

REPORT TO:	Full Council 14 December 2022
SUBJECT:	Response to the Query from the External Auditor Relating to the Former Chief Executive’s Settlement Agreement
LEAD OFFICERS:	Stephen Lawrence-Orumwense, Monitoring Officer
WARDS:	All
PUBLIC/EXEMPT:	Public

SUMMARY OF REPORT:

On 27 August 2020, the Appointments Committee, decided to terminate the employment of the former Chief Executive and approved a settlement agreement at a total cost to the Council of £437,973.

The Council’s External Auditor received a query from an elector relating to the entry on the Statement of Accounts 2020/21 about the settlement payment. On 17 January 2022, the External Auditor raised queries about the governance arrangement relating to the payment, whether it was value for money for Croydon taxpayers and the officer advice to members before reaching a decision on the payment.

The Council’s Monitoring Officers reported in April 2022 and October 2022 to the Appointment and Disciplinary Committee on the issues raised by the External Auditor. On 9 November 2022, the Appointments and Disciplinary Committee approved the response to the External Auditor’s queries and agreed that the response be submitted to Full Council for noting. Consequently, Full Council is asked to consider and note the Council’s response to the External Auditor’s query about the former Chief Executive’s settlement payment.

COUNCIL PRIORITIES 2020-2024

This report addresses the importance of good governance and ensuring decisions are robust.

FINANCIAL IMPACT:

There are no financial implications arising from this report.

RECOMMENDATIONS:

Council is asked to

1. Note the Council's response to the External Auditor's query and attached as Appendix 1. Note that the response is based on the Monitoring Officer's findings following due diligence enquiries undertaken.

1. BACKGROUND

- 1.1 On 27 August 2020, the Council's Appointments Committee, following advice from officers, resolved by a majority to terminate the employment of the former Chief Executive and approve a settlement agreement at a total cost to the Council of £437,973. (At the April 2022 meeting, the Appointment and Disciplinary Committee agreed that the minutes of the meeting of the 27 August 2020 be amended to reflect that a recorded vote was called for and that 2 Councillors requested that the Minutes reflect that they had voted against the recommendation to approve the settlement payment).
- 1.2 About 2 months later, on 23 October 2020, the Council's External Auditor issued a Report in the Public Interest. This concerned the Council's financial position and related governance arrangements and identified the Council's deteriorating financial resilience, low level reserves, poor governance practice and significant overspending over its approved budgets.
- 1.3 The Council's External Auditor received a query from an elector relating to the entry on the Statement of Accounts 2020/21 about the settlement payment made to the former Chief Executive. Consequently, in January 2022, the External Auditor raised queries about the governance arrangement relating to the payments, whether it was value for money for Croydon taxpayers and the officer advice to members before reaching a decision on the payment.
- 1.4. The Council's Monitoring Officers reported on 27 April 2022 and 13 October 2022 to the Appointment and Disciplinary Committee on the issues raised by the External Auditor. On 9 November 2022, the Appointment and Disciplinary Committee approved the response to the External Auditors queries and agreed that the response be submitted to Full Council for noting. A copy of the response is attached as Appendix 1. The Committee also decided that "For the avoidance of any doubt, and for the reasons set out in the Monitoring Officer's findings, the Committee does not endorse the decision of the August 2020 Appointments Committee that the settlement payments made to the former Chief Executive were value for money.

- 1.5 The recoument of the settlement payment to the former Chief Executive is still the subject of further legal consideration.

3. REASON FOR THE DECISION

- 3.1 The response to the External Auditors queries enables the Council to clearly set out its position on an issue that has significant public interest.

4 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 4.1 There are no financial implications arising from the recommendations in the report.

Approved by Nish Popat, Interim Head of Corporate Finance

4.2 Risks

4.2.1 A formal query has been raised about this settlement payment by the external auditor in relation to its lawfulness in governance terms and their assessment of the value for money opinion in the 2020/21 audit.

4.2.2 The settlement payment to the former Chief Executive has been a matter of considerable public interest since it was agreed.

4.2.3 If the query raised is not fully addressed and answered, it may lead to an adverse value for money opinion being recorded or a further use of statutory powers in relation to the matter by the external auditor.

5 LEGAL CONSIDERATIONS

- 5.1 Under Section 20(1)(c) (General duties of auditors) of the Local Audit and Accountability Act 2014, the auditor must be satisfied that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. Under Section 24 Schedule 7 of the Local Audit and Accountability Act 2014 (Reports and Recommendations), the auditor has the power to issue a public interest report or issue written recommendations on any matter coming to the auditor's notice during the audit of the Council's accounts.
- 5.2 In accordance with usual practice, the settlement agreement referred to in this report contains a confidentiality clause which is expressly subject to certain exceptions which include complying with legal requirements. The limited amount of personal information about the former Chief Executive which is set out in this report is required by the Local Government Act 1972 and the Council's Constitution. This is because, in all the circumstances, there is an

overriding public interest justification in publishing the Council's response to the External Auditor's enquiry.

5.3 Approved by Director of Legal Services & Monitoring Officer.

6 HUMAN RESOURCES IMPACT

6.1 There are no human resources implications arising from the recommendation in this report.

Approved by: Dean Shoesmith, Chief People Officer

7 EQUALITIES IMPACT

7.1 Under section 149 of the Equality Act 2010, the Council has a duty when exercising its functions to have "due regard" to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act and advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. This is the public sector equality duty.

7.2 In practical terms, decision makers must evidence consideration of any potential impacts of proposals on groups who share protected characteristics, before decisions are taken. This includes any decisions relating to how authorities act as employers; how they develop, evaluate and review policies; how they design, deliver, and evaluate services, and how they commission and procure services from others.

7.3 The protected characteristics are race and ethnicity, disability, sex, gender reassignment, age, sexual orientation, pregnancy and maternity, religion or belief and marriage and civil partnership.

7.4 This report pertains to the consideration of the arrangements surrounding the decision to enter into a settlement agreement with the former Chief Executive of the Council in August 2020. Consequently, there are no immediate equality considerations within the scope of the Equality Act 2010, arising from the content of this report.

Approved by: Barbara Grant, Programme Manager (PMO), on behalf of Denise McCausland, Equality Programme Manager.

8 DATA PROTECTION IMPLICATIONS

8.1 The data protection and confidentiality implications have been considered in the Legal consideration above. The limited amount of personal information

Non-Executive Template

disclosed in this report is fair and lawful and complies with data protection law and the Council's contractual obligations.

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APPENDIX: Appendix 1 – The Council's Response