

Severance Payments & Settlement Agreements

21st February 2024

Legal and Regulatory Context

- No UK specific severance laws
- Regulatory Framework published in 2019
 - Severance payments and settlement agreements first featured...
 - Regulatory Standard 5 – The RSL conducts its affairs with honesty and integrity
 - Guidance 5.7 – Severance payments are only made in accordance with a clear policy which is approved by the Governing Body, is consistently applied and is in accordance with contractual obligations. Such payments are monitored by the Governing Body to ensure the payment represents value for money. The RSL has considered alternatives to severance, including redeployment.
 - Guidance 5.8 – Where a severance payment is accompanied by a settlement agreement the RSL does not use this to limit public accountability or whistleblowing. The RSL has taken professional legal advice before entering into a settlement agreement.

Legal and Regulatory Context cont/

- **Entitlements, Payments and Benefits Policy**
 - **SFHA Model Policy**
 - Last updated in 2021
 - SHR approved
- **Appendix A – Entitlements, Payments and Benefits**

Appendix A – Entitlements, Payments and Benefits

Example	Can this be permitted?	Further action necessary before this will be permitted?
<p>Redundancy or Voluntary severance payment to an employee</p>	<p>Yes</p>	<p>We can make redundancy payments to an employee in line with terms their contract</p> <p>Or</p> <p>We can make a voluntary severance payment to an employee which is outside the terms of their contract of employment provided:</p> <ul style="list-style-type: none"> • It arises directly from a decision to terminate the employee’s contract of employment • Payment is approved by the Management Committee • That the total sum of the non-contractual payment and benefit does not exceed, in the opinion of our employment adviser, the total cost of a successful application by the employee to a Court or Tribunal (including the likely level of compensation that might be awarded by a court or tribunal and associated costs to the organisation to participate in the tribunal) • Payment does not exceed the equivalent of one year’s salary for the employee • That this payment is instead of (rather than additional to) any redundancy entitlement

What are severance payments?

“Payments arising directly from a decision to terminate an employee’s contract of employment.”

Rosehill's Policy

- Severance Payments
- Settlement Agreements
- Last Reviewed in September 2022 (September 2025)
- Clear conditions (as per Appendix A of E,P,B Policy)
- Exception not the “norm”

Rosehill's Policy

What are the conditions?

- Prior to discussions with employee, Management Committee must agree end result it's looking for i.e. termination of employee contract;
- Discussions re: severance payments, settlement agreements are negotiations – referral to Management Committee for prior approval of the proposed payment, and other terms of the proposed settlement agreement. before any agreement is entered into and signed.

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What are the conditions?

- Report to Management Committee must include confirmation from our employment advisor (EVH or solicitor) that the proposed payment is within the levels of potential cost that Rosehill is at risk of incurring should a relevant Court or Tribunal hearing go ahead;
- Proposed payment must not exceed the employee's current annual salary and the Director's report to Committee must confirm this;
- The payment is instead of (rather than additional to) any redundancy entitlement.

Rosehill's Policy

Settlement Agreements

- Legally binding;
- Between employer and employee (or former employee);
- Waive the employee's rights to bring any potential claims covered by the agreement, effectively in return for the payment that is agreed to be made under the agreement;
- Discussion and negotiation;
- Normally confidential.

Rosehill's Policy

Settlement Agreements

- Used to bring an employment relationship to an end in a mutually agreed way;
- Reasons – loss of trust and confidence in an employee; employee feels relationship with us has irretrievably broken down and a clean break is desired.
- Expectation – use our range of employment policies and processes to address issues, resolve workplace disputes and business challenges; not an alternative to effective staff management and good practice in dispute resolution but...

Rosehill's Policy

Settlement Agreements

- We reserve the right to resolve employment disputes using settlement agreements...
- Circumstances – sensible to do so, existing policies don't offer an obvious resolution method;
- Only Director is authorised to enter into negotiations (following prior approval by Committee)

Rosehill's Policy

Settlement Agreements

- **Risks:**

- Level of payment – may be regarded as excessive costs;
- Ongoing employment relationship if settlement not agreed;
- Employment relations in wider workforce.

Rosehill's Policy

Settlement Agreements

- **Other considerations:**
 - Negotiations with Director;
 - Initiated by employee;
 - Discussions – confident and “without prejudice”;
 - Unambiguous impropriety;
 - Factual reference;

Rosehill's Policy

Settlement Agreements

- **Other considerations:**

- **Concluding a settlement agreement:**

- **Must be a formal written agreement;**
- **Must have external specialist advice on form of agreement;**
- **Agreement to be valid – employee must have received own independent legal advice; we will meet the reasonable costs of this – up to £350 plus VAT;**
- **Agreement should contain confidentiality clauses but nothing in the agreement will prevent employee from “whistleblowing” .**

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Notifiable Event – by Chair

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