

GOVERNANCE & AUDIT COMMITTEE
20 JULY 2022
7.30 - 8.10 PM



Present:

Councillors Allen (Chair), Brossard, Green, Heydon and Leake

Apologies for absence were received from:

Councillors Wade, Gbadebo and Mrs Hayes MBE

10. Substitute Member

The Committee noted that Councillor Mrs Green was substituting for Councillor Wade.

11. Declarations of Interest

There were no declarations of interest.

12. Minutes of previous meeting

RESOLVED that the minutes of the meeting of the Committee held on 22 June 2022 be approved as a correct record and signed by the Chairman.

Arising on minute 8, Councillor Heydon asked to be recorded as having an affected interest in relation to the Joint Venture which had been mentioned whilst discussing the Annual Governance Statement.

13. Urgent Items of Business

There were no urgent items of business.

14. Special Severance Payments-Statutory Guidance

The Committee considered a report setting out the provisions and effect of recently published statutory guidance on the making and disclosure of special severance payments by local authorities in England. It was noted that the guidance upon which the recommendations were based set out the Government's view that special severance payments did not usually represent value for money and should only be considered in exceptional circumstances. It reflected the statutory best value regime under the Local Government Act 1999 which required the Authority to make arrangements to secure continuous improvement in the way in which its functions were exercised, having regard to a combination of economy, efficiency and effectiveness.

The Committee was reminded that special severance payments were additional, discretionary sums paid on top of statutory and contractual redundancy or severance terms, including payments reached under a settlement agreement to discontinue legal proceedings without admission of fault and pension strain payments arising from employer discretions to enhance standard pension benefits and PILON

payments. There may be exceptional circumstances where the existing statutory or contractual entitlements were insufficient to facilitate an exit, including when settling disputes but again only after receiving appropriate professional advice enabling a conclusion that a special severance payment was a good use of public money and also where there was appropriate evidence that alternative routes of settling disputes had been considered and/or exhausted. In view of this, the Council needed to ensure that, in the exceptional circumstances where it was decided that a special severance payment should be paid, the payment arrangements should be fair, lawful and provide value for money for the taxpayer in accordance with the statutory guidance.

The guidance provided an expected approval process for special severance payments where any payment of £100,000 or more must be approved by full council, payments of £20,000 and above but below £100,000 to be personally approved and signed off by the Head of Paid Service with a clear record of the Leader's approval and payments below £20,000 to be approved according to the authority's scheme of delegation.

In response to questions, the Committee was advised that:

- There were a handful of special severance payments every year.
- The guidance, although similar to previous CIPFA guidance, was new from the Government.
- The name of a person the subject of such an agreement would not normally be disclosed.
- If a freedom of information request about an agreement were to be received, the Council would normally rely upon the confidentiality clause, although the confidentiality could lapse over time as there was no absolute confidentiality.
- If a person who had entered into a non-disclosure agreement, then disclosed the details outside their immediate family, the Council could bring a claim for breach of contract, but it would be difficult to reclaim any money paid to that person.
- The proposed approval bandings reflected those set out in the guidance
- The expectation was that these payments should be the exception rather than the rule, to be applied when the normal statutory payments were insufficient to reach a settlement.
- There was no intention to enhance payments to those leaving in normal circumstances.
- Potential tribunal costs were taken into account when deciding whether to take this approach.
- Whilst there would be grounds for making such payments, as a responsible employer, the Council should do so sparingly so as not to encourage unmeritorious claims.
- The Council needed to make sure any payments were legitimate, as people could object to the accounts when they were audited.

- Where a payment was made as part of a settlement agreement, it could include a sum to cover the individual's legal advice, but this would normally be no more than around £400.

The Committee was also reminded that the Leader's approval was required for payments of between £20,000 and £100,000. It was agreed that provision should be made in the proforma, Appendix C of the Executive Director's report, to indicate the Leader's approval.

RECOMMENDED to Council:

- 1 That the delegations set out in Appendix B of the Executive Director: Delivery's report for the granting of special severance payments be approved for inclusion in the Council's Constitution; and,
- 2 That the contents of the special severance payment business case pro forma document Appendix C, used for all special severance cases submitted for approval in accordance with the delegations set out in Appendix B, be endorsed subject to the addition of space for formal sign-off by the Leader of payments between £20,000 and £100,000.

CHAIRMAN