

LONDON BOROUGH OF CAMDEN	WARDS:
REPORT TITLE: SETTLEMENT AGREEMENTS 2016/17	
REPORT OF: DIRECTOR OF HR AND OD	
FOR SUBMISSION TO:	DATE 1 November 2017
<p>SUMMARY OF REPORT:</p> <p>This report outlines the Council's approach to the use of settlement agreements and the number and value of settlement agreements entered into by the Council for 2016/17.</p> <p>This is in line with the decision taken by the Audit and Corporate Governance Committee in 2015 to publish this data on an annual basis in line with the Council's commitments on data transparency.</p> <p>LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION: Advisory, Conciliation and Arbitration Service (Acas) Code of Practice on Settlement Agreements – July 2013.</p> <p>Contact Officer: Joanna Brown Director of HR and OD Corporate Services 5 Pancras Square London N1C 4AG Tel: 020 7974 6302 E-mail: joanna.brown@camden.gov.uk</p>	
<p>RECOMMENDATIONS</p> <p>None - Report for Information before publication on the Council's Open Data Website.</p>	

INTRODUCTION

1.1. The Council has had to deliver an unprecedented amount of change, particularly in recent years, not least of which because of the significant financial challenge as a result of the reduction in public spending and the need to continue to deliver effective and efficient services for the residents of Camden.

1.2. The Council has taken a strategic approach to managing this and, like many other employers in both the private and public sector, has used settlement agreements as an effective tool to manage workforce change. Ensuring a strong focus on service delivery to minimise resources defending court and employment tribunal claims, in particular during a period of high levels of litigation, which led to a reform of the Employment Tribunal system in 2013 with the introduction of fees and a greater role for ACAS in settling claims. However, earlier this year, Union concerns about access to justice resulted in the Supreme Court finding the introduction of fees to be unlawful. Meanwhile, the role of ACAS is retained as they continue to support settlement agreements, in addition to the Council continuing to use their own.

1.3. Members of the Audit and Corporate Governance Committee agreed in March 2015 that the Council should publish information on settlement agreements on the Council's website each year, building on the Council's ongoing commitment to data transparency around pay and related matters.

1.4. The 2016-17 report is the third Settlement Agreement to be published; the first covering the period 1st April 2010 – 31st January 2015 clarified to members the Council's approach to the use of settlement agreements and the associated use of confidentiality clauses. The second report, published in July 2016 covered the payments made during the Financial Year 2015/16.

2. PURPOSE OF REPORT

2.1 The purpose of this report is to provide the total number and value of settlements agreements paid between 1st April 2016 and 31st March 2017 prior to its annual publication.

3. SUMMARY

3.1. Settlement agreements were created by an act of Parliament. The Employment Tribunal service positively encourages the use of settlement agreements and historically approximately 60 per cent of cases are settled before the employment tribunal hearing is reached.

3.2. The Council does not ask staff to sign anything which prevents them from raising concerns about the organisation. All staff, whether they are still employed or not, can raise concerns either by talking to their manager, former manager or making use of the confidential whistleblowing facility.

3.3. The Council's use of confidentiality clauses is standard practice amongst employers and covers the basic duty of confidentiality that is part of any normal employment relationship.

4. BACKGROUND

4.1. Settlement agreements (previously known as compromise agreements) concern the future of the employment relationship between employee and employer. They are legally binding contracts which can be used to end the employment relationship on agreed terms to the satisfaction of both parties. Their main feature is that they restrict the grounds under

which an employee can make a claim to a court or employment tribunal. They can also be used to settle an employment tribunal claim before the hearing stage is reached. They usually include some form of payment to the employee by the employer and may also include a reference.

4.2. They are entirely voluntary and parties do not have to enter into discussions about them or agree to them if they do not wish to do so.

4.3. The use of settlement agreements is common practice in both the private and public sectors. They are endorsed by Government and the Employment Tribunal service positively encourages them as a means of reaching agreement on matters which might otherwise result in claims being brought to an employment tribunal hearing to resolve. These can be time-consuming and expensive for both parties.

5. COUNCIL'S USE OF SETTLEMENT AGREEMENTS

5.1. Like many public and private sector organisations, the Council uses settlement agreements to manage workforce change and in response to national developments including changes to the Employment Tribunal system which now requires both parties to try and resolve a claim through conciliation before it is allowed to progress to the hearing stage.

5.2. They have been used to enable councils to respond to issues arising from national changes to collective agreements involving the harmonisation of pay, terms and conditions for two separate groups of staff by replacing two separate agreements with one agreement covering all staff (known as 'single status').

5.3. The Council does not use them as a substitute for effective performance management; separate policies and procedures are in place to address concerns around performance or conduct. On rare occasions it may be in the interests of the Council and the employee to reach mutual agreement to end employment in a way that is both efficient and effective, without a prolonged process.

