

Voluntary Severance Scheme 2016

1. Introduction

- 1.1 The purpose of this paper is to update the Committee following the paper on the Voluntary Severance Scheme 2016 presented at the meeting of 26 January 2016.

2. Background

- 2.1 Following the meeting of this Committee on 26 January 2016 the Principal sent the revised Voluntary Severance (VS) Scheme as agreed by the Committee to the Scottish Funding Council.
- 2.2 A response was received from Andrew Millar of the SFC on 09 February 2016 requesting that a form be completed, asking further questions and stating that in their view a Settlement Agreement would not be required. The Principal responded to the queries, completed the form and confirmed that the College's legal advice was that we should use Settlement Agreements as not to do so presented a risk to the College.
- 2.3 On 23 February 2016 the SFC issued its long awaited guidance on seeking approval for Severance Schemes and Settlement Agreements (see Appendix 1). This guidance does not permit the use of Settlement Agreements for voluntary resignations. If they are used then individual approval from the SFC would be required for each agreement and we would be required to justify their use. It is the view of the SFC that a termination letter is sufficient.
- 2.4 The SFC have confirmed that the College can run with the proposed Scheme as long as we do not use Settlement Agreements. The Guidance and the advice received from the SFC is unclear on certain points and further legal advice has been obtained from Burness Paull, the Colleges solicitors.

3. VS Scheme 2016

- 3.1 Attached at Appendix 2 is a revised version of the VS Scheme which has been amended following the meeting held on 26 January 2016, in line with the SFC guidance and also to reflect the legal advice.
- 3.2 We are seeking clarification from the SFC on the following points:
 - 3.2.1 The SFC guidance is unclear regarding their proposed template termination letter. The letter attached at Annex D in the guidance refers to voluntary redundancy. This term is not reflected elsewhere in the guidance or indeed in the general position of the SFC to avoid redundancies. Our solicitors advise us that it is preferable to refer to severance rather than redundancy for two reasons: firstly whilst an individual who volunteers to leave may come from a potentially redundant post this is not always the case and secondly using the term "severance" makes it clearer that the exit was mutually agreed which in turn potentially makes a claim less likely in practice. We would therefore wish to use a termination letter which does not refer to voluntary redundancy and as prepared by our solicitors to minimise risk to the College, and have sought SFC advice on this.
 - 3.2.2 The VS Scheme allows for compensation to exceed one year's gross salary when a strain cost is involved. We are therefore querying with SFC whether in those circumstances we would have to gain agreement from the SFC as the payback period will exceed one year?
- 3.3 Given the penalties for breaching the SFC Guidance, it is important that we gain full clarification on these points.

4. Summary and Next Steps.

- 4.1 Following clarification of the points at 3 above from the SFC and approval from the Committee of the changes to the Scheme to reflect the guidance and legal advice, the updated final scheme will be sent to the SFC for confirmation that it is approved.

5. Recommendation

- 5.1 It is recommended that the Committee:

5.1.1 Considers the content of this report and the revised VS Scheme, and

5.1.2 Decides whether to adopt the revised VS Scheme as proposed.

Rob Wallen
Principal

Elaine Hart
Vice Principal – Human Resources

SFC Guidance

Guidance on seeking approval for severance schemes and settlement agreements

Issue date: 23 February 2016

Reference: SFC/GD/01/2016

Summary: Guidance to colleges and regional strategic bodies on meeting the requirements in the Scottish Public Finance Manual in relation to severance schemes and settlement agreements.

