

LONDON BOROUGH OF CAMDEN	WARDS:
REPORT TITLE: SETTLEMENT AGREEMENTS 2017/18	
REPORT OF: Director of 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 2017-18.</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>	

1. 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. This ensured 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. This led to the reform of the Employment Tribunal system in 2013 with the introduction of fees and a greater role for ACAS in settling claims. However, amid concerns about access to justice, in July 2017 the Supreme Court found the introduction of fees to be unlawful and they have recently been abolished. Early indications are that this may have led to an increase in litigation, with notifications to ACAS rising by 28% since fees were removed.

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 2017-18 report is the third Settlement Agreement report 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 subsequent reports published in July 2016 and November 2017 covered the payments made during the Financial Years 2015/16 and 2016/17.

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 2017 and 31st March 2018.

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, while over April to December 2017 26% of notifications made to ACAS progressed to an employment tribunal.

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 legislation to change the terms of Public Sector Exit Payments. The changes proposed would impose a cap on exit payments and introduce new recovery regulations. 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 2017 to 31 March 2018, 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 decreased from 158 in 2016/17 to 46 in 2017/18, a reduction of 70.9%. Of the 46 payments made, 39 were due to redundancies following restructures which occurred during the period particularly within Strategy and Change, Community Safety and Emergency Management and Place Management.

6.5. Table 3 shows the number and value of payments for schools based staff only. Due to the decrease in funding from Central Government and increasing staffing costs, school budgets are coming under increasing pressure. During the financial year 2017/18, a number of Camden schools have had to review their ways of working and make staff cuts where necessary. As a result, the number of settlement agreements issued has increased from 65 in 2016/17 to 83 in 2017/18.

6.6. The average payment made in 2017/18 for Directorates was £8,834, and within Schools the average was £5,015.

7. APPENDICES

Appendix 1 – Data on settlement agreements

Table 1 – 2017/18 Directorates Only (Excluding Schools)

Financial Year	Redundancy Settlements		Non-Redundancy Settlements		Total Settlements		Total Headcount (as of end of 2017/18 financial year)
	No. Staff	Total (£)	No. Staff	Total (£)	No. Staff	Total (£)	
2017-18	39	£261,257.08	7	£118,594.86	46	£379,851.94	4,104

Table 2 – 2017/18 by Directorate (Excluding Schools)

Financial Year	Redundancy Settlements		Non-Redundancy Settlements		Total Settlements		Total Headcount (as of end of 2017/18 financial year)
	No. Staff	Total (£)	No. Staff	Total (£)	No. Staff	Total (£)	
Corporate Services	17	£98,053.99	Fewer than 5*	£47,319.75	20	£145,373.74	1,102
Supporting Communities	12	£98,223.49	Fewer than 5*	£48,667.50	13	£146,890.99	1,418
Supporting People	10	£64,979.60	Fewer than 5*	£22,607.61	13	£87,587.21	1,584
Total	39	£261,257.08	7	£118,594.86	46	£379,851.94	4,104

Table 3 – 2017/18 Schools Only

Financial Year	Redundancy Settlements		Non-Redundancy Settlements		Total Settlements		Total Headcount (as of end of 2017/18 financial year)
	No. Staff	Total (£)	No. Staff	Total (£)	No. Staff	Total (£)	
2017-18	75	£281,673.52	8	£109,532.00	83	£391,205.52	2,882

Table 4 - 2017/18 by School Type

Financial Year	Redundancy Settlements		Non-Redundancy Settlements		Total Settlements		Total Headcount (as of end of 2017/18 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

***For data protection reasons, it is not possible to provide information in categories containing fewer than five individuals**