



Our ref: NB/mm

Ask for: Nick Bennett

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Date: 8 August 2019

 Marilyn.morgan@ombudsman.wales

Nick Ramsay AM
Chair
Public Accounts Committee

By Email Only:
SeneddPAC@assembly.wales

Dear Nick

Thank you for your letter of 25 July 2019. I welcome the Committee's positive comments on the actions we are taking in response to its recommendations. Whilst the Committee appears content with the approach in most areas, your letter seeks further information about the use of settlement agreements.

From the Committee's report and your correspondence since the Committee's scrutiny of the accounts in October last year, it is clear that the special payments remain a matter the Committee wishes to consider further. Whilst I am keen to answer fully, the Committee's request is, I am afraid, a difficult one. I am committed to accountability and openness and have no concerns about the appropriateness or value for money of the agreements reached. However, the agreements are, by their nature, personal and confidential. Under the agreements, both parties are bound by confidentiality, except where a whistleblowing concern is involved. For me to provide further detail of the agreements you refer to would mean that I would be breaching the legal agreements and, particularly because this is a small organisation, would risk the identification of those involved and the disclosure of personal data.

Your letter of 25 July seeks further detail on the value for money of the payments and whether there is any further detail on the nature of these payments that can be shared with the Committee. Whilst I am unable to provide the details that are confidential, there are a number of points that will, I hope, provide the Committee with some reassurance.

- The special payments made in 2017/18 were made in accordance with the requirements of Managing Welsh Public Money.
- The reporting requirements, set out in the same document, reflect the need for accountability and transparency whilst respecting the confidentiality of the

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agreements and the need to protect personal data. The payments were shown in the 2017/18 accounts and the presentation in the accounts was agreed with the external auditors.

- Whilst there were three special payments made in 2017/18, no other special payments have been made during my term of office. They are not used as a default position.
- Each of the payments was connected to termination of employment.
- Settlement agreements are generally recognised and accepted as a means of formalising voluntary agreements between employer and employee, to the benefit of both parties.
- The agreements were made in accordance with the ACAS Code of Practice for Settlement Agreements. The ACAS Model Settlement Agreement includes provisions for confidentiality around sensitive staff-related matters, for both the employee and employer.
- I sought and received human resources, legal and financial advice in each case before agreeing to the payments. The decisions taken reflected all the advice I received.
- The staff who signed the agreements were, as is required, provided with independent legal advice at no cost to themselves.
- The agreements include confidentiality for both parties, but explicitly permit whistleblowing disclosures to be made.

Given the requirement for confidentiality, I am unable to give details of the circumstances of each case. However, I am satisfied (as I am required to be as Accounting Officer) that in each case I sought and followed appropriate legal, human resources and financial advice, and that the settlement was appropriate and offered value for money, taking into account the value of the payments and the costs that might otherwise have been incurred.

I hope that this information is of assistance to the Committee.

Yours sincerely



Nick Bennett
Ombudsman