



People, Performance and Development Committee
27 February 2023

Surrey County Council Special Severance Policy

Purpose of the report:

To provide the Committee with an overview of the approval process Special Severance payments process and newly updated severance policy required by the introduction of statutory guidance in May 2022 on the making and disclosure of Special Severance Payments by local authorities.

This report is being brought to People, Performance and Development Committee under its delegated powers in accordance with Section 2, para 6.13 (a) of the Constitution:

“determine policy on pay and contractual terms and conditions of employment of all staff”.

Recommendations:

1. It is recommended that the Committee agree with the overview provided on the development of an approvals process for special severance payments as required by the statutory guidance.

BACKGROUND:

1. On 12 May 2022, the Department for Levelling Up, Housing and Communities (DLUHC) published statutory guidance on the making and disclosure of Special Severance Payments by local authorities. This has been issued as part of the best value regime for local authorities in England.

DOCUMENT DETAIL:

1. The Guidance issued by DLUHC in May 2022 states:

'1.5 This guidance is issued under section 26 of the 1999 Act, the purpose of 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,
- Set out the criteria employers should consider in the exceptional circumstances in which it may be appropriate to make a Special Severance Payment,
- Give examples of the exceptional circumstances in which Special Severance Payments may be appropriate,
- Clarify the disclosure and reporting requirements for Special Severance Payments.

2. A Special Severance Payment is any payment made to employees as an additional, discretionary sum paid separate to or on top of severance terms. It includes any payment reached under a settlement agreement, as opposed to an ACAS conciliation agreement.

3. Voluntary and compulsory redundancy payments, pension strain cost (where a member's retirement benefits become immediately payable without reduction), contractual pay in lieu of notice, payments made as part of an ACAS conciliation procedure and payments ordered by a court or tribunal or agreed as part of a judicial or non-judicial mediation are not to be treated as Special Severance Payments and are excluded from the definition.

4. Section 4.4 of the Government's statutory guidance states that even in cases where a settlement agreement is possible, which would save the authority money compared to the cost of defending litigation, it might still be the case that continuing to defend the case at the extra cost would be appropriate in order to discourage future vexatious claims.

5. It is currently unclear whether or not this guidance extends to Schools where the Local Authority is the employer. It is the governing body which has the power to agree Severance payments in respect of School staff and the Council is obliged to action them (although the Council is able to give guidance, which the School must consider).

We are waiting for further advise from the Local Government Association on this particular matter.

Approval process

6. The guidance requires that an approvals process is put into place, Surrey County Council approvals process is as follows:
 - A. payments of £100,000 and above must be approved by a vote of full council, as set out in the Localism Act 2011
 - B. payments of £20,000 and above, but below £100,000, must be personally approved and signed off by the Chief Executive, in consultation with the chair of PPDC (Council Leader).
Recommendation and approval must be sought of the Director of People and Change, Relevant Executive Director and either Director of Finance – Corporate and Commercial Or Director of Finance – Insight and Performance (on behalf of the S151 Officer).
 - C. Payments below £20,000 must be approved by the Head of Business Partnering & Employment Practice and relevant Head of Service & People Consultancy Lead. Strategic Finance Business Partner supporting the service funding the application (on behalf of the S151 Officer).
7. The S151 Officer and where appropriate, the Monitoring Officer, are expected to take a close interest in, and be able to justify, any Special Severance payments that are made by the authority and in particular any payments made that are not consistent with the content of the guidance.
8. For any value of Special Severance payment a business case form must be completed, which would cover in detail the following areas:
 - A. Circumstances of the case
 - B. Breakdown of proposed payment
 - C. Proposed ways of proceeding
 - D. Financial considerations
 - E. Legal considerations
 - F. Repercussion risks

The business case can only be considered for approval if all authorisers for the relevant special severance value are satisfied that all options have been fully considered and exhausted.

Legal issues

9. The guidance is clear in that Special Severance payments and arrangements are fair, proportionate, lawful and provide value for money for the taxpayer.
10. The Council is required to pay regard to and to follow statutory guidance unless it can justify departure from it for a good reason.

This could include a number of reasons – for example:

- speed, with a view to minimising the disruption to the Authority from uncertainty should a swift decision not be made;
- in exceptional circumstances it may be inappropriate to divulge information beyond the amount of special payment value
- the need to move forward swiftly, where litigation is on-going.

Where the decision is being taken by the relevant Committee (for example PPDC), it will be made clear that should members not feel comfortable in agreeing the Special Severance payment they could refer the matter to Full Council. Legal advice has been sought and wording, to reflect the above points, is included in the policy.

11. The custodian of the policy is the Director of People and Change. All policies and inter-relationships are centrally reviewed by the HR Policy and Reward Board and Surrey County Council Trades Unions, whose role it is to act as one body and represent the interests of its constituent bodies and their members in response to Surrey County Council proposals.

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Sources/background papers:

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

[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/uploads/system/uploads/attachment_data/file/442222/Statutory_guidance_on_the_making_and_disclosure_of_Special_Severance_Payments_by_local_authorities_in_England.pdf)