

Appendix A

PAY POLICY STATEMENT 2022/2023

INTRODUCTION

1. This Pay Policy Statement sets out the Council's policies on remuneration of its staff in accordance with Section 38 of the Localism Act 2011. The policy must be approved by full Council and is subject to annual review. Any amendments during the course of the year must also be considered by full Council. The Pay Policy Statement will be published on the Council's website as soon as reasonably practicable after approval or amendment.
2. The Localism Act 2011 does not require the Council to consider individual schools therefore the arrangements set out in this document do not extend to members of staff employed within schools.

DEFINITIONS

3. The Localism Act 2011 defines the following as Chief Officer posts:
 - Head of Paid Service designated under Section 4(1) of the Local Government and Housing Act 1989
 - Monitoring Officer designated under Section 5(1) of that Act
 - Any statutory Chief Officer mentioned in Section 2(6) of that Act
 - Any non-statutory Chief Officer mentioned in Section 2(7) of that Act
 - Any Deputy Chief Officer mentioned in Section 2(8) of that Act.
4. The following posts within the Council fall within the above definition:
 - Chief Executive
 - Executive Directors
 - Strategic Directors
 - Directors
 - Monitoring Officer (Director of Legal and Governance Services)
5. The lowest paid employee of the Council (£9.81 per hour) is currently below the Real Living Wage (previously the Living Wage Foundation Rate) of £9.90. However, this is due to ongoing national negotiations with the Trades Unions not yet being concluded. It is likely that as a minimum our lowest rate will rise to at least £9.98 based on the latest offer and will be backdated to 1st April 2021.
6. Apprenticeships have been excluded as the salaries attributable to apprenticeships are largely in line with those set out within National Minimum Wage legislation however the Council pay £4.55 in year 1 regardless of age.
7. The median salary figure for the organisation is the middle value of all employees' salaries listed in numerical order. The median salary figure is then used to calculate the organisation's pay multiple and is calculated on a fixed date each year, as at 31 December.

CONTENT

8. To comply with the Localism Act 2011, the Council is required to approve a Pay Policy Statement setting out details of the Council's policies on the following:
- Level of remuneration of Chief Officers
 - Level of remuneration paid upon recruitment
 - Payment of increments
 - Enhanced / additional pension contributions
 - Payment of bonuses, performance related pay and severance pay for Chief Officers
 - Awarding additional fees for election work
 - The creation of new posts with a salary package over £,100,000 per annum
 - Employment of individuals already in receipt of a local government pension
 - Employment of ex-employees as Chief Officers under a contract for services
9. The Pay Policy Statement also sets out:
- The Council's approach to the pay of its lowest paid employees
 - The relationship between Chief Officer pay and the Council's remaining employees as set out within the context of the pay multiple calculation
 - How this Pay Policy Statement will be publicised

CHIEF OFFICER REMUNERATION

Remuneration of Chief Officers

10. The level of remuneration paid to Chief Officers is based on the Local Government Association Scheme and the policy on this was approved in December 2005 by the Mayor. The terms and conditions of Chief Officer Employment contracts incorporate nationally agreed Joint Negotiating Committee terms and conditions.

Post	Salary Band
Chief Executive	£152,670
Executive Director	£111,974 - £123,754
Strategic Director	£105,811
Joint Director of Public Health ¹	£88,984 - £94,546
Monitoring Officer ²	£88,984 - £94,546
Director Level 1	£88,984 - £94,546
Director Level 2	£77,860 - £83,423

Level of remuneration paid upon recruitment

11. The Council's policy on pay upon recruitment is set out within the Recruitment & Selection Policy Statement and Guide, which applies to all employees. The Starting Salaries Policy states that upon recruitment to a post, remuneration will begin at the bottom of the pay band unless agreed otherwise by the Director in exceptional circumstances. In the case of Chief Officers, the Chief Executive and the Director of Finance would be required to agree any variation to this policy.

¹ Director of Public Health has joint responsibility for Middlesbrough and Redcar & Cleveland

² Currently allocated to the Director of Legal and Governance Services

Payment of increments and increases in salary

12. The Council's policy on the payment of increments is that all employees with less than six months' service on the first of April will receive their first increment six months after appointment, promotion or re-grading. Otherwise, all employee increments are payable on an annual basis on the first of April. Other increases in pay for any employee will only occur where:

- There is a pay award agreed by way of national / local collective bargaining
- There is a significant change to a job role which results in a higher salary being appropriate which is confirmed by an appropriate job evaluation process
- Recruitment and Retention payments which, following consideration of the circumstances at the time, are deemed necessary and in the best interests of the Council and which are determined under the relevant policy relating to such payments.

