



# Northumberland

## County Council

### AUDIT COMMITTEE

DATE: 25 JANUARY 2023

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### Review of Exit Packages

### Report of the Head of Internal Audit and Risk Management

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#### **Purpose of report**

The purpose of this report is to provide an update to Audit Committee on findings and recommendations from a review of exit packages paid to former employees, as requested by the Section 151 Officer following the issuing of a report under s114 and s114A of the Local Government Finance Act 1988 on 23 May 2022.

#### **Recommendations**

It is recommended that Audit Committee:

- a) notes the findings and recommendations highlighted by Internal Audit;
- b) considers the update as a source of assurance at the time it considers the Annual Governance Statement and as part of Audit Committee's role in 'monitoring the effectiveness of the control environment, including arrangements for ensuring value for money, supporting standards and ethics and for managing the authority's exposure to the risks of fraud and corruption.'

#### **Link to Corporate Plan**

The work of Internal Audit and the Audit Committee contributes to the overall achievement of all priorities in the Council's Corporate Plan. In particular, it supports the "How" priority of the Corporate Plan 2021-24.

#### **Key issues**

The County Council's Section 151 Officer issued a report under s114 and s114A of the Local Government Finance Act 1988 on 23 May 2022. The report explained the Section 151 Officer's view that the County Council had incurred items of unlawful expenditure and the background information regarding that view, including with regard to the payment of an allowance to a former officer.

Within her report, the Section 151 Officer recommended (at paragraph 6.2.4) that the Section 151 Officer "will undertake further investigation to establish whether any other unlawful payments have been made to any officers or former officers, including severance payments, which may require further reports under s114 of the Local Government Finance Act 1988". Under the 'Next Steps & Timescales' section of the report (paragraph 7.7), the

Section 151 Officer explained that “Internal Audit has been requested to investigate a small number of other potentially unlawful payments to officers and to review all exit packages with a value of £100k or more over the last 2 years.”

A discussion took place during the meeting of Audit Committee on 30 September 2022, in relation to the issues arising from the Section 151 Officer’s report. As reported in the minutes of the meeting,

“Councillor Jackson requested a report detailing the processes and practices of employment and redundancy payments to be added to the work programme. J. Willis advised that an Internal Audit report had been drafted on this issue. She stated that she may need to seek further legal advice, but it was hoped to present the paper to the next meeting of Audit Committee.”

Internal Audit has undertaken a review in accordance with the Section 151 Officer’s report and between June and November 2022 provided detailed findings to the Section 151 Officer for consideration as to whether any further unlawful payments have been made. Internal Audit has been requested to prepare a report to Audit Committee, detailing a summary of findings from work undertaken. This report has therefore been prepared to update Audit Committee on findings related to weaknesses in systems and procedures and associated recommendations made.

In addition to this work, Internal Audit’s plan of work for 2022/23 was agreed by Audit Committee on 23 March 2022. The 2022/23 Strategic Audit Plan included a proposed review of recruitment and retention – processes governing changes to terms and conditions and how employees leave the organisation. This planned internal audit is currently underway and the findings will be reported to Audit Committee in the normal manner, once completed.

## **Background**

Following discussion with the Section 151 Officer, the Internal Audit review requested was expanded to include exit packages within the previous 5 years, rather than the previous 2 years as initially requested. The review undertaken therefore covered exit packages from May 2017 to May 2022.

Internal Audit’s review included any exit package where the package exceeded £100k and any package made to a former statutory officer, and in total, 8 exit packages in respect of former postholders were identified, from May 2017 to October 2021.

Internal Audit’s review was undertaken on the basis of the following objectives:

- To establish the relevant County Council policies in place at the time of each exit payment;
- To assess whether the policies complied with relevant legislation;
- To assess whether exit payments made to former postholders were in accordance with these policies and relevant legislation.

It is important to distinguish that of the 8 former postholders identified during this review, 5 left the organisation via a redundancy / voluntary redundancy situation, and 3 former postholders entered into a mutual agreement to end their employment with the County Council. This is an important distinction in terms of the County Council’s policies in place during the period under review.

