



## CONNECTED LEARNING Special Payments Policy

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## **Connected Learning**

### **Special Payments Policy**

Connected Learning (CL) is committed to assuring that an appropriate and reasonable procedure is followed in terms of the Trust's financial arrangements.

This Special Payments Policy outlines the main factors that must be considered when dealing with several types of payments, including:

- Severance
- Compensation
- *Ex-gratia*
- Indemnities

The purpose of this policy is to ensure that the Trust maintains and develops systems of financial control which conform to the requirements both of propriety and of good financial management. It is essential that these systems operate properly to meet the requirements of the Trust's Funding Agreement with the DfE.

The Trust is dedicated to following the correct financial procedures, in accordance with relevant legislation and statutory guidance, in order to ensure the best possible outcome for the Trust and in the interest of providing quality education.

This policy will be reviewed alongside the Trust's annual auditing in order to ensure that all measurements have been adhered to and that the policy is up-to-date with the latest DfE guidance.

### **Legal Framework**

This Special Payments Policy has due regard to the following DfE guidance:

- The Academies Financial Handbook 2018

### **Definitions**

Transactions that are not part of the Trust's planned budgeting are classed as special payments. These payments are non-contractual (non-statutory) and include:

- Staff severance payments – paid to employees outside of normal statutory or contractual requirements when leaving employment in the public service, whether they resign, are dismissed or reach an agreed termination of contract.
- Compensation payments – made to provide redress for loss or injury.
- Ex-gratia payments – transactions which go beyond statutory/contractual cover or administrative rules, e.g. payments to meet hardship caused by official failure or delay.

### **Severance Payments**

Severance payments will not be made to staff where it could be seen as a reward for failure, such as gross misconduct or poor performance; the ESFA and HM Treasury will not approve such payments. The only acceptable rationale in the case of gross misconduct would be

where legal advice is that the claimant is likely to be successful in an employment tribunal because of employment law procedural errors. In the case of poor performance, an acceptable comparison would be the time and cost of taking someone through performance management and capability procedures.

Before making a severance payment, the Trust must reasonably consider the proposed payment to be in the interests of the Trust. The Trust will appraise any course of action with the associated costs.

It must also consider whether such a payment is justified, based on a legal assessment of the chances of the Trust successfully defending the case at employment tribunal. If there is a significant prospect of losing the case, a settlement may be justified especially if the costs incurred in maintaining a defence are likely to be high. Where a legal assessment suggests that the Trust is likely to be successful, a settlement should not be offered.

If the settlement is justified, the Trust must consider the level of settlement. This must be less than the legal assessment of what the relevant body (eg an employment tribunal) is likely to award.

Any non-contractual financial considerations should be supported with evidence. For example, that pupil performance had been affected by a lack of continuity of teaching due to absence or teaching by temporary staff.

The use of confidentiality clauses associated with staff severance payments will not prevent an individual's right to make disclosures in the public interest, in accordance with the Public Interest Disclosure Act 1998.

Approval will be sought from the ESFA prior to all non-contractual payments of £50,000 or more using the [academy trust's severance payments form](#). Non-contractual payments under £50,000 are not required for prior approval; however, the Trust should be able to prove that a high level of scrutiny was applied.

A business case will be made for all non-contractual severance payments, which will be made available to the ESFA if requested. If the payment is not supported correctly, the ESFA reserves the right to request a repayment from the Trust.

If the Trust is subject to a Financial Notice to Improve, any non-contractual payments, irrespective of value, should be sent through to ESFA for prior approval, as the Notice withdraws the Trust's delegated authority limit.

All staff severance payments, of any value, will be disclosed in total in CL's audited accounts.

## **Compensation Payments**

Compensation payments provide redress for loss or injury eg personal injuries or damage to property. If the Trust is considering making a compensation payment, it must base its decision on a careful appraisal of the facts including legal advice where relevant, and ensure that value for money will be achieved.

CL has the delegated authority to approve individual compensation payments, provided that all non-statutory/non-contractual elements are under £50,000. The ESFA's prior approval will be obtained when the Trust is considering making a non-statutory/non-contractual payment of £50,000 or more and they will also refer such transaction to HM Treasury.

CL will routinely consider whether any cases reveal concerns about the internal control systems, taking any necessary actions to improve effectiveness and put failings right.

Irrespective of whether the Secretary of State's approval is required, the Trust will disclose aggregate figures of compensation transactions, and separate disclosure for individual transactions above £5000, in their audited accounts.

## ***Ex gratia* Payments**

These payments are separate to severance and compensation payments and are another type of transaction that go beyond statutory or contractual cover or administrative rules. For example:

- Payments made to meet hardship caused by or delay.
- Payments to avoid legal action on the grounds of official inadequacy.
- Any contractual payments received by Trust staff, in accordance with the trust's pay and conditions policy, are not classed as *ex-gratia* payments. All *ex gratia* transactions will be referred to the ESFA for prior authorisation and HM Treasury's approval will also be sought, dependent on the nature of the payment.
- CL will always seek prior advice from the ESFA if there is any doubt surrounding a proposed *ex gratia* transaction.

All *ex gratia* payments, of any value, will be disclosed in total in CL's audited accounts.