

PERSONNEL COMMITTEE

Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England

Thursday 22nd September

Report of the Head of HR and OD

PURPOSE OF REPORT

To explain the recent statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England, and what this means for Lancaster City Council and associated policies

This report is public.

RECOMMENDATION

- (1) That Committee considers and approves the suggested approach to making relevant policy changes to ensure that the Council adheres to the statutory changes**

1.0 Introduction

- 1.1 Most public sector workers enjoy statutory and contractual redundancy or severance terms that are significantly better than the minimum standard redundancy entitlement.
- 1.2 The government is of the view that paying additional, discretionary sums on top of these entitlements (special severance payments) do not usually provide good value for money or offer fairness to taxpayers, so should only be considered in exceptional circumstances.
- 1.3 In the context of this guidance, a special severance payment is a payment made to staff outside of statutory, contractual or other requirements when leaving employment in public services, such as:
- Settlement agreements
 - Benefits or allowances that continue beyond the agreed exit date
 - Write-offs of outstanding loans
 - Honorarium payments
 - Hardship payments

- Any payments for retraining relating to their termination of employment

Other types of payments may include:

- PILON where the payment is not greater than the salary due in the period of notice
- Pension strain payments arising from employer discretions to enhance standard pension benefits

1.4 **The following do not constitute special severance payments:**

- Statutory redundancy payments
- Contractual redundancy payments (CR and VR)
- Severance payments made in accordance with that Local Authority's policy
- Pension strain costs which results in member benefits becoming immediately payable without reduction
- Payment for untaken annual leave
- Court or ET payments linked to mediation
- ACAS early conciliation payments
- Payments to compensate for the injury or death of a worker

2.0 **Overview**

2.1 Local authorities need to demonstrate their economic rationale and make sure they have sought legal advice before making payments, to check the risk of having to defend an ET claim against the costs incurred as a result of the payment.

2.2 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
- 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.

2.3 Where the proposed payment is to the Head of Paid Service, to avoid a conflict of interest it is expected that the payment should be approved by a panel including at least two independent persons.

2.4 Under delegations from the Personnel Committee (to the Chief Executive) on pages 53 and 54 of the Lancaster City Council Constitution (v.1.7), it currently states:

- *To approve the payment of acting up and honorarium payments and severance payments, including voluntary severance, early retirement and/or voluntary redundancy, within Council policy, up to £50,000.*

3.0 Recommendation

3.1 That Committee approve an amendment to the above wording in the Constitution to instead state:

- *To approve the payment of acting up and honorarium payments (whilst in employment) and termination payments, including voluntary severance, early retirement and/or voluntary redundancy, within Council policy, up to £50,000*
- *To approve special severance payments below £20,000*
- *To approve special severance payments of £20,000 and above but below £100,000, with a clear record of the Leader's approval*
- *Special severance payments of £100,000 and above must be approved by a vote of full Council, as set out in the Localism Act 2011*

3.2 That the Monitoring Officer makes the necessary changes to the Scheme of Delegation to reflect the decision-making process.

3.3 That the Council continue to ensure that special severance payments are only used in exceptional circumstances and payments are not used to avoid management action, disciplinary processes, unwelcome publicity or avoidance of embarrassment.

4.0 Conclusion

4.1 The Committee is asked to approve the recommendations.

<p>CONCLUSION OF IMPACT ASSESSMENT (including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</p>
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<p>LEGAL IMPLICATIONS</p>

<p>In considering whether it is appropriate to make a Special Severance Payment, the government expects local authorities to consider whether such a payment would be a proper use of public money. Local authorities should also monitor and review their policies on the award of special severance payments to ensure that they are also consistent with their Public Sector Equality Duty under the Equality Act 2010.</p>
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<p>FINANCIAL IMPLICATIONS</p>

<p>None</p>

OTHER RESOURCE IMPLICATIONS

Human Resources:

None.

Information Services:

None.

Property:

None.

Open Spaces:

None.

SECTION 151 OFFICER'S COMMENTS

Guidance issued by the Department of Levelling Up, Housing & Communities in May 2022 advises that local authorities should only consider exit payments above contractually agreed terms in exceptional circumstances. The view is that paying additional discretionary amounts on top of contractual entitlement does not usually provide good value for money.

Before agreeing any special severance payments, Authorities must consider the possibility of exiting the individual at a lower cost, the wider public perception and what the expenditure could fund elsewhere. Authorities must also provide evidence that it considered attempts to resolve disputes before escalation to legal action. They should also consider the cost and deterrent aspect of legal action in defending frivolous, or vexatious claims to demonstrate it does not reward such claims.

Finally, all Authorities have obligations to report pay information and exit costs, including severance and pension strain costs within its annual Statement of Accounts

MONITORING OFFICER'S COMMENTS

As part of their duties, an authority's s151 Officer, and where appropriate, the Monitoring Officer, should take a close interest in and be able to justify any special severance payments that are made by that authority and in particular any payments made that are not consistent with the content of the statutory guidance issued under Section 26 of the Local Government Act 1999.

BACKGROUND PAPERS

Lancaster City Council constitution

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