Enhanced / additional pension contributions

13. The Council's policy on enhanced or additional contributions to pensions is set out within the Teesside Pension Fund Policy Statement and the Council's Statement of Policy regarding the application of the discretionary elements of the Local Government Pension Scheme regulation. These apply to all employees. These statements set out:

- Allocation of employee contribution bands
- Awarding extra benefits for early retirement situations
- Extending time limits for certain provisions
- Setting up a shared cost Additional Voluntary Contribution (AVC) scheme
- Waiving actuarial reductions for early / flexible retirements

Payment of bonuses, performance related pay and severance pay

14. The Council's policy is that it does not operate bonus or performance related pay for its employees.

15. The policy on severance and redundancy pay is set out within the Reviews, Consultation and Redundancy Policy, which applies to all employees. This states that calculation of any redundancy payment to an employee will be in accordance with the Council's policy in relation to Redundancy. Redundancy payments will be based on age and years' service in line with the Statutory Redundancy table up to a maximum of 30 weeks, however the Council retains the discretion under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales Regulations) 2006 to offer discretionary payments. Such discretionary elements will be approved by the Chief Officer Appointments Committee as a Committee of full Council.

16. Corporate Affairs and Audit Committee has approved a temporary enhancement of the Council's Voluntary Redundancy Scheme. This policy currently enables a multiplier of 1.25 to be applied to voluntary redundancies that arise either as a result of a review within a specific service area or from time to time within a Council wide scheme.

17. Where consideration to allow voluntary redundancy/early retirement to terminate a contract of employment any redundancy payment, pension strain costs and/or salary in lieu of notice total amounts to a single payment of £100,000 or more, full Council or a committee thereof will be given an opportunity to vote before the package is approved.
18. Where an employee is contractually entitled to a payment in excess of £100,000 on the grounds of compulsory redundancy, failure to comply with this would place the Council in breach of contract and leave it exposed to litigation. Therefore, there is an exemption from the requirement to give Council an opportunity to vote on those cases where the payment of a severance package does not involve any discretion, this is because the Council is legally bound to comply with severance terms in any event.
19. The planned HR policy for settlement agreements, to outline the procedure and approval routes, has been delayed as a government consultation has taken place which would cover such payments (copy at Appendix 1). When the results of the consultation are published a policy will be developed accordingly.
20. In the absence of any exceptional circumstances which render it necessary in the best interests of the Council to do so, the Council will generally not re-engage any individual who has previously been employed by the Council and left that employment with the benefit of a severance, early retirement or redundancy payment.

Awarding additional fees

21. The policy on the payment of additional fees is set out within the Council's Constitution and decision making is delegated to the Corporate Affairs and Audit Committee. The Council's policy on the payment of additional fees to officers within the scope of this statement is that fees for election duties for Chief Officers are not included in salaries. These are determined separately in consultation with the other Tees Valley Councils. For contested elections, the fees are based on an agreed sum for the first 1,000 electors and a further sum for each additional 1,000 electors or fraction thereof, and a set agreed sum for uncontested elections. This policy of payment is approved by the Council's Corporate Affairs Committee and is in line with national guidance and legislation.

Creation of new posts with a salary package over £100,000 per annum

22. In line with the requirements of the Localism Act 2011, Council will be given the opportunity to approve salary packages for any new posts that would come within the scope of this Pay Policy Statement, defined within the Act as posts over £100,000 per annum. This includes any additional fees, charges or allowances that would be routinely payable. The approach to be taken when creating a new post is set out within the Constitution. Where a Chief Officer post is created which is under £100,000 the usual processes will be followed as set out within the Recruitment and Selection Policy and the Pay Policy Statement will be amended accordingly.

Employment of individuals already in receipt of a local government pension

23. The approach to the employment of individuals already in receipt of a Local Government Pension is set by the administering authority for the pension. The Local Government Teesside Pension Fund has resolved not to abate pensions on re-employment, having regard to the enactment of regulations introducing flexible retirement, unless an enhanced

ill-health retirement has been awarded. Some pensioners have been awarded extra pensions by their former employers to compensate them for retiring early. When this happens, the extra pensions, called compensatory added years (CAYs), are paid along with the Fund's retirement pension. These extra pensions may be abated upon re-employment or upon subsequent retirement, in accordance with the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended).

