

Notice of Meeting

Governance & Audit Committee

Councillor Allen (Chair),
Councillor Wade (Vice-Chairman),
Councillors Brossard, Gbadebo, Mrs Hayes MBE, Heydon, Leake
and Parker

Wednesday 20 July 2022, 7.30 pm

Council Chamber - Time Square, Market Street, Bracknell, RG12
1JD



Agenda

Item	Description	Page
1.	Apologies for Absence	
	To receive apologies for absence and to note the attendance of any substitute members.	
2.	Declarations of Interest	
	<p>Members are asked to declare any disclosable pecuniary or affected interests in respect of any matter to be considered at this meeting.</p> <p>Any Member with a Disclosable Pecuniary Interest in a matter should withdraw from the meeting when the matter is under consideration and should notify the Democratic Services Officer in attendance that they are withdrawing as they have such an interest. If the Disclosable Pecuniary Interest is not entered on the register of Members interests the Monitoring Officer must be notified of the interest within 28 days.</p> <p>Any Member with an affected Interest in a matter must disclose the interest to the meeting. There is no requirement to withdraw from the meeting when the interest is only an affected interest, but the Monitoring Officer should be notified of the interest, if not previously notified of it, within 28 days of the meeting.</p>	
3.	Minutes of previous meeting	3 - 6
	To approve as a correct record the minutes of the meetings of the Committee held on 22 June 2022.	
4.	Urgent Items of Business	
	Any other items which, pursuant to Section 100B(4)(b) of the Local Government Act 1972, the Chairman decides are urgent.	
5.	Special Severance Payments-Statutory Guidance	7 - 12
	To set out the provisions and effect of recently published Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England	

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	Reporting: Sanjay Prashar	
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Published: 15 July 2022

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**GOVERNANCE & AUDIT COMMITTEE
22 JUNE 2022
7.34 - 8.28 PM**



Present:

Councillors Allen (Chair), Wade (Vice-Chairman), Brossard, Gbadebo, Mrs Hayes MBE and Heydon

Apologies for absence were received from:

Councillors Leake

4. Declarations of Interest

There were no declarations of interest.

5. Minutes of previous meeting

RESOLVED that the minutes of the meeting of the committee held on the 23 March 2022 and the Annual Meeting of the Committee held on 18 May 2022 be approved as a correct record.

6. Urgent Items of Business

There were no urgent items of business.

7. Internal Audit Annual Assurance Report 2021/22

Sally Hendrick, Head of Audit & Risk Management, presented the Internal Audit Annual Assurance Report 2021/22.

Under the Public Sector Internal Audit Standards, the Head of Audit is required to deliver an annual internal audit opinion. This is timed to inform review of the Annual Governance Statement (AGS).

The Head of Audit and Risk Management was able to give a partial assurance opinion on the internal control environment for 2021/22. Further action was needed to secure an adequate control environment and to ensure moving forward that agreed management actions to address weaknesses are implemented to reduce the number of repeat adverse opinions on individual audits.

The outcome of 2021/22 audits were included within the report, with a number of audits ongoing, and a further six audits had been completed since the report had been published. School audits had not been undertaken in 2021 due to the pandemic, a few schools had been subject to audit in 2022, but there were still a number of weaknesses to address.

In March 2022 an external assessment of Bracknell Forest Council's internal audit services was carried out by CIPFA and the conclusion was that the service is fully

compliant with Public Sector internal audit standards, with the only recommendation being that the Head of Audit and Risk Management should meet privately with the Chair of the Governance and Audit Committee on a regular basis which had already commenced.

Two advisory points were also be raised on use of data analytics and exploring alternative options such as apprenticeships and interns for resourcing internal audit given the national shortages of skilled and qualified auditor. Options were currently being explored with the Apprenticeship Levy Scheme.

Arising from the Committees comments and questions, the following points were made:

- It was a historical arrangement to work with Reading, Wokingham and Oxford Councils to use their Audit Services as they sold spare capacity. Bracknell didn't have this capacity to share with other organisations.
- 3 providers had been looked at to undertake the external assessment. CIPFA were the preferred provider with expertise and independence and used by other Authorities in Berkshire.
- An apprentice would be supplementary to the current resources within the inhouse team.
- External support had been required to undertake Audits in the past year.
- A target date or goal would be included in inadequate or partial opinion audits going forward.
- It was suggested that IT could assist in setting up a recommendation tracker.
- Members could request to see audit reports at anytime.