5.4. The practice of using settlement agreements for Chief Officers and senior staff where the employment ends is well established and was agreed in consultation with the relevant Executive Member at the time.

5.5. In 2010 the Council started using settlement agreements when staff left the Council as a result of redundancy, consistent with employers in both the private and public sector. The Chartered Institute of Personnel and Development point to anecdotal evidence that employers in both sectors make extensive use of settlement agreements to handle major redundancies.

5.6. By introducing settlement agreements in redundancy situations the aim was to balance recognition of affected employees' co-operation with the process of change with the need to minimise the Council's risk of potential employment tribunal claims and the associated costs. At the same time the Council wanted to provide employees with a level of assurance about the payment they could expect on leaving the Council subject to satisfactory performance and conduct during the notice period.

5.7. The Council continues to monitor the progression of proposals to change the terms of Public Sector Exit Payments. The changes proposed would impose a cap on exit payments and introduce new recovery regulations, with consultation expected once the legislative timetable allows. In advance of the consultation, the Council is considering the implications of the proposals, with particular focus on any impact they will have on the flexible management of workforce change and operational processes.

6. INFORMATION ON AGREEMENTS USED

6.1. Information on the number of staff who left the Council with settlement agreements and who received a payment, during the period 1 April 2016 to 31 March 2017, is shown in Appendix 1.

6.2. The amounts do not include redundancy and other contractual payments, where applicable. They do include any payments made to Chief Officers, and information relating specially to these officers is included in the annual statements of accounts recently published on the Councils' website.

6.3. Both redundancy and additional payments are non-pensionable. This means the Council does not make any employer pension contributions on these payments and they do not incur any additional future liabilities for the Council's pension fund.

6.4. Table 1 shows the number and value of payments paid to employees within Directorates only. The total number of settlements agreements issued increased from 108 in 2015/16 to 158 in 2016/17. This increase can be attributed to the restructures which occurred during the period particularly in Libraries Arts & Tourism, Early Years, Integrated Youth Service and at Directorate Level.

6.5. Despite the increase in the number of settlements agreements from 2015/16; the volumes are still considerably lower than the period 2011-12 and 2012-13 when 249 and 245 settlement agreements were signed.

6.6. Table 2 provides a breakdown by Directorate for the financial year 2016/2017. The largest volume of settlements occurred within Supporting People, agreements in this area accounted for 44.6% of the overall amount paid out.

6.7. Table 3 shows the number and value of payments for Schools based staff only. At the start of the 2016/17 period, two additional Secondary Schools joined the Councils' HR/Payroll Service increasing the total headcount of employees by approximately 500. The increase in the number of schools and savings programs carried out across Camden Schools' has increased the total number of settlement agreements issued in 2015/2016 from 27 in 2015/16 to 65 in 2016/17.

6.8. The average payment made in 2016/2017 for Directorates was £5,873 and the average payment within Schools was £4,441.

7. APPENDICES

Appendix 1 – Data on settlement agreements

Table 1 — 2016/17 Directorates Only (Excluding Schools)

Financial Year	Redundancy Settlements		Non-Redundancy Settlements		Total Settlements		Total Headcount (as of end of each financial year)
	No. Staff	Total (£)	No. Staff	Total (£)	No. Staff	Total (£)	
2016-17	149	£803,955	9	£100,539	158	£904,494	4,140

Note – Non-redundancy settlements include resolution of contractual disagreements (e.g. calculation of holiday pay)

Table 2 – 2016/17 by Directorate (Excluding Schools)

Financial Year	Redundancy Settlements		Non-Redundancy Settlements		Total Settlements		Total Headcount (as of end of each financial year)
	No. Staff	Total (£)	No. Staff	Total (£)	No. Staff	Total (£)	
Corporate Services	24	£130,797	2	£10,000	26	£140,797	1,161
Supporting Communities	59	£425,768	4	£30,976	63	£456,745	1,434
Supporting People	66	£247,389	3	£59,563	69	£306,952	1,545
Total	149	£803,955	9	£100,539	158	£904,494	4,140

Table 3 – 2016/17 Schools Only

Financial Year	Redundancy Settlements		Non-Redundancy Settlements		Total Settlements		Total Headcount (as of end of each financial year)
	No. Staff	Total (£)	No. Staff	Total (£)	No. Staff	Total (£)	
2016-17	51	£171,891	14	£90,126	65	£262,017	2,913

Table 4 - Settlements for financial year 2016/17 by School Type

Financial Year	Redundancy Settlements		Non-Redundancy Settlements		Total Settlements		Total Headcount (as of end of each financial year)
	No. Staff	Total (£)	No. Staff	Total (£)	No. Staff	Total (£)	
Community Schools	26	£119,484	9	£71,553	35	£191,037	1,886
Voluntary Aided Schools	25	£52,407	5	£18,573	30	£70,980	1,027
Total	51	£171,891	14	£90,126	65	£262,017	2,913