

LONDON BOROUGH OF CROYDON

REPORT:	General Purposes Committee	
DATE OF DECISION	23 January 2023	
REPORT TITLE:	Croydon Pay Policy Statement 2023/24	
CORPORATE DIRECTOR / DIRECTOR:	Elaine Jackson, Assistant Chief Executive	
LEAD OFFICER:	Dean Shoesmith, Chief People Officer Email: Dean.Shoesmith@croydon.gov.uk	
LEAD MEMBER:	Cllr Jason Cummings Cabinet Member for Finance	
KEY DECISION?	NO	N/A
CONTAINS EXEMPT INFORMATION?	NO	Public
WARDS AFFECTED:	ALL	

1 SUMMARY OF REPORT

- 1.1** In accordance with Section 38 of the Localism Act, the Council is required to present and publish an annual Pay Policy Statement.
- 1.2** The Pay Policy Statement for 2023/24 is attached at Appendix 1 and covers the legal requirement to set out:
- The remuneration of its senior staff, designated Chief Officers
 - The remuneration of its lowest paid employees
 - The relationship between the remuneration of its Chief Officers and the remuneration of staff who are not Chief Officers
- 1.3** Notably the Pay Policy Statement references the Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England

(attached at appendix 1e), introduced in May 2022 and the process for approving any Special Severance Payments and severance packages.

1.4 The Pay Policy statement also references a change to the benchmarking arrangement regarding the appropriate remuneration for the Chief Executive and Paid Head of Service

1.5 The purpose of the report is to:

- (1) agree the Council's Pay Policy Statement for the year 2023/2024 and recommend this to Full Council; and
- (2) ensure that the proposed Pay Policy Statement for the year 2023/2024 complies with the Council's Constitution and the legal requirements regarding decision making processes concerning the agreement of severance packages.

2 RECOMMENDATIONS

For the reasons set out in the report and its appendices, the General Purposes Committee is recommended:

2.1 to note the approval process regarding Special Severance Payments and severance packages within the Pay Policy Statement for 2023-24 and in particular regarding urgency.

2.2 to note the change to the benchmarking arrangement regarding the appropriate remuneration for the Chief Executive and Paid Head of Service.

2.3 to agree the annual Pay Policy Statement for 2023-24;

2.4 RECOMMEND its adoption to Full Council.

3 REASONS FOR RECOMMENDATIONS

3.1 To ensure that the Pay Policy Statement complies with the decision-making requirements within the Constitution in accordance with the statutory guidance and the Localism Act 2011 for dealing with severance packages and Special Severance Payments and in particular with regard to urgency.

3.2 To comply with the legal requirement for the Council, in accordance with section 38 of the Localism Act, to present and publish an annual Pay Policy Statement.

4 BACKGROUND AND DETAILS

- 4.1** The Council aims to ensure that its remuneration packages are fair, equitable and transparent and offer suitable reward for the employment of high-quality staff with the necessary skills and experience to deliver high quality services.
- 4.2** This Pay Policy Statement sets out the Council's policy relating to the pay of its workforce (excluding school-based employees) as required under the Localism Act 2011. The Localism Act requires the Council to have considered, approved and published a Pay Policy Statement for each financial year. The areas to be covered in the statement are salary, expenses, bonuses, performance related pay, severance payments, how election fees are paid and the pay policy on re-engagement of ex-employees.
- 4.3** The pay of Chief Executive and Head of Paid Service pay is not aligned to the JNC pay award and is determined on appointment with reference to market rates. The change to the benchmarking arrangement is in the appointment of an independent, external advisor with remuneration and performance expertise to advise the Executive Mayor (and at the Executive Mayor's discretion other political group leaders) about appropriate remuneration for the post of Chief Executive and Head of Paid Service.
- 4.4** [The policy refers to the government guidance on Special Severance Payments, (the Statutory Guidance on the making and disclosure of Special Severance Payments by local authorities in England) issued under section 26 of the Local Government Act 1999. This guidance was published on 12th May 2022 and forms part of the best value regime for local authorities in England, in accordance with the best value duty, as set out in section 3 of the Local Government Act 1999. The guidance sets out the government's view that Special Severance Payments do not usually represent value for money and should only be considered in exceptional circumstances, giving examples of the circumstances in which Special Severance Payments may be appropriate, sets out the criteria employers should consider in the exceptional circumstances in which it may be appropriate to make a Special Severance Payment and clarifies the disclosure and reporting requirements for Special Severance Payments.