FAO: Principals and directors of Scotland's colleges and regional strategic bodies

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Index

Introduction	4
Applicability of guidance	4
Requirements under the SPFM	5
Governance	6
Key principles	7
Procedures for approval by SFC	7
Voluntary severance schemes	8
<i>How SFC will appraise an application for setting up a voluntary severance scheme</i>	9
Settlement agreements or proposal to secure a voluntary resignation	9
<i>Confidentiality clauses</i>	10
<i>Disclosure of information</i>	11
<i>Use of standard termination letter</i>	11
<i>Overview of SFC's assessment of proposals</i>	11
Compulsory redundancies	12
Procedure for submitting business cases	12
Failure to adhere to the severance requirements	12
Good practice and learning from poor practice	12

Annex A - Flowchart of approval process	13
Annex B - Template for approval of severance schemes	14
Annex C - Template for approval of settlement agreement or proposal to secure a voluntary resignation	16
Annex D - Example of standard termination letter	21
Annex E - Key messages from Scottish Government annual report on the use of settlement agreements	24
Annex F - Good practice guidance and further information	25

Guidance on seeking approval for severance schemes and settlement agreements

Introduction

1. The purpose of this document is to provide further guidance to colleges and regional strategic bodies on meeting the requirements in the Scottish Public Finance Manual (SPFM) in relation to severance schemes and settlement agreements. These requirements are a term and condition of funding from the Scottish Funding Council (SFC) with which colleges must comply. Incorporated colleges must now obtain prior approval from SFC for all new severance schemes, changes to existing schemes and all settlement agreements. Incorporated colleges have been required to comply with SPFM requirements since 1 April 2014 and this guidance provides additional detail around the process and approvals which are currently in place. The scope of this guidance covers all severance schemes and severance payments made under the categories of early severance or retirement, redundancy or settlement agreements.

Applicability of guidance

2. This guidance applies to all incorporated colleges funded directly by SFC, and the Regional Board for Glasgow colleges¹ who must follow it as a term and condition of SFC's grant to them. This is in accordance with Part 3(B) of the Financial Memorandum with Fundable Bodies in the College Sector ("the Financial Memorandum")², which provides that incorporated colleges and the Regional Board for Glasgow colleges must comply with the requirements of the SPFM, including the provisions relating to settlement agreements, severance, early retirements and redundancy.
3. Regional strategic bodies (RSBs) must require incorporated colleges assigned to them to follow this guidance and this should form a term and condition of their funding of assigned colleges. This is in accordance with Part 3(A) of the Financial Memorandum which requires RSBs to ensure that their assigned incorporated colleges follow the requirements of the SPFM.
4. As a term and condition of grant, non-incorporated, non-assigned colleges are required to comply with Section 4 of the Financial Memorandum with SFC while non-incorporated assigned colleges will be required to comply with the Financial Memorandum with UHI. Non-incorporated colleges are not required

¹ The Board is known informally as the Glasgow Colleges' Regional Board.

²

http://www.sfc.ac.uk/web/FILES/Guidance_Governance/Financial_Memorandum_with_the_College_Sector_-_1_December_2014.pdf

to comply with the SPFM. However, in negotiating severance payments with staff, non-incorporated colleges are expected to comply with the principles highlighted in this guidance.

5. This guidance replaces that issued by SFC in 2000 (FE/03/00) and 2004 (FE/13/04) for incorporated colleges and Regional Boards.
6. Within the following guidance, references to colleges mean incorporated colleges and the Glasgow Colleges Regional Board as organisations in their own right.

Requirements under the SPFM

7. Updated guidance from the Scottish Government on settlement agreements came into force on 1 April 2014.
8. The SPFM requires colleges and regional boards to seek prior approval from SFC for:
 - Any new severance scheme;
 - Any change to a previously approved scheme;
 - Any payment, forming part of any scheme, considered to be sensitive or high profile;
 - Any use of settlement agreements; and
 - Any payment to an individual in excess of contractual entitlement outwith an approved voluntary severance scheme.
9. In the case of payments by assigned colleges, the regional strategic body will be responsible for obtaining approval from SFC. A flowchart is attached at **Annex A** showing the process to be followed depending on the type of college.
10. Colleges and regional strategic bodies must familiarise themselves with the requirements set out in the SPFM:
(<http://www.gov.scot/Topics/Government/Finance/spfm/severanceetcterms>)
11. It will be particularly important for those committees dealing with severance schemes and arrangements, for example the Remuneration Committee, and the Board to understand the implications of the SPFM. Colleges should ensure that all Board members and appropriate college personnel are provided with a copy of this guidance.

