


<p>Non-Executive Report of the:</p> <p><b>General Purposes Committee</b></p> <p>Thursday 23 February 2023</p>	 <p><b>TOWER HAMLETS</b></p>
<p><b>Report of:</b> Janet Fasan, Director of Legal and Monitoring Officer and Musrat Zaman, Director of Workforce, OD and Business Support</p>	<p><b>Classification:</b> Unrestricted</p>
<p><b>Process for agreeing a Special Severance Payment</b></p>	

<b>Originating Officer(s)</b>	Musrat Zaman, Director of Workforce, OD and Business Support
<b>Wards affected</b>	All Wards

### Executive Summary

On Wednesday 1 February 2023 it was announced that the Chief Executive, Will Tuckley, would be leaving the Council by mutual agreement on 2 March 2023. A Special Severance Payment is being negotiated as part of the agreement.

Where a Chief Executive (Head of Paid Service) leaves a local authority there are a number of processes which must be followed. This report provides the General Purposes Committee with an overview of relevant parts of the process for information purposes.

The report also asks the Committee to agree to the establishment of an Independent Panel to review and approve the proposed Special Severance Payment (SSP) to avoid a conflict of interest, as set out in Statutory Guidance. On 12 May 2022, the Secretary of State issued new statutory guidance on the making and disclosure of Special Severance Payments (SSP) by local authorities. A paper was brought to GPC on 13 October 2022 where the guidance was adopted into the council's Pay Policy.

SSP's are payments made to employees, officeholders, workers, contractors, and others outside of the statutory, contractual or other requirements when leaving employment in public service. Such payments may only be made where there is a convincing case that they are in the interests of taxpayers. In taking decisions, elected members must make all proper enquiries and consider all available material that can help in coming to a decision.

Where the proposed payment is to the Head of Paid Service, to avoid a conflict of interest, the Guidance recommends that the SSP should be approved by a panel of

at least 2 Independent Persons. This needs to take place before the SSP is voted upon by Full Council.

### **Recommendations:**

The General Purposes Committee is recommended to:

1. Review and note the process for agreeing the Special Severance Payment to the outgoing Chief Executive.
2. To agree to the establishment of a Panel of Independent Persons to review and approve the Special Severance Payment to the outgoing Chief Executive before the proposal is submitted to Council for a final decision as set out in Section 3 of the report.

### **1. REASONS FOR THE DECISIONS**

- 1.1 The General Purposes Committee oversees Human Resources matters on behalf of Council relating to incoming and outgoing Chief Executives (Head of Paid Service).

### **2. ALTERNATIVE OPTIONS**

- 2.1 The General Purposes Committee could decide not to establish the Independent Panel but that is not recommended as it would go against Statutory Guidance and could leave the Council open the legal challenge.

### **3. DETAILS OF THE REPORT**

- 3.1 On Wednesday 1 February 2023 it was announced that the Chief Executive, Will Tuckley, would be leaving the Council by mutual agreement on 2 March 2023.
- 3.2 Where a Chief Executive (Head of Paid Service) leaves a local authority there are a number of processes which must be followed. This report provides the General Purposes Committee with an overview of relevant processes for information purposes.
- 3.3 The outline of the process is as follows:
  - An agreement is reached with the outgoing Chief Executive
  - Any SSP included in the agreement should then be approved by a Panel of Independent Persons (see below).
  - A final decision to agree the payment must be taken by Full Council where it relates to a Chief Executive.

#### Independent Panel

- 3.4 The requirement for a panel of Independent Persons to review SSP's agreed with an outgoing Chief Executive is a new requirement set out in Statutory

Guidance issued on 12 May 2022 (Statutory Guidance on the making and disclosure of Special Severance Payments by local authorities in England). This requirement was introduced to avoid the potential for a conflict of interest in the making of the payment to the most senior officer in the authority who would usually be required to sign off such payments.