4.5 Appointments

Statutory guidance issued by the Secretary of State under section 40 of the Localism Act 2011 (*Openness and accountability in local pay: Guidance under section 40 of the Localism Act 2011*) provides that Full Council or a meeting of members, should take decisions about remuneration packages for new appointments of £100,000 or more per year. The Appointments and Disciplinary Committee has delegated responsibility for approving appointments and decisions about remuneration packages for new appointments of £100,000 or more per year in accordance with the provisions of the Localism Act 2011.

4.6 Severance Packages

In February 2013 Statutory Guidance issued by the Secretary of State under section 40 of the Localism Act 2011 (*Supplementary Guidance on Openness and Accountability in Local Pay issued under section 40 of the Localism Act 2011*) provided that Full Council

or a meeting of members, should take decisions about severance packages of £100,000 or more per year.

4.7 In accordance with that guidance, in presenting information to Full Council, authorities should set out clearly the components of relevant severance packages. These components may include salary paid in lieu, redundancy compensation, pension entitlements, holiday pay and any bonuses, fees or allowances paid.

4.8 Special Severance Payments

In May 2022, new statutory guidance was issued which introduced the concept of Special Severance Payments: *The Statutory Guidance on the making and disclosure of Special Severance Payments by local authorities in England dated May 2022*.

4.9 Special Severance Payments as set out in that Statutory Guidance include additional, discretionary sums paid on top of statutory and contractual redundancy or severance terms including certain payments reached under a settlement agreement to discontinue legal proceedings without admission of fault and certain pay in lieu of notice payments.

4.10 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 honorarium payments

e) any hardship payments

f) any payments to employees for retraining related to their termination of employment

4.11 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 where the amount of the payment is not greater than the salary due in the period of notice set out in the employee's contract

b) pension strain payments arising from employer discretions to enhance standard pension benefits (for example under Regulation 30(5) where the employer has waived the reduction under Regulation 30(8) or because of the award of additional pension under Regulation 31)

4.12 The following do **not** constitute Special Severance Payments:

a) statutory redundancy payments

- b) contractual redundancy payments, whether applicable to voluntary or compulsory redundancy, and whether agreed by collective agreement or otherwise
- c) severance payments made in accordance with that local authority's policy adopted pursuant to Regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006
- d) a strain cost paid to the relevant LGPS administering authority under LGPS Regulation 68(2) which results from a LGPS member's retirement benefits becoming immediately payable without reduction under Regulation 30(7), or under Regulation 30(6) where the employer has waived the reduction under Regulation 30(8)
- e) payment for untaken annual leave
- f) payments ordered by a court or tribunal or agreed as part of a judicial or non-judicial mediation
- g) payments made as part of the ACAS Early Conciliation process
- h) payments made to compensate for injury or death of the worker
- i) payments made in consequence of the award of ill-health retirement benefits under Regulation 35 of the LGPS Regulations.

4.13 The May 2022 Statutory Guidance introduced a new approval process and the government expects that any Special Severance Payments should be approved according to the following process:

- Payments of £100,000 and above must be approved by a vote of Full Council, as set out in the Localism Act 2011
- Payments of £20,000 and above, but below £100,000, must be personally approved and signed off by the Head of Paid Service, with a clear record of the Leader's (Executive Mayor's) approval and that of any others who have signed off the payment
- Payments below £20,000 must be approved according to the local authority's scheme of delegation.