Governance

12. In considering any severance, colleges must ensure that issues of regularity, propriety and value for money are fully taken into account. In doing so it is

important that policies and procedures are established and applied in a timely manner, including:

- Ensuring a business case, including justification and **full** expected cost, is prepared;
 - Decisions are made and approved in accordance with college delegation procedures;
 - Decisions are fully documented and a clear audit trail of evidence supporting the decision is retained; and
 - There is clear evidence of governance oversight.
13. The Remuneration Committee, or equivalent Board committee, must undertake robust scrutiny of proposed severance schemes and settlement agreements before recommending approval to the Board. In order to preserve governance boundaries the Chair of the Remuneration Committee must not be the Chair of the Board.
 14. The Remuneration Committee, or equivalent Board committee, must ensure there is no conflict of interest between those involved in approving severance arrangements and individual beneficiaries of such arrangements.
 15. The Remuneration Committee, or equivalent Board committee, also has a role in setting remuneration policy and in ensuring contractual terms for staff are not overly generous (e.g. long notice periods) which may result in large payments when the employee leaves.
 16. Audit Scotland's recent report 'Scotland's colleges 2015'³ highlights weaknesses in the way some colleges managed and approved senior staff severance arrangements. Auditors at six colleges identified that the handling of severance arrangements fell short of good practice. In two of these cases (North Glasgow College and Coatbridge College) the Auditor General produced a separate statutory report (Section 22) setting out shortcomings in governance and reporting. Colleges should familiarise themselves with the contents of the above reports⁴ and the Public Audit Committee reports that were based upon them.
 17. SFC should be consulted in all cases where the possibility of compulsory redundancy is being considered. SFC should be notified at the earliest opportunity of such cases.

³ http://www.audit-scotland.gov.uk/docs/central/2015/nr_150402_scotlands_colleges.pdf

⁴ http://www.audit-scotland.gov.uk/docs/central/2015/s22_150626_coatbridge_college.pdf
http://www.audit-scotland.gov.uk/docs/central/2014/s22_140507_north_glasgow_college.pdf

18. In situations of sensitive or high profile payments, Ministerial views on the terms of the proposed severance will be sought, as and when required, by SFC.

Key principles

19. When considering any severance, colleges must ensure that the following principles are observed:
- Public funds must not be used wastefully or to underwrite inequitable or over-generous conditions of service, including severance;
 - Decisions on severance arrangements and, in particular, limits on payments will be based on the conditions set in the SPFM and this guidance and **not** on the source(s) of funding;
 - Notice of termination of appointments must not be delayed in order to generate compensation payments in lieu of notice;
 - Where appropriate, ex-gratia severance or redundancy packages must be based on the arrangements set out within relevant extant terms and conditions of employment. In particular, prior consideration should be given to the availability of pension and compensation benefits within these conditions;
 - Special payments must be transparent and negotiated in a way which avoids conflicts of interest;
 - Offers of subsequent employment or consultancy work must be exceptional and only made where they represent value for money; and
 - Any undertakings about confidentiality must leave transactions open to proper public scrutiny.

Procedures for approval by SFC

20. The procedures for approval depend on whether the application is:
- A voluntary severance scheme
 - Settlement agreement or proposal to secure a voluntary resignation
21. More detail of the procedures and assessment by SFC is given in the following paragraphs.

Voluntary severance schemes

22. Voluntary severance schemes have standard terms and conditions applying to all those staff who successfully apply to leave under the scheme. Statutory or contractual terms normally provide the bases for such schemes. Voluntary severance schemes are used to manage headcount reductions either across the organisation or in particular areas, and run for a specified length of time. Applications are assessed against set criteria which include the business case

for releasing a member of staff early and the value for money which can be obtained as a result. The numbers of staff leaving through voluntary severance schemes