Employment of ex-employees as Chief Officers under a contract for services

24. The Council's position is that this is generally discouraged, however there may be some specific circumstances where employment of an ex-employee under these terms could be the most effective and efficient way of meeting the Council's needs. If this situation applies formal approval must be sought from the Chief Executive in their role as Head of Paid Service.

Chief Officers' Tax and National Insurance

25. The Council does not enter into arrangements with individual employees to minimise their tax and national insurance contributions.

REMUNERATION OF THE LOWEST PAID EMPLOYEES WITHIN THE COUNCIL

Lowest paid employees

26. As at 31st December 2021 the lowest FTE salary within the Council grading structure is £18,933.

The Council's approach to the pay of its lowest paid employees

27. The Council is committed to ensuring that pay and reward policies are fair and that the needs of the lowest paid employees are properly considered. The Council has completed the job evaluation process to ensure that all employees receive a fair and equal rate of pay for the work that they undertake. The lowest paid employees are currently paid below the Real Living Wage (previously the Living Wage Foundation Rate), the Council is signed up to nationally negotiated pay agreements.

Relationship between Chief Officer pay and other employees

28. The Council publishes its pay multiple in line with the Local Authorities (Data Transparency) Code 2015. The pay multiple is the ratio between the highest paid employee (£152,670) and the median earnings across the organisation (see paragraph 7 for information on the method used to calculate this). The current median salary earned within the Council is £21,748. The current pay multiple is 7.0.

PUBLICATION OF THE PAY POLICY STATEMENT AND TRANSPARENCY INFORMATION

29. The Pay Policy Statement is published on the Council's website. Further information on the remuneration of Chief Officers can be found on the Open Data section of the Council's website in line with the Local Authorities (Data Transparency) Code 2015.

POTENTIAL FUTURE REVIEW

Recovery of Public Sector Exit Costs

30. The Government is seeking to introduce legislation to require senior officers in the public sector (those earning over £80,000) to repay termination payments in the event that they return to the public sector within a prescribed period, which is currently proposed as 12 months. The enabling provisions are set out in the Enterprise Act which received Royal Assent in May 2016. However, there is no clear timeline for the implementation of these provisions.

£95k Exit Cap on Public Sector Employees

31. The Restriction of Public Sector Exit Payments Regulations 2020 came into force on 4th November 2020. The government then dis-applied the regulations with effect from 12th February 2021 and they were formally revoked on 19th March 2021.
32. It is anticipated that the Exit Cap will be revisited at some point in the future, the Pay Policy Statement will be amended to reflect any changes in regulation as required.
33. The Department for Levelling Up, Housing and Communities plans to introduce further changes to exit payments at the same time as the exit cap is re-introduced. However further consultation will be undertaken before any changes are made. The Pay Policy Statement will be amended to reflect any changes in regulation as required.

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

Introduction

Most public sector workers enjoy statutory and contractual redundancy terms that are significantly better than the minimum statutory redundancy entitlement and are often higher than the value of redundancy payments made in the private sector. 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 the taxpayers who fund them and so, should only be considered in exceptional cases.

This guidance forms part of the best value regime. The best value duty, as set out in section 3 of the Local Government Act 1999 (“the 1999 Act”), provides that “A best value authority must 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”. The best value duty is relevant to local authority duties to deliver a balanced budget (Part 1 of the Local Government Finance Act 1992), provide statutory services (including adult social care and children’s services) and secure value for money in spending decisions. This will include decisions to make Special Severance Payments.

Authorities subject to the best value duty (termed “best value authorities”) are defined in section 1 of the 1999 Act. A list of these bodies can be found on page 6 of this guidance.

This guidance also sets out the Government’s position on the use of Special Severance Payments made by local authorities.

The purpose of this guidance 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 truly 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 truly exceptional circumstances in which Special Severance Payments may be appropriate
- Clarify the disclosure and reporting requirements for Special Severance Payments.

Redundancy payments can be an important mechanism to allow employers to reform and react to new circumstances in the workplace, but employers have a responsibility to ensure that Special Severance Payments are only made when there is a clear, evidenced justification for doing so. They should also ensure that all relevant internal policies and procedures have been followed and all alternative actions have been fully explored and documented.

In the exceptional circumstances where it is decided that a Special Severance Payment should be paid, it is the responsibility of both individual employers and sponsoring departments to ensure their Special Severance Payments arrangements are fair, proportionate, lawful and provide value for money for the taxpayer.

Chapter 1 – What is a special severance payment?

In the context of this guidance, Special Severance Payments are payments made to employees, officeholders, workers, contractors, and others outside of statutory, contractual or other requirements when leaving employment in public service. Employers may sometimes consider making such a payment in situations where the individual concerned resigns, is dismissed, or agrees a termination of contract. Which types of payments are Special Severance Payments will vary according to an employees' particular circumstances, and therefore the examples below are illustrative only.

It is established case-law³ that such payments, where in accordance with legislation, may only be made where there is a convincing case that they are in the interests of taxpayers. Local authorities may not be generous at the expense of taxpayers and must genuinely consider payments 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.

The following types of payments are likely to constitute Special Severance Payments:

- a) Any payments reached under a settlement agreement between the employer and employee to discontinue legal proceedings without admission of fault;
- b) The value of any employee benefits or allowances which are allowed to continue beyond the employee's agreed exit date;
- c) Write-offs of any outstanding loans;
- d) Any paid special leave, such as gardening leave;
- e) Any honorarium payments or gifts;
- f) Any hardship payments;
- g) Any payments to employees for retraining related to their termination of employment

The following types of payments may constitute Special Severance Payments, depending on the terms of the individual's contract, relevant statutory provisions, any non-statutory applicable schemes and other relevant terms and conditions:

- a) Pay or compensation in lieu of notice (depending on the contractual basis for its payment);
- b) Pension strain payments arising from employer discretions to enhance standard pension benefits;

The following do not constitute Special Severance Payments:

- a) Statutory redundancy payments;

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- b) Contractual redundancy payments, whether applicable to voluntary or compulsory redundancy, and whether agreed by collective agreement or otherwise
 - c) Redundancy payments made in line with the requirements of the Local

³ In Re Hurlle-Hobbs's Decision (1944) 1 All E.R. 249

Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006;

- d) Payment for untaken annual leave;
- e) Payments ordered by a court or tribunal or agreed as part of a judicial or nonjudicial mediation;
- f) Payments made to compensate for ill-health, injury or death of the worker.

Chapter 2 - Considerations for councils on potential Special Severance Payments

This Chapter provides guidance on relevant considerations for English local authorities in relation to making Special Severance Payments.

Local authorities must comply with the duty of Best Value explained in the introduction. 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.

Economy

Councils should be able to demonstrate their economic rationale behind proposed Special Severance Payments including consideration of:

- whether there is any feasible possibility of exiting the individual at a lower cost. Only where there is no such possibility should a Special Severance Payment be considered;
- how the exit payment will be perceived by the public and whether it is in line with the duty to manage taxpayers money appropriately;
- what alternative use could be made of that expenditure. All Special Severance Payments necessarily reduce the funds that would otherwise be available to deliver important public services;
- the setting of any potential precedent (e.g. where a Special Severance Payment is made to certain employees and not others);
- evidence for additionality, i.e. that those offered Special Severance Payments would not have, under any circumstances, been willing to leave with their statutory and contractual benefits alone.

Efficiency and effectiveness

In considering the impact of Special Severance Payments on efficiency and effectiveness, local authorities should:

- Seek legal advice on the prospects of successfully defending an employment tribunal claim, if an employee were to take a legal route to appeal any grounds of their employment being terminated. The chance of success and the costs likely to be incurred should be noted and weighed up against the costs of making a Special Severance Payments;
- Ensure that these payments are not used to avoid management action, disciplinary processes, unwelcome publicity or avoidance of embarrassment;
- Consider aligning with private sector practice, where payments are typically less generous. This is important given the added duty in the public sector to prudently manage taxpayers' money;

- Manage conflicts of interest to ensure that individuals who are the subject of complaints play absolutely no role in deciding whether cases should be settled from public funds.

Chapter 3 - Exceptional circumstances in which it may be appropriate to consider making Special Severance Payments

There may be exceptional circumstances where the existing statutory or contractual entitlements, or both, are insufficient to facilitate an exit or to offer sufficient compensation for loss of employment or office. This can apply to office holders as well as staff. These circumstances, which we expect to be truly exceptional and provide value for money, may be taken into account by local authorities in deciding whether or not to make a Special Severance Payment.

