

SLOUGH BOROUGH COUNCIL

REPORT TO: Employment & Appeals Committee

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PART 1 **For information**

SETTLEMENT AGREEMENTS (Formerly Compromise Agreements)

1 Purpose of Report

- 1.1 To update members of changes in guidance relating to settlement agreements.

2. Supporting Information

- 2.1 Settlement agreements were known as compromise agreements prior to 29 July 2013. Settlement agreements have often been used to avoid the commencement of litigation, and to forestall its serious contemplation even arising. Human Resources professionals, lawyers and the Advisory, Conciliation and Arbitration Service (ACAS) accept that a settlement agreement is a pragmatic way of dealing with a problematic dismissal and a correct use of money - it is often cheaper than dealing with the litigation that may ensue without the agreement
- 2.2 A settlement agreement is a legally binding agreement between an employer and an employee under which the employee agrees to give up his/her right to bring an employment tribunal or court claim relating to the matters covered by the agreement,
- 2.3 A settlement agreement is often used to end the employment relationship on agreed terms, for example as an alternative to the employer instigating disciplinary or capability proceedings. It is common for settlement agreements to include a term that the employer will provide an agreed reference to the employee. It is usually agreed that the settlement agreement will remain confidential.

- 2.4 A settlement agreement will be effective to prevent an employee from bringing proceedings only if;
- It is in writing;
 - It is stated to relate to the particular complaint or proceedings;
 - The employee has received advice from a relevant independent adviser as to the terms and effect of the proposed agreement and, in particular, its effect on his or her ability to pursue his/her rights before an employment tribunal;
 - The adviser is covered by the professional indemnity insurance;
 - The adviser is identified in the agreement; and
 - The agreement states that the applicable statutory conditions regulating settlement agreements are satisfied.

3. **Safeguards and Audit**

- 3.1 The Council's Auditors will require a high level of justification for the Council to use settlement agreements. Settlement agreements and business cases that sit underneath them receive scrutiny as part of the Council's Annual Audit processes.
- 3.2 The Council's Auditors will examine and determine if the resulting benefit to the Council is proportionate to the expenditure involved.

4. **Conclusion**

- 4.1 When the Council considers the use of a settlement agreement it will do so within the relevant HR and Legal guidance, including the ACAS Protocol which is attached at appendix 1.

Appendices Attached

Appendix 1: Advisory, Conciliation and Arbitration Service ACAS Code of Practice on Settlement Agreements.