A number of significant weaknesses were identified within the County Council's control framework governing exit packages, with no specified policy in place for exit arrangements other than through severance or redundancy. The County Council's Pay Policy Statements did not comply with the Localism Act 2011 in the following key areas:

- The Act's definition of a Chief Officer; and
- The required authorisation by Full Council of severance packages in excess of £100,000. It was established that the 2018/19 Pay Policy Statement had complied with the Localism Act 2011 and the Pay Policy Statement for 2022/23 has been amended to reflect the Localism Act 2011 in this regard, before this was agreed by full Council in March 2022. However, the review has identified that the annual Pay Policy Statements for 2019/20, 2020/21 and 2021/22 did not comply with this requirement. 6 of the exit packages reviewed were greater than £100,000, however, approval of Full Council could only be evidenced in relation to 1 of these packages.

A number of exit payments made to former postholders do not comply with the requirements of the Localism Act 2011. There is therefore the potential that these payments may be unlawful. Internal Audit is aware that the County Council is seeking appropriate advice in order to determine whether payments made were unlawful and this aspect will be considered further by the s151 Officer and Monitoring Officer. Where any additional action is identified by the s151 Officer and / or Monitoring Officer, subsequent reports to update Audit Committee will be prepared as required.

Internal Audit has been made aware of a number of measures taken by the County Council to improve the control framework in place for exit payments, including

- Clarifying the situation regarding the inclusion of Pay in Lieu of Notice for all exit arrangements and whether this may be discretionary.
- Procedures have been amended to require the development of a formal business case as part of the approval process for a postholder leaving the County Council.
- Ensuring any approvals required by Staff and Appointments Committee in accordance with the Pay Policy Statement and the Committee's Terms of Reference are now obtained, with Full Council approval where required.
- Internal procedures reflecting new statutory guidance issued on Special Severance Payments and related CIPFA Advisory Note.

The planned internal audit currently underway as referenced above, in addition to future internal audit reviews undertaken, will assess the effectiveness of these measures and will be reported to Audit Committee as part of established reporting mechanisms.

**Objective 1: To identify exit packages and establish relevant County Council policies and procedures in place at the time of each payment**

A review of the County Council’s published Statement of Accounts from 2017/18 to 2021/22 was undertaken, to identify exit packages paid to former officers. A schedule of exit packages was also provided by Finance and this was reviewed. For the period May 2017 to May 2022, 8 exit packages were identified where the value of the package exceeded £100k and / or were made to a former statutory officer.

Postholder	Type of Exit	Value of Package	Year	Published in Annual Accounts?
Postholder A	Mutual Agreement	Over £100,000	2017/18	Yes –Final Statement of Account 2017/18
Postholder B	Mutual Agreement	£50,000 - £100,000	2018/19	Yes – Final Statement of Accounts 2018/19
Postholder C	Voluntary Redundancy	Over £100,000	2018/19	<b>No exit packages exceeding £100,000 reported in the 2018/19 Final Statement of Accounts</b>
Postholder D	Voluntary Redundancy	Over £100,000	2020/21	Yes - Recorded in the 2020/21 Statement of Accounts (unaudited)
Postholder E	Voluntary Redundancy	Over £100,000	2020/21	Yes - Recorded in the 2020/21 Statement of Accounts (unaudited)
Postholder F	Mutual Agreement	£50,000 - £100,000	2021/22	Eight exit payments are recorded in the £40,001 to £80,000 range in the Statement of Accounts 2021/22 (unaudited)
Postholder G	Voluntary Redundancy	Over £100,000	2021/22	Yes – Recorded in the Statement of Accounts 2021/22 (unaudited)
Postholder H	Voluntary Redundancy	Over £100,000	2021/22	Yes – Recorded in the Statement of Accounts 2021/22 (unaudited)

Of the 8 exit packages identified, there were 5 redundancy / voluntary redundancy situations. Following discussions with HR, an associated Voluntary Severance or Voluntary Redundancy Scheme could not be identified for 1 voluntary redundancy agreed in May 2018 (Postholder C). The circumstances of this voluntary redundancy have been evaluated using the processes established for the first policy identified, issued in October 2018. It should be noted that the various versions of policies reviewed by Internal Audit were similar in all material respects.

In situations where the County Council does not intend to remove a post from the structure or cannot remove the post due to it being a statutory position, but enters into a mutual agreement with an employee that it is in the best interests of the Council to end the employment, this does not fall under either a severance or redundancy policy. These policies apply where posts are made redundant (removed from the County Council’s establishment) and the postholder’s pension entitlement would form part of any package and payback calculation. Of the 8 exit packages identified, 3 are in respect of such mutually agreed exit arrangements. In the absence of a specific policy the provisions of the Constitution and Pay Policy Statement apply.

One of these exit packages does not appear to have been reported (or correctly categorised) in the appropriate Notes to the Accounts within the Annual Statement of Accounts.

**Objective 2: To determine whether the applicable legislative requirements have been complied with in relation to exit packages agreed**

The Localism Act 2011 sets out the requirement for relevant authorities in relation to pay accountability, particularly senior pay. In February 2012 the Department for Communities and Local Government (DCLG) published 'Openness and Accountability in Local Pay: Guidance under Section 40 of the Localism Act 2011' and in February 2013 published a supplementary guidance document. The documents cover Sections 38 to 43 of the Localism Act 2011 and set out the key principles that underpin the pay accountability provisions in the Act.

Internal Audit has examined the Localism Act 2011 and notes the Act's requirements in relation to a pay policy statement and the ceasing to hold office of a chief officer. Relevant requirements of the Localism Act 2011 are that:

- The County Council must prepare a pay policy statement (Section 38 (1));
- The pay policy statement must include the County Council's policies relating to the approach to the payment of chief officers on their ceasing to hold office under or to be employed by the County Council (Section 38 (4) (f));
- A pay policy statement must be approved by a resolution of the County Council before it comes into force (Section 39 (1));
- Each pay policy statement must be prepared and approved before the end of the 31 March immediately preceding the financial year to which it relates (Section 39 (3));
- For any determination made by the County Council which relates to the remuneration of or other terms and conditions applying to a chief officer of the County Council, the County Council must comply with its pay policy statement for the financial year in making the determination (Section 41 (1) and (2)).

Taking each of these requirements in turn:

*The County Council must prepare a pay policy statement.*

The County Council prepared a Pay Policy Statement for each of the years covered as part of Internal Audit's review.

*The pay policy statement must include the County Council's policies relating to ... the approach to the payment of chief officers on their ceasing to hold office under or to be employed by the County Council.*

In each of the Pay Policy Statements reviewed, there is a section entitled 'Severance and Redundancy Payments' which include the following in relation to the payment of chief officers on their ceasing to hold office:

*"Payments must always be in the financial and managerial interests of the County Council and all cases must be approved by the relevant Executive Director and the Head of Paid Service or their nominated representative."* (The assessment of financial and managerial interests and relevant approvals were reviewed by Internal Audit under Objective 3).

*“The Staff and Appointments Committee has delegated authority from Full Council to approve severance and redundancy payments for Chief Officers.”*

However, Pay Policy Statements did not make reference to other types of payment to chief officers on their ceasing to hold office (those that are not severance or redundancy payments). It was noted however that the County Council updated its Pay Policy Statement for 2022/23 and additional wording is now included (at paragraph 23). This wording states that the Staffing and Appointments Committee *“will approve additional special payments for Chief Officers and senior officers and in the interests of transparency all special payments should be reported to the SAC.”* Whilst Internal Audit is aware of statutory guidance published in May 2022 relating to ‘special severance payments’, it is not clear what would constitute a “special payment” as stated within the Pay Policy Statement.

Paragraph 11 of the Pay Policy Statements for 2017/18 and 2018/19 state:

*“The following posts are defined as Chief Officers:*

- *Chief Executive*
- *Deputy Chief Executive”* (The 2018/19 document adds that *“one of the Executive Directors will act as Deputy Chief Executive and an allowance will be paid to them for this responsibility”*).

Paragraph 11 of the Pay Policy Statements for 2019/20, 2020/21 and 2021/22 state:

*“The following posts are defined as Chief Officers:*

- *Chief Executive*
- *Executive Director of HR/OD & Deputy Chief Executive*
- *Executive Director of Finance*
- *Executive Director of Place*
- *Executive Director of Regeneration, Economy & Commercial*
- *Executive Director of Adult Social Care and Children’s Services”*.

The definition of ‘Chief Officers’ within the Pay Policy Statement for 2017/18, 2018/19, 2019/20, 2020/21 and 2021/22 (and within the County Council’s Constitution) do not agree with the definition of ‘Chief Officers’ within the Localism Act 2011. Section 43 (2) of the Localism Act 2011 states:

*“In this Chapter “chief officer”, in relation to a relevant authority, means each of the following—*

- (a) the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989;*
- (b) its monitoring officer designated under section 5(1) of that Act;*
- (c) a statutory chief officer mentioned in section 2(6) of that Act;*
- (d) a non-statutory chief officer mentioned in section 2(7) of that Act;*
- (e) a deputy chief officer mentioned in section 2(8) of that Act.”*

It is noted that the County Council updated its Pay Policy Statement for 2022/23 to comply with the Localism Act 2011 and paragraph 12 of the Pay Policy Statement has been expanded to reference s43 of the Localism Act 2011 when defining a ‘Chief Officer’. However, the definition in the 2022/23 Pay Policy Statement omits reference to a ‘deputy chief officer’ (bullet (e) above), only referencing bullets (a) to (d) above. It will be important that this is reviewed and corrected to help ensure full compliance.