- 3.5 The guidance states that the panel must consist of at least two Independent Persons. It does not state who those persons should be but similar guidance on HR processes does specify that the Council should make use of its Independent Persons appointed to the Standards Advisory Committee and it is proposed that a similar arrangement is employed here.
- 3.6 The proposal is that a two-person Independent Panel be established including:
- Charlotte Webster – Independent Person for the Audit Committee
  - Rachael Tiffin – Independent Person for the Standards Advisory Committee
- 3.7 It is considered that the financial expertise of the Independent Person from the Audit Committee will be valuable to the Panel alongside the governance expertise of the Independent Person from the Standards Advisory Committee.
- 3.8 The Panel will be supported by:
- Musrat Zaman, Director of Workforce, OD and Business Support
  - A Legal Services Officer
  - Clerking will be provided by Democratic Services
- 3.9 The Panel will review a report presented by the above officers setting out the proposed Special Severance Payment along with information in relation to its Best Value and other considerations.
- 3.10 The Panel may question internal and external individuals as appropriate, following advice by officers, including relevant parties involved in the process to this point.
- 3.11 Following the meeting the Panel will report its considerations to the next meeting of Council as to whether or not it has agreed the proposed SSP.
- 3.12 Council must take this report into consideration before taking its final decision on whether to agree the payment.

#### **4. EQUALITIES IMPLICATIONS**

- 4.1 None specific to this report but the Independent Panel should consider relevant equalities matters in relation to the SSP (if any).

## **5. OTHER STATUTORY IMPLICATIONS**

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
  - Consultations,
  - Environmental (including air quality),
  - Risk Management,
  - Crime Reduction,
  - Safeguarding.
  - Data Protection / Privacy Impact Assessment.
- 5.2 The proposal to establish an Independent Panel is designed to help ensure the Council receives Best Value from any SSP agreed with the Chief Executive.

## **6. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 6.1 Any payments associated with the departure of the Chief Executive will be met from the General Fund. There is a corporate budget for severance and pension strain and the payments will be reflected in the outturn for 2022/23.

## **7. COMMENTS OF LEGAL SERVICES**

- 7.1 The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (Regulation 6) allow a local authority to make a discretionary compensation payment where a person—
- a) ceases to hold his employment with an employing authority, and
- (b) in respect of that cessation may not count an additional period of membership under regulation 52 (power of employing authority to increase total membership of members) of the Pension Regulations(1).
- (2) Where this regulation applies, the employing authority may, not later than six months after the termination date, decide to pay compensation under this regulation and in that event shall, as soon as reasonably practicable after the decision, notify the person in whose favour it has been made, giving details of the amount of the compensation.
- (3) The amount of compensation must not exceed 104 weeks' pay
- 7.2 The Statutory Guidance referred to in paragraph 3.4 of this report should be followed by the Council. The guidance forms part of the best value regime for local authorities in England. The best value duty, as set out in section 3 of the Local Government Act 1999 provides that “a best value authority must make

arrangements to secure continuous improvements in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". The best value duty is relevant to the Council's duty to secure value for money in spending decisions. This will include decisions to make Special Severance Payments. The guidance is issued under section 26 of the 1999 Act which is to set out the government's view that Special Severance Payments do not usually represent value for money and should only be considered in exceptional circumstances. The guidance sets out the criteria that employers should consider in the exceptional circumstances in which it might be appropriate to make a Special Severance Payment. The report also confirms that the Guidance has been adopted into the Council's Pay Policy.

- 7.3 The Council has a responsibility to ensure that there is a clear, evidenced justification for making a Special Severance Payment and to ensure that all relevant internal policies and procedures have been followed and all alternative actions have been fully explored and documented. It is the responsibility of the individual employer to ensure their Special Severance Payment arrangements are fair, proportionate, lawful and provide value for money for the taxpayer. Local authorities must genuinely consider the payment to be in the public interest. In taking decisions, elected members must make all proper enquiries and consider all available material that can help in coming to a decision
- 7.4 The proposed settlement terms for the Chief Executive contain payments which fall under the definition of a Special Severance Payment. The Guidance states that 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
  - 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.
- 7.5 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. The measures proposed in this report to establish an independent panel including use of the Independent Persons appointed to the Standards Advisory Committee and Audit Committee are reasonable. The review and reporting mechanisms suggested for the panel are also reasonable.
- 7.6 The Council's section 151 Officer and Monitoring Officer, as part of their duties, should also scrutinise and be able to justify any special severance payments that are made by the Authority

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- None

### **Appendices**

- Appendix 1 - Statutory Guidance on the making and disclosure of Special Severance Payments by local authorities in England – May 2022.

### **Local Government Act, 1972 Section 100D (As amended)**

#### **List of “Background Papers” used in the preparation of this report**

List any background documents not already in the public domain including officer contact information.

- None

### **Officer contact details for documents:**

N/A