-payments-by-local-authorities-in-england)
- Appendix 2: Draft Settlement Protocol: Employment Disputes

Background papers:

Signed by:

Corporate Director of Resources

Date: 01 September 2022

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