The review undertaken by Internal Audit identified that, of the 8 exit packages covered by the review, 4 met the definition of a Chief Officer established by the Localism Act 2011, however, 2 of these 4 were not defined as Chief Officers by the County Council Pay Policy Statement.

Of these 2 exit packages, 1 was not in relation to either a severance or redundancy situation. The County Council's Pay Policy Statements for the period reviewed only refer to a chief officer leaving the County Council via a severance or redundancy route. The remaining exit package was in relation to the voluntary redundancy of a former postholder who should have been defined as a 'chief officer' within the County Council's Pay Policy Statement and therefore this exit arrangement should have been subject to arrangements specified within the County Council's Pay Policy Statement.

The 'Openness and Accountability in Local Pay: Guidance under Section 40 of the Localism Act 2011 Supplementary Guidance' document contains a specific section on severance payments. At paragraph 13 of the document, the guidance details measures to enable greater scrutiny of the money spent by authorities on severance and decisions on 'large pay-offs' being subject to appropriate levels of accountability. The guidance document states:

*"Authorities should, therefore, offer full council (or a meeting of members in the case of fire authorities) the opportunity to vote before large severance packages beyond a particular threshold are approved for staff leaving the organisation. As with salaries on appointment, the Secretary of State considers that £100,000 is the right level for that threshold to be set."*

The County Council's Pay Policy Statements for 2017/18 and 2018/19 adequately covered this provision, with Paragraphs 24 and 25 of both documents including the following provision:

*"The Staff and Appointments Committee has delegated authority from Full Council to approve severance and redundancy payments for Chief Officers, unless the severance package (including redundancy, any discretionary elements, strain on pension fund costs and any pay in lieu of notice) exceeds £100,000, in which case the proposal must be approved by Full Council.*

*Any severance or redundancy package for any other employee where the cost exceeds £100,000 (including redundancy pay, any discretionary elements, strain on pension fund costs and any pay in lieu of notice) must be approved by Full Council."*

However, this requirement was not included within the Pay Policy Statements for 2019/20, 2020/21 or 2021/22. The 2022/23 Pay Policy Statement, agreed by Full Council on 30 March 2022 explicitly references the requirements of Section 43 of the Localism Act and any "exit packages over £100k."

The review undertaken by Internal Audit identified that, of the 8 exit packages covered by the review, 6 were in excess of £100,000 and should have been subject to the requirements of the Localism Act 2011. In 1 case, the requirements of the Localism Act 2011 were complied with (although some issues regarding the transparency of information presented have been identified), however, 5 exit packages were not subjected to the required agreement by Full Council.

A pay policy statement must be approved by a resolution of the County Council before it comes into force.

The Pay Policy Statements for each of the years covered as part of Internal Audit's review were approved by the County Council prior to the commencement of the financial year to which it applied.

Each pay policy statement must be prepared and approved before the end of the 31 March immediately preceding the financial year to which it relates.

As stated above, each of the Pay Policy Statements relevant to Internal Audit's review were approved by County Council prior to the commencement of the financial year to which they relate.

For any determination made by the County Council which relates to the remuneration of or other terms and conditions applying to a chief officer of the County Council, the County Council must comply with its pay policy statement for the financial year in making the determination.

As stated earlier in this report this review has identified errors contained within the County Council's Pay Policy Statements for each of the years reviewed and, specifically in relation to the 2019/20, 2020/21 and 2021/22 Pay Policy Statements, a lack of adherence to the requirements of the Localism Act 2011. As a result, only 2 (rather than 4) of the 8 exit packages covered by the review met the definition of a Chief Officer as established by the County Council's Pay Policy Statement. In both of these cases the Pay Policy Statement requirement regarding publishing severance or redundancy payments in the Council's Statement of Accounts was complied with. The remaining Pay Policy Statement requirements relate to the decision to enter into, and authorisation of, exit packages, and an assessment as to whether each requirement was complied with is set out in Objective 3 of this report.

In relation to the 8 exit packages identified, these requirements and associated findings are summarised in the table below:



<b>Postholder</b>	<b>Pay Policy Statement (PPS) approved by County Council prior to coming into force?</b>	<b>Approach to Payment of Chief Officers on ceasing to hold office included in PPS?</b>	<b>PPS definition of Chief Officer compliant with Localism Act?</b>	<b>Exit Payment relates to a Chief Officer (as defined by Localism Act)? If Yes, was the Postholder defined as a Chief Officer by PPS?</b>		<b>PPS covers Localism Act provision re packages in excess of £100k?</b>	<b>Localism Act provision re packages in excess of £100k complied with?</b>
Postholder A	Yes – February 2017 for 2017/18	Yes – Paragraphs 22 to 25	No	Yes	Yes – Approved by Full Council	Yes	Yes
Postholder B	Yes – February 2018 for 2018/19	Yes – Paragraphs 22 to 27	No	Yes	Yes (Mutual Agreement – circumstance not covered by PPS)	Yes	N/A – less than £100k
Postholder C	Yes – February 2018 for 2018/19	Yes – Paragraphs 22 to 27	No	No	N/A	Yes	No
Postholder D	Yes – February 2019 for 2019/20	Yes – Paragraphs 21 to 23	No	No	N/A	No	No
Postholder E	Yes – February 2020 for 2020/21	Yes – Paragraphs 21 to 23	No	Yes	No	No	No
Postholder F	Yes – February 2021 for 2021/22	Yes – Paragraphs 21 to 24	No	Yes	No (Mutual Agreement – circumstance not covered by PPS)	No	N/A – less than £100k
Postholder G	Yes – February 2021 for 2021/22	Yes – Paragraphs 21 to 24	No	No	N/A	No	No
Postholder H	Yes – February 2021 for 2021/22	Yes – Paragraphs 21 to 24	No	No	N/A	No	No

**Objective 3: To determine compliance with the requirements of the relevant County Council policies in place at the time of each exit package**

**Objective 3.1 Voluntary Severance / Voluntary Redundancy (5 exit packages):**

Internal Audit have undertaken a comparison of the various Voluntary Severance / Voluntary Redundancy Schemes issued by the County Council, relevant to the 5 associated exit packages covered by this review. This includes a Voluntary Severance Scheme dated October 2018, a Voluntary Redundancy Scheme 1.1 dated November 2019 to August 2020, a Voluntary Redundancy Scheme 1.2 dated July 2020 to August 2020, and a Voluntary Redundancy Scheme 1.3 dated January 2021 to September 2021. This review found that these schemes were fundamentally the same, with one significant change introduced to Voluntary Redundancy Scheme 1.3, requiring both the Chief Executive and Section 151 Officer to make the financial decision on whether to accept or reject an application, whereas prior to scheme 1.3 only the Chief Executive was required to make this decision. The following are the key approval stages identified:

1. Employee's Executive Director to be contacted by HR to indicate their support or otherwise for the application and to outline potential financial savings.
2. Approved applications submitted to Chief Executive for financial decision (VR Scheme 1.3 adds or Deputy Chief Executive in their absence, and Section 151 Officer).
3. Settlement Agreement entered into.
4. A salary cap of £80,000 be applied to the calculation of severance payments.

In respect of the 5 exit packages which relate to Voluntary Severance / Voluntary Redundancy, each of the key approval stages of the policies are summarised in the table below:

Postholder	Application Supported / Financial Savings Outlined	Financial Package approved by Chief Executive (and s151 Officer from January 2021)	Settlement Agreement	Salary Cap applied (where salary more than £80,000)
Postholder C	Yes – although subsequently identified that costs were significantly understated.	1) Chief Executive approval prior to additional costs being identified 2) s151 approval of additional costs 3) 2 year pay back period exceeded	No	N/A
Postholder D	Yes	Deputy Chief Executive Approval	Yes	N/A
Postholder E	1) Business case created after the postholder had left the County Council 2) Invoice for significant additional costs received a number of months after the postholder left	1) Chief Executive's name added to business case after the postholder had left 2) Redundancy Approval Form does not record Chief Executive approval	Yes	No – salary exceeded threshold but cap not applied
Postholder G	Yes. Approval recorded after offer in writing issued to employee.	1) Approval of Chief Executive and s151 Officer recorded after offer in writing issued to employee 2) 2 year pay back period exceeded	Yes	N/A
Postholder H	Yes	Yes – Chief Executive and s151 Officer	Yes	N/A

Taking each requirement in turn:

*Employee's Executive Director to be contacted by HR to indicate their support or otherwise for the application and to outline potential financial savings*

In all cases examined, evidence was obtained demonstrating that the relevant Executive Director supported the application, although some issues of timeliness and agreement of financial savings were identified.

In one instance, the application was approved before additional costs were identified. Additional costs not originally identified due to a process error, were subsequently approved by the then Section 151 Officer. However, these additional costs resulted in the total package exceeding £100,000 and it is this case which was identified as not correctly recorded within the Notes to the Statement of Accounts under Objective 1 of the review.

In one instance, although the Executive Director supported the application, weaknesses were identified in relation to the calculation of financial savings. A business case sighted by Internal Audit was completed after the former postholder had left the Authority. Initial payback calculations, demonstrating financial savings, were correctly completed by HR and Payroll officers, but all relevant information was not available until after the exit package had been agreed. In addition, officers were not aware of further costs which were identified some months after the exit package had been agreed, resulting in the original costs being significantly understated. Whilst the payback period for the exit payment could

initially be demonstrated to be within the required 2-year period, this was not the case when the additional costs were added. The process in place at the time of this payment did not require the agreement of the Section 151 Officer (or nominated representative) prior to redundancy packages being authorised. No evidence of the Section 151 Officer (or their nominated representative) being requested to check financial calculations in relation to this payment were sighted during the review. Internal Audit has been advised that a revised process expressly requiring the approval of the Section 151 Officer was implemented in June 2021. As detailed above, Voluntary Redundancy Scheme 1.3 also added in this requirement.

*Approved applications submitted to Chief Executive (and from January 2021 the Section 151 Officer) for financial decision*

In 3 instances, evidence of the Chief Executive's approval being obtained before the respective payment was processed has not been sighted by Internal Audit.

Whilst Internal Audit has sighted some mitigating reasons, there are 2 instances where the Section 151 Officer has approved the value of the exit package, although the required 2-year payback period was not demonstrated.

Internal Audit's review has highlighted weaknesses in the production of formal business cases which should be prepared and considered as part of the approval process. As detailed above, the revised process requiring the approval of the Section 151 Officer in the approval process, in addition to the Chief Executive, should help to ensure that applications are correctly approved.

*Settlement Agreement entered into*

In respect of the 5 Voluntary Redundancy situations examined, a Settlement Agreement was sighted by Internal Audit in relation to 4 exit packages. In respect of the 1 exit package for which a Settlement Agreement could not be located, this related to an exit agreed in May 2018, for which an agreed policy was not in place, as detailed above under Objective 1. Internal Audit were advised that at that time, settlement agreements had not always been utilised but that this became standard practice for all voluntary redundancies as part of relevant policies.

*A salary cap of £80,000 be applied to the calculation of severance payments*

The County Council's Voluntary Severance and Voluntary Redundancy Schemes covered by this review state, that for the calculation of severance payments, *"a salary cap of £80,000 will apply. For employees with total earnings of more than £80,000, the figure used for calculating a severance payment will be £80,000."*

In 4 of the 5 Voluntary Redundancy cases examined, the salary cap did not apply. In the remaining case, the salary cap required does not appear to have been applied when payment values were calculated. Using the 'ready reckoner' within the Voluntary Redundancy Scheme, Internal Audit's calculations would indicate that this exit payment was overstated.

### Objective 3.2 Mutual Agreements (3 exit packages)

As set out in Objective 1 of this report, not all exit packages identified were in respect of a redundancy or severance payment and this was the case in relation to 3 of the packages reviewed. As identified under Objective 1 above, in the absence of a policy the provisions of the Constitution and Pay Policy Statement would apply in these cases and it is on this basis that the remaining 3 exit payments were assessed.

The County Council's Constitution refers to the dismissal of a chief officer and the Pay Policy Statements refer to severance and redundancy. Neither of these situations are relevant to the circumstances in which these postholders left the County Council. The Pay Policy Statement establishes the following requirements in relation to severance and redundancy payments:

- Payments must always be in the financial and managerial interests of the County Council.
- All cases must be approved by the relevant Executive Director and Head of Paid Service, or their nominated representatives.
- The Staff and Appointments Committee has delegated authority from the Full Council to approve severance and redundancy payments for Chief Officers (unless the severance package exceeds £100,000).

Whilst these 3 exit packages do not relate to severance or redundancy, the above requirements can be used as principles to assess these cases against. Each of these principles are considered in turn below and are summarised in the following table:

Postholder	Financial / Managerial Interests Considered	Approval of Executive Director and Head of Paid Service	Staff and Appointment Committee approval
Postholder A	Yes – value for money considered although some issues regarding the transparency of information presented have been identified.	Yes. Determined at a meeting of the County Council	N/A - Determined at a meeting of the County Council
Postholder B	No Business Case sighted, however, documentation sighted indicate these matters were considered.	No formal record of approval but documentary evidence sighted that the Chief Executive and relevant Executive Director were involved in the negotiation and approval of this exit arrangement.	No. However, PPS covers severance or redundancy and this was a mutual agreement case.
Postholder F	Evidence sighted of various financial options being considered. A formal business case was not prepared.  Redundancy Approval Form significantly overstated costs.	Approval of Executive Director, s151 Officer and Chief Executive sighted. However, the costs recorded were significantly overstated. The Chief Executive's approval was recorded after the postholder had left the County Council (but before the exit payment was made).	No. However, postholder (incorrectly) not defined as a Chief Officer in 2021/22 PPS, and this was a mutual agreement case.

*Payments must always be in the financial and managerial interests of the County Council.*

In each of the 3 cases, documentation sighted by Internal Audit relating to the exit agreement being entered into indicates that the financial and managerial interests of the County Council were considered. However, weaknesses were identified in these cases, relating to the lack of formal business cases with all financial and managerial interests clearly and transparently documented as part of the decision-making process.

It is noted by Internal Audit that the County Council commissioned an Independent Governance Review led by Max Caller CBE and that the findings of this review were reported to a meeting of the County Council on 8 June 2022. Included within the review's report is a paragraph (5.5) which references a postholder leaving the organisation and the paragraph concludes with the following statement:

*“The exit agreement was signed off by the CEx and the S151 officer, based on a business case. However, the S151 officer later established that costs were added after her sign off.”*

The review undertaken by Internal Audit has identified that the statement within the Governance Review report is not correct and costs were not added after a business case was signed off.

*All cases must be approved by the relevant Executive Director and Head of Paid Service, or their nominated representatives*

In the most recent of the 3 cases, the County Council's on-line Redundancy Approval Form, set up on the Council's Lagan system, was utilised. This records that the relevant approvals were obtained for the exit. Whilst it was evident that senior officers were aware of this situation as it progressed, all required approvals in the Lagan system were not provided until after the final offer was issued to the postholder and after the employment end date. All approvals were recorded before any payment was made to the former postholder. However, the amounts on the approved Redundancy Approval Form were applicable to a redundancy situation and were significantly higher than the actual cost of the exit agreement entered into with the postholder.

The earlier 2 cases pre-dated the use of the Lagan system to record such approvals. In 1 case, whilst no formal record approving the entering into this exit agreement has been located, it is clear from the documentation reviewed that the then Head of Paid Service and relevant Executive Director were involved in the negotiation and approval of this exit package. In the final case, there was again no formal record approving the entering into the exit agreement, however, it was again evident from the documentation reviewed that the relevant Executive Director and Head of Paid Service representative were involved in the approval of the exit payment and the decision to enter into the agreement was taken at a meeting of the County Council.

As stated above, an on-line 'Redundancy Approval Form' form process has been established to record approvals. Evidence from the more recent exit payments reviewed confirmed that this document is used to record the required approvals, including in exit payments that are not redundancy cases.

*The Staff and Appointments Committee has delegated authority from Full Council to approve severance and redundancy payments for Chief Officers*

In two of these cases, the former postholder met the definition of a Chief Officer as defined within the County Council's Pay Policy Statement. Due to the value of the exit package being in excess of £100,000, one of these cases was approved at a meeting of Full Council, as required by the Localism Act 2011.

In the second case, no evidence of member involvement could be identified. Whilst the former postholder met the definition of a Chief Officer as established by the County Council's Pay Policy Statement, the postholder was not made redundant or dismissed by the County Council. An alternative to these situations was not included within the Pay Policy Statement and consequently, in this regard, the County Council has not failed to comply with its published Pay Policy Statement in relation to this exit package.

No evidence of member involvement in the third case could be identified. The former postholder did not meet the definition of a Chief Officer post by the County Council's Pay Policy Statement and therefore approval was not required by the County Council's Pay Policy Statement at that time. As a consequence, the County Council has again not failed to comply with its published Pay Policy Statement in relation to this exit package. The former postholder would however have met the definition of a Chief Officer under the Localism Act 2011.

Having examined the evidence available, Internal Audit is of the opinion that member involvement in the second and third cases was not required by the Localism Act 2011. The Localism Act 2011 only makes a requirement for member approval in respect of payments in excess of £100,000, which was not applicable in either of these cases. The Localism Act 2011 then requires the County Council to state its own policies for dealing with payments made to chief officers when leaving the Council.

The Council's agreed policies and procedures were silent on what should happen in situations such as this, where there is a mutual agreement to end an employment. Whilst there may be a reasonable expectation that any such decision relating to chief officers would be subject to member involvement, Internal Audit is not aware of any reason to form the view that this *should* have happened.

### **Internal Audit Recommendations**

This Internal Audit review has identified a number of significant weaknesses within the County Council's control framework governing redundancy / exit packages, and non-compliance with relevant legislation and policies that were in place. Internal Audit have recommended to the Section 151 Officer that a review of the relevant policies and procedures governing all forms of exit packages is undertaken and that this review includes:

- Ensuring compliance with relevant legislation, including s43 of the Localism Act 2011;
- Ensuring calculation of redundancy payments to reflect the requirements of the salary cap where required;
- Formally setting out the role of the s151 Officer (or their nominated representative) in the agreement / confirmation of a formal business case and financial calculations prior to any exit from the organisation being agreed to;
- Ensuring that any payback requirements are clearly demonstrated;
- The process for authorising exit packages, to ensure that formal approvals are obtained and recorded for the correct amounts, prior to any settlement agreement being entered into;

- Formally setting out the authorisations required depending on the value of the exit package or the level of the officer exiting the organisation. This should include a combination of the s151 Officer, relevant Executive Director, Chief Executive, Full Council or Staff and Appointments Committee.

It was also recommended that a review of any implications regarding the exit package that does not appear to have been reported (or correctly categorised) in the appropriate Notes to the Accounts within the respective Annual Statement of Accounts is undertaken and any necessary action taken.

### **Implications**

<b>Policy</b>	Effective internal audit is an essential part of the County Council's governance arrangements. Internal Audit examines the Council's systems of internal control, and the economy, efficiency and effectiveness with which resources are deployed. This report provides information on work undertaken by Internal Audit and findings related to the Council's processes and systems of internal control.
<b>Finance and value for money</b>	The audit of the Council's activities promotes good financial governance and the importance of value for money. Effective control in these areas reduces the potential for financial loss through fraud, waste and inefficiency.
<b>Legal</b>	The Accounts and Audit Regulations 2015 require the Council to undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards. This report includes information relating to the County Council's adherence to the requirements of the Localism Act 2011.
<b>Procurement</b>	None
<b>Human Resources</b>	None
<b>Property</b>	None
<b>Equalities</b> (Impact Assessment attached) Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	None
<b>Risk Assessment</b>	Internal Audit activity is based on a risk-based approach, thus ensuring that coverage is focussed on areas of Council activity where Internal Audit resource will deliver most benefit and assist most effectively in the management of risk.



<b>Crime Disorder &amp;</b>	Section 17 of the Crime and Disorder Act 1998 has been considered, and no implications have been identified.
<b>Customer Consideration</b>	This report summarises Internal Audit findings reported during 2022, for consideration by Audit Committee.
<b>Carbon reduction</b>	None
<b>Wards</b>	All

**Background papers:**

- Report of Section 151 Officer of Northumberland County Council, under s114 and s114A of the Local Government and Finance Act 1988, May 2022;
- The Localism Act 2011, November 2011
- Openness and Accountability in Local Pay: Guidance under Section 40 of the Localism Act 2011 Supplementary Guidance, February 2013
- The Accounts and Audit Regulations 2015, April 2015;
- Northumberland County Council Constitution and Finance and Contract Rules;
- Strategic Audit Plan 2022-2023, March 2022.

**Report sign off.**

	Name
Monitoring Officer/Legal	N/A
Executive Director of Finance & S151 Officer	N/A
Relevant Executive Director	N/A
Chief Executive	N/A
Portfolio Holder(s)	N/A

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