

LONDON BOROUGH OF CAMDEN	WARDS: ALL
REPORT TITLE: SETTLEMENT AGREEMENTS 2015/2016	
REPORT OF: ASSISTANT DIRECTOR HR AND OD	
FOR SUBMISSION TO:	DATE
<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 2015/2016.</p> <p>This is in line with the decision taken last year by the Audit and Corporate Governance Committee to publish this data on an annual basis in line with the Councils 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 Assistant Director of HR 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 Councils 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.

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 first report was published last year. This report detailed the total number of settlement payments made covering the period April 2010 and 31 January 2015. It also clarified to members the Council's approach to the use of settlement agreements and the associated use of confidentiality clauses. The report can be viewed at the following link: -

<http://democracy.camden.gov.uk/documents/s40580/Settlement%20Agreements%20Report.pdf>

2. PURPOSE OF REPORT

2.1 The purpose of this report is to provide the first annual publication of information on settlement agreements which includes the total numbers and value of settlement agreements paid from 1st April 2015 to 31st March 2016.

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 over 70 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.

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 2015 to 31 March 2016, 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, although this information is already available in the annual statements of accounts which are published on the Council's website.

6.3. Table 1 shows the number and value of payments excluding schools. The total number of settlement agreements issued in 2015/2016 has increased slightly from 94 in 2014/15 to 108 in 2015/16. The volumes are still significantly lower than the period from 2011-2013. The majority of settlements paid were redundancy settlements.

6.4. Table 2 shows the number and value of payments for schools only. The total number of settlement agreements issued in 2015/2016 has increased slightly from 18 in 2014/15 to 27 in 2015/16.

6.5. The average payment made in 2015/2016 excluding schools was £5,286; the average payment in schools was £7,015.

6.6. Table 3 provides a breakdown by directorate for the financial year 2015/2016. The largest volume of settlements occurred within Housing and Adult Social Care. Table 4 provides a breakdown by the type of school for 2015/16.

6.7. 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.

7. APPENDICES

Appendix 1 – Data on settlement agreements

Table 1 — 2015/2016 Excluding Schools

Financial Year	Redundancy Settlements		Non-Redundancy Settlements*		Total Settlements		Total Headcount (as of end of year)
	No. Staff	Total (£)	No. Staff	Total (£)	No. Staff	Total (£)	
2015-2016	96	500,539	12	70,396	108	570,935	4,290

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

Table 2 –2015/2016 - Schools Only

Financial Year	Redundancy Settlements		Non-Redundancy Settlements*		Total Settlements		Total Headcount (as of end of year)
	No. Staff	Total (£)	No. Staff	Total (£)	No. Staff	Total (£)	
2015-2016	14	66,890	13	122,520	27	189,410	2443

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

Table 3 – Settlements for financial year 2015/16 by directorate (Excluding Schools)

Financial Year 2015/2016	Total Settlements	
	No. Staff	Total (£)
Children Schools and Families	13	109,681
Culture and Environment	18	119,081
Housing and Adult Social Care	44	109,681
Central Directorates	33	169,199
Total	108	570,935

Table 4 - Settlements for financial year 2015/16 for Schools

Financial Year	Total Settlements	
	No. Staff	Total (£)
Community Schools	13	127,223
Voluntary Schools	14	62,187
Total	27	189,410