RECOMMENDED that The Governance and Audit Committee

- i. note the Head of Audit and Risk Management's Annual Report setting out the Head of Internal Audit's Opinion for 2021/22.
- ii. note the conclusion of the independent external assessment that the Internal Audit service is fully compliant with Public Sector Internal Audit Standards.

8. **Annual Governance Statement**

The Borough Solicitor presented the Committee with the Annual Governance Statement (AGS) for 2021/22 and updated the Committee on progress against the Action Plan which had been agreed in June 2021.

The AGS covered the period 1 April 2021 to 31 March 2022 and a summary of assurance is given for each of the seven principles on which the Statement is based. Full assurances were given against six of the seven CIPFA Principles with a partial assurance against the other.

The Committee were told that:

- 2021/22 had seen the transition from remote to hybrid working in the office with the help of new technology.
- Formal meetings had continued throughout the year using a process of advisory meetings and delegations.
- The Council had continued to manage its finances and recognised governance challenges around data protection and cyber security which it had addressed through the training of staff.

- The development and opening of Heathlands, business continuity through the pandemic and a successful peer review were notable successes for the Council.

However, the efficacy of the Council's Special Educational Needs Provision had been criticised following a joint OFSTED/CQC inspection which has led to a remedial plan of action.

Going forward Members would need to consider the style and direction of officer leadership due to the impending departure of the current Chief Executive in the Autumn.

As a result of the Committee comments and questions, the following points were made:

- A partial assurance had been given for Progress with the Joint Venture development project which has been affected by global pressures on construction costs.
- The AGS was incorporated in accounts and the external auditors reflected on the statement annually.

RESOLVED that the draft Annual Governance Statement ("AGS") and Action plan be approved.

9. **Standards Annual Report 2021/22**

The Borough Solicitor presented the Standards Annual Report.

The Standards Framework comprised a number of elements including the code of conduct for Councillors, rules around disclosure of interests, procedure for dealing with complaints and sanctions for breaches.

In the period between 1 April 2021 and 31 March 2022 the Monitoring Officer received no complaints alleging breaches of Codes of Conduct for Members, compared to a neighbouring Borough who received 20 complaints in the same period.

The Governance & Audit Committee considered the Council's existing Code in June 2019 and determined that no changes were necessary. A model Code was published by the LGA in December 2020. It was left to individual Councils to determine whether to adopt it. The Council's existing Code was reviewed by the Code of Conduct Working Group in January 2022 in light of the publication of the Model Code. The Working Group determined that no substantive changes were required except for the following amendments:

- The Code to be redrafted in the first person
- The inclusion of reference to the Mayoral Charter
- A link to the Model LGA Guidance to be referenced in the Code

Once the amendments of the Code had been finalised, this would be communicated with the Chair of the working group who would communicate the updates with the Town and Parish Clerks.

Recruitment for the Independent Person was being looked into, presently if an Independent Person was required, the Monitoring Officer was communicating with

the Berkshire Monitoring Officer Group and using the services of a Independent person from another authority.

RECOMMENDED that Council notes the Standards outputs in 2021/22 as set out in the report.

CHAIRMAN

To: **Governance & Audit Committee 20 July 2022**
Council 14 September 2022

Special Severance Payments-Statutory Guidance **Executive Director: Delivery**

1 Purpose of Report

- 1.1 To set out the provisions and effect of recently published Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England.

2 Recommendation(s); That the Governance and Audit Committee.

- 2.1 **Notes** the contents of the Statutory Guidance on the making and disclosure of special severance payments by Local Authorities (Appendix A)
- 2.2 **Recommends** to the Council that the delegations set out in Appendix B for the granting of Special Severance Payments be approved for inclusion in the Constitution
- 2.3 **Notes** the contents of the pro forma document (Appendix C) used for all special severance cases submitted for approval in accordance with the delegations set out in Appendix B.

3 Reasons for Recommendation(S)

- 3.1 That in the exceptional circumstances where it is decided that a Special Severance Payment should be paid, that the payment arrangements continue to be fair, lawful and provide value for money for the taxpayer in accordance with Government Statutory Guidance.

4 Alternative Options Considered

- 4.1 The recommendations are based on statutory guidance which should be followed unless there is good reason not to in a particular case.