4.14 The Local Government Association (LGA) has identified a conflict between the Localism Act 2022 and the Statutory Guidance on the making and disclosure of Special Severance Payments by local authorities in England dated May 2022, that *"on the face of it the approval process in the (May 2022) statutory guidance only applies to the Special Severance Payment element of a severance payment, except where it is referring to duties already in place i.e. under the Localism Act 2011 and the duties to spend public money with propriety as well as the existing s.151 officer and Monitoring Officer duties, in which case those duties apply to the whole severance payment.* The LGA has raised a query with the Department for Levelling Up, Housing and Communities, which (at the time of writing this report) has yet to respond. The Council will ensure that it complies with its duties under the Localism Act 2011 and the Statutory Guidance on the making and disclosure of Special Severance Payments by local

authorities in England dated May 2022 and any further information that may be provided from DLUHC when seeking approval for severance packages and Special Severance Payments.

4.15 Part 3 of the Council's Constitution - Responsibility of Functions, Section 2 Responsibility for Council Functions, sub-section 2.5 General Purposes Committee, paragraph 6 states that *'The function in respect of voting on severance packages of staff above such specified threshold as may, from time to time, be updated by statutory guidance'* and paragraph 7, *'the function of deciding in respect of severance packages, whether the Council wishes to vote on a severance package above the specified threshold'* rests with the General Purposes Committee. Further under paragraph 11 the General Purposes Committee has the responsibility of functions for *'any matter reserved to the Council and a non-executive function, or a matter reserved to a non-executive committee or sub-committee of the Council which requires, in the Committee's view or on the recommendation of the Mayor, the Chief Executive or a Corporate Director, action as a matter of urgency'*

4.16 The Pay Policy Statement for 2023/2024 provides:

- Full Council or General Purposes Committee will be given the opportunity to vote on severance packages of £100,000 and above in accordance with the Council's Constitution
- Special Severance Payments of £100,000 and above must be approved by a vote of full Council or General Purposes Committee in accordance with the Council's Constitution.
- Special Severance Payments of £20,000 and above, but below £100,000 must be personally approved and signed off by the Head of Paid Service, section 151 Officer and Monitoring Officer with a clear record of the Executive Mayor's approval (and that of any others who have signed off on the payment)
- Special Severance Payments below £20,000 must be approved by the Chief People Officer in accordance with the Council's Scheme of Delegations.

4.16 A business case setting out the considerations for making a Special Severance Payment, along with appropriate professional advice, must be provided in accordance with the Statutory Guidance on the Making and Disclosure of Special Severance Payments by Local Authorities in England (May 2022), when approval for a Special Severance Payment is sought.

4.17 Any changes to the Constitution around decision making in this area will be picked up around the Constitution Review group.

5 ALTERNATIVE OPTIONS CONSIDERED

- 5.1 As the Pay Policy Statement is a requirement of the Localism Act 2011, it must be prepared and published and therefore there are no other options.

6 CONSULTATION

- 6.1 This report is a statement of fact regarding the pay of senior officers in the Council. Senior pay is carefully consulted on with lead members.

7. CONTRIBUTION TO COUNCIL PRIORITIES

- 7.1 *We will live within our means, balance the books and provide value for money for our residents*, including the pay for senior managers which has been benchmarked and independently evaluated.

8. IMPLICATIONS

8.1 FINANCIAL IMPLICATIONS

8.1.1 Finance have reviewed the report and can confirm that all salaries will be accounted for in the 2023-24 budget.

8.1.2 Comments approved by Lesley Shields, Head of Finance for Assistant Chief Executive and Resources on behalf of the Director of Finance.

8.2 LEGAL IMPLICATIONS

8.2.1 The Council must comply with the requirements of section 38 of the Localism Act 2011, which requires the Council to approve a Pay Policy Statement for the financial year 2023/2024 and in future years and must have regard to any guidance issued or approved by the Secretary of State. The Council must also comply with its obligations under Regulation 10 of the Accounts and Audit (England) Regulations 2015 and the Local Government Transparency Code. The Pay Policy Statement sets out the Council's policy relating to the pay of its workforce (excluding school-based employees) as required under the Localism Act 2011.

8.2.2 The proposed statement complies with the statutory requirements for pay policy statements. Under section 112 of the Local Government Act 1972, the Council has the "power to appoint officers on such reasonable terms and conditions as the authority thinks fit". The Localism Act 2011, contains a definition of 'Chief Officer' which is set out in the proposed policy. The Localism Act 2011 also requires that the Council must decide on a definition of 'lowest paid employees' and set out the reasons for that decision. In accordance with Section 38 of the Localism Act, this Pay Policy Statement sets out the Council's policy for 2023/24 on:

- The remuneration of its senior staff designated Chief Officers
- The remuneration of its lowest paid employees
- The relationship between the remuneration of its Chief Officers and the remuneration of staff who are not Chief Officers

8.2.3 On 12th May 2022, the Government issued Statutory Guidance on the Making and Disclosure of Special Severance Payments by Local Authorities in England and the Council must adhere to that guidance as part of the best value regime for local authorities in England. The best value duty, as set out in section 3 of the Local Government Act 1999 provides “A best value authority must make arrangements to secure continuous improvement in the way on 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 and secure value for money in spending decisions. This includes decisions to make Special Severance Payments. The Pay Policy Statement also includes the Council’s policy on severance payments in accordance with section 38 of the Localism Act and the May 2022 statutory guidance.

8.2.4 Part 3 of the Constitution - Responsibility of Functions, section 2, sub-section 2.5 sets out the terms of reference of the General Purposes Committee, paragraph 5 states that the General Purposes Committee will consider and recommend to Full Council the Pay Policy Statement as required. Full Council is then expected to approve the Pay Policy Statement for 2023/2024.

8.2.5 The terms of reference for the General Purposes Committee go on to provide in paragraph 6 *‘The function in respect of voting on severance packages of staff above such specified threshold as may, from time to time, be updated by statutory guidance’* and paragraph 7, *‘the function of deciding in respect of severance packages, whether the Council wishes to vote on a severance package above the specified threshold’* rests with the General Purposes Committee. Further under paragraph 11 the General Purposes Committee has the responsibility of functions for *‘any matter reserved to the Council and a non-executive function, or a matter reserved to a non-executive committee or sub-committee of the Council which requires, in the Committee’s view or on the recommendation of the Mayor, the Chief Executive or a Corporate Director, action as a matter of urgency’*.

8.2.6 Comments approved by Sandra Herbert, the Head of Litigation and Corporate Law on behalf of the Director of Legal Services and Monitoring Officer.

8.3 EQUALITIES IMPLICATIONS

8.3.1 The Council will continue to monitor carefully the equalities issues associated with pay, including the pay ratio, gender pay gap, ethnicity pay gap and disability pay gap. New appointments to senior roles will be reviewed, including the appointment of senior staff by protected characteristics, a key equality performance indicator.

8.3.2 Recipients of severance payments will be monitored by protected characteristic. Any arising action from analysis of data should be considered by the appropriate Internal Control Board.

8.3.3 Comments approved by Denise McCausland, Equalities Programme Manager

8.4 HUMAN RESOURCES IMPLICATIONS

8.4.1 There are no immediate Human Resources implications arising from this report

8.4.2 Comments approved by Gillian Bevan, Head of HR Resources and Assistant Chief Executives Directorates

9. APPENDICES

- 9.1**
- 1. *Pay Policy Statement 2023-24*
 - 1a *Chief Officer Grades*
 - 1b *Pay Structure for Chief Officers*
 - 1c *Mileage rates*
 - 1d *Early Retirement and Redundancy Scheme*
 - 1e *Statutory Guidance on the making and disclosure of Special Severance Payments by local authorities in England*