Authorities may consider a Special Severance Payment in order to set aside what would otherwise be a reduction in entitlement caused by a break in continuity of service (e.g. where a member of staff has taken a break in service to accompany their spouse on military service overseas).

Authorities may also consider a Special Severance Payment in order to settle disputes, where it can be properly demonstrated that other routes have been thoroughly explored and excluded. After receiving appropriate professional advice, it may then possibly be concluded that a special severance payment is the most suitable option and prudent use of public money.

Those approving a Special Severance Payment related to a settlement agreement should be provided with appropriate evidence that attempts were made to resolve disputes before they escalated to a legal claim. They should also bear in mind that even if the cost of defeating an apparently frivolous or vexatious claims will exceed the likely cost of that settlement to the employer, it may still be desirable to take the case to formal proceedings. This is because winning such cases will discourage future frivolous or vexatious claims and demonstrate that the council does not reward such claims.

Chapter 4 - Accountability and disclosure

Accountability

The Government expects that any Special Severance payments should be personally approved and signed off by the Chief Executive Officer (CEX), with a clear record of the Leader's approval and that of any others who have signed off the payment.

A system of legal duties also requires councillors to spend public money with regularity and propriety. Under section 151 of the Local Government Act 1972, "every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers [the section 151 officer or Chief Finance Officer] has responsibility for the administration of those affairs". The section 151 officer has an important role in holding councils to account and has duties to alert councillors and the auditor in the case of unlawful expenditure.

This role is complemented and reinforced by authorities' duty under section 5 of the Local Government and Housing Act 1989 to appoint a monitoring officer, who must report to the council when any proposal, decision or omission is likely to lead to contravention of any enactment, rule of law or statutory code.

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 this guidance.

Disclosure

Clear and transparent reporting on exit payments is essential to make available better data on the number and level of exit payments made in local government. The availability of data on exit payments in the public domain by local authorities enables local accountability as well as effective management of public money and public confidence. In 2015, the Local Government Transparency Code was issued to increase democratic accountability through open access to information.⁴

MHCLG have initiated a new annual collection of data on exit payments (initially collecting data from 2014 – 2021) and the results will be published into official statistics and made available on the gov.uk website, subject to any necessary anonymisation or redaction to comply with data protection law. This data will help others to assess the number and level of exit payments made in local government.

Section 38 of the Localism Act 2011 requires the council to produce and publish a pay policy statement, which must include the authority's policies on termination payments. Further information on what the Localism Act 2011 requires can be found in existing guidance.⁵

In addition, Regulation 60 of the Local Government Pension Scheme Regulations 2013 requires local authorities to prepare a statement of its policy in relation to the exercise of the discretion to enhance pension benefits under Regulations 16(2)(e) and 16(4)(d) (funding of

additional pension), Regulation 30(6) (flexible retirement), Regulation 30(8) (waiving of actuarial reduction); and Regulations 31 (award of additional pension)

As well as following existing guidance⁶ on reporting exit payments councils should also disclose in their annual reports all redundancy payments, pension fund strain costs and other special severance payments made in consequence of termination of employment or loss of office (but excluding payments on death or ill-health retirement). All reporting should be anonymised and comply with data protection law.

⁴ Local Government Transparency Code 2015, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/408386/150227_PUBLICATION_Final_LGTC_2015.pdf

⁵ Openness and accountability in Local Pay: Guidance under Section 40 of the Localism Act 2011 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/85886/Final_Supplementary_Pay_Accountability_Guidance_20_Feb.pdf

⁶ CIPFA, Code of Practice on Local Authority Accounting in the United Kingdom 2020/21

List of bodies this guidance applies to

- an English local authority, including
 - a county council in England, a district council or a London borough council
 - the Council of the Isles of Scilly;
 - the Common Council of the City of London in its capacity as a local authority;
 - the Greater London Authority so far as it exercises its functions through the Mayor.
- a National Park authority [for a National Park in England]
- the Broads Authority
- the Common Council of the City of London in its capacity as a police authority;
- a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies, and a [metropolitan county fire and rescue authority in England]
- the London Fire Commissioner
- an authority established under section 10 of the Local Government Act 1985 (waste disposal authorities);
- an Integrated Transport Authority for an integrated transport area in England;
- an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009;
- a combined authority established under section 103 of that Act;
- a sub-national transport body established under section 102E of the Local Transport Act 2008;
- Transport for London