5 Supporting Information

- 5.1 Statutory Guidance on the making and disclosure of special severance payments was issued by the Department for Levelling Up, Housing and Communities on 12 May 2022.
- 5.2 In summary the Guidance;
- Defines Special Severance Payments as additional, discretionary sums paid on top of statutory and contractual redundancy or severance terms.
 - Gives examples of payments that are likely to be Special Severance Payments which includes payments reached under a settlement agreement to discontinue legal proceedings without admission of fault.

- Gives examples of payments which may constitute Special Severance Payments including pension strain payments arising from employer discretions to enhance standard pension benefits and PILON payments.
- Identifies payments which will not constitute Special Severance Payments including statutory redundancy payments and contractual redundancy payments whether applicable to compulsory or voluntary redundancy and whether agreed by collective agreement or otherwise, a pension strain cost where a member's retirement benefits become immediately payable without reduction, payments made as part of an ACAS early conciliation procedure and payments ordered by a court or tribunal or agreed as part of a judicial or non-judicial mediation.
- Requires local authorities to comply with the Best Value duty and to be able to demonstrate the economic rationale behind a proposed Special Severance Payment and to seek legal advice on the prospects of successfully defending an Employment Tribunal claim in deciding whether the proposed payment is good value.
- Indicates there may be exceptional circumstances where the existing statutory or contractual entitlements are 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 is a good use of public money and also where there is appropriate evidence that alternative routes of settling disputes have been considered and/or exhausted.
- Notes that even in cases where a commercial settlement is possible which would save the authority money compared to the cost of defending and defeating an apparently frivolous claim it might still be the case that continuing to defend the case at the extra cost would be appropriate in order to discourage other such vexatious claims.
- Provides 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 (noting that it is expected that local authorities should publish their policy and process for approving these payments).
- Reminds local authorities of various existing obligations to report pay data and exit payments and adds a requirement to disclose in annual accounts all severance payments and pension strain costs made in connection with termination of employment or loss of office.
- Sets out that an authority's s151 Officer and Monitoring Officer should be able to justify any Special Severance Payments that are made and, in particular, any such payments that are not consistent with the statutory guidance.

5.3 The Council should therefore have an approval process in place that enables it to consider the relevant criteria highlighted by the guidance, to ensure that any payment is approved at the correct level and to further ensure that appropriate records are created and kept in order that it can demonstrate compliance with the expectations and best value duties placed upon it. The report's recommendations are intended to satisfy this requirement.

6 Consultation and Other Considerations

Legal Advice

6.1 The Borough Solicitor is the author of this report

Financial Advice

6.2 The guidance upon which the recommendations in this report are based sets out the government's view that Special Severance Payments do not usually represent value for money and should only be considered in exceptional circumstances. It reflects the statutory best value regime under the Local Government Act 1999 which requires the Authority to 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".

Other Consultation Responses

6.3 The Assistant Director of Human Resources and Organisational Development was consulted during the preparation of this report.

Equalities Impact Assessment

6.4 None

Strategic Risk Management Issues

6.5 All special severance payments need to be considered in the context of the legal risk arising from an adverse Employment Tribunal outcome. The due diligence process in approving settlements will continue to require assessment of such risk

Climate Change Implications

6.6 The recommendations in Section 2 above are expected to have no impact on emissions of CO₂.

Background Papers

None

Contact for further information

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Appendix A

[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 B:

Scheme of Delegation for Special Severance Payments to be incorporated in the Constitution

Payments below £20,000

Executive Director in Consultation with Borough Solicitor and Head of Human Resources and Organisational Development

Payments of £20,000 and above, but below £100,000

Chief Executive with agreement of the Leader

Payments of £100,000 and above

Vote of full council

Appendix C

Special Severance Payment
[Name of Employee]

Special Severance Payment Business Case	
Name of requesting Officer	
Date of submission	
Date decision is needed and why	
Overview of the Case	
Terms of Employment	
Breakdown of Proposed exit payment	
Borough Solicitor Comments	
Assistant Director Human Resources and Organisational Development Comments	

Executive Director Resources Comments

Approved:

Executive Director (payments below £20k):
Date:

Chief Executive (payments £20k to £100k)
Date:

Council (payments £100k+)(insert minute number)
Date: