

Open Report on behalf of David O'Connor, Executive Director Performance and Governance

Report to:	Audit Committee
Date:	12 November 2012
Subject:	Compromise Agreements Update

Summary:

The report looks at the number of compromise agreements agreed by Lincolnshire County Council in the last 12 months from 1 October 2011 to 30 September 2012, justification for these and actions arising.

This report is part of the overall compromise agreements monitoring process which has been in place since 2008 to ensure transparency.

Recommendation(s):

Members of the Audit Committee are asked to note the contents of the report.

Background

- 1.1 In the United Kingdom, a compromise agreement is a specific type of contract, regulated by statute, between an employer and its employee (or ex-employee) under which the employee receives consideration, often a negotiated financial sum, in exchange for agreeing that he or she will have no further claim against the employer as a result of any breach of a statutory obligation by the employer.
- 1.2 This report looks at the number of compromise agreements agreed in LCC in the last 12 months from 1st October 2011 to 30th September 2012; justification for these and actions arising.
- 1.3 This report is part of the overall compromise agreements monitoring process which has been in place since 2008 to ensure transparency.
- 1.4 There have been 20 compromise agreements in the last 12 months. The cost for all school type compromise agreements, of which there are 14 has been met from either the school redundancy budget held within Children's Services or from within each school's budget.

1.5 Overview of figures

Directorate/School Type	Reasons	Number of Compromise Agreements	Total Cost
14 cases – all School types	Long term sickness absences; grievance; capability; school restructure	14	£317,147.00
5 Children’s Services cases 1 Resources and Community Safety case	Managing workforce change, Long term sickness absence, Grievance and Capability	6	£142,659.00
TOTAL		20	£459,806

2.1. Justification

2.1.1 The advantage of using compromise agreements for the Council as the employer is that we are able to draw a line under an employee's departure or complaint and are protected from future claims. The advantage for the employee is that the financial sum received in return is provided for by a legally-binding contract. In addition to confidentiality clauses, a compromise agreement may also include an agreed reference. A breach of the compromise agreement and any financial loss that breach may incur for the other party, can result in legal action in a court of law.

2.1.2 The use of compromise agreements in the Council in the last four years has been managed down through ensuring business cases are always drawn up and managers consider all options before going ahead with a compromise agreement. The Director of Children’s Services signs off all compromise agreements involving community and controlled schools – not Academies - together with People Management advice, ensuring a robust business case.

2.1.3 Managers must produce a measured Business Case to demonstrate the cost/benefit analysis of entering into compromise agreements. The Business Case will demonstrate the money it will save the Council; in comparison to taking any alternative action e.g. following internal HR procedures. It is part of the procedure that all discussions about the Compromise Agreement are documented and retained by Mouchel HR to ensure an audit trail. In schools there are specific national terms and conditions which sometimes lead to the use of compromise agreements. For example, a teacher can go off sick and if they return at a particular point in the year, even for one day, their sick pay entitlement starts to run again afresh. Therefore the option of being able to invoke a compromise agreement in these cases is beneficial both for the school concerned and the employee.

2.1.4 The figures at paragraph 1.5 above are the amounts paid out to employees which are the absolute minimum based on the business case, time,

professional costs involved etc. Signing such an agreement can also sometimes be beneficial as it allows both parties to move on from a difficult situation.

2.2 Compromise Agreements or COT3s?

2.2.1 Whether a compromise agreement is signed or a COT3, which involves ACAS, the outcome is the same. The employment relationship is ended and the employee leaves with a sum of money.

2.3 Reasons

2.3.1 Reasons given for entering into such agreements are regularly reviewed. Looking at the October 2011 to September 2012 data many relate to long term sickness issues, particularly in schools. This is partly due to the nature of teachers' terms and conditions as was mentioned in paragraph 2.1.3.

2.4 Line Manager Impact

2.4.1 The Council's '*People Make it Happen Programme – People Strategy*' is providing comprehensive, practical management development for all its managers including strong emphasis on the skills needed to manage people. This is aimed specifically at reducing the number of compromise agreements.

2.5 Follow up

2.5.1 The Council's procedure is such that following any compromise agreement, consideration is given to whether the issues raised indicate the need for follow up with the management of the area in question. People Management then provides advice and guidance to prevent similar problems in the future.

2.5.2 The Organisational Development team is also working to ensure the Council management development programme takes account of all lessons learned in individual cases.

2.5.3 The Corporate Health and Safety Advisor is advised to ensure that any relevant health and safety policies or guidance is reviewed. This is also important so that appropriate support is provided to managers to enable learning from health and safety /occupational health related issues, e.g. work related stress, the working environment etc., to be addressed

2.6 Future Actions

2.6.1 People Management is working in partnership with managers to further improve managing absence/attendance, grievance and disciplinary policies, procedures and training. A revised Capability Policy was improved and re-launched earlier this year. The impact of these policies is measured through the People Management Senior Management Team.

Consultation

a) Policy Proofing Actions Required

n/a

Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Martin Purnell, who can be contacted on 01522 553328 or martin.purnell@lincolnshire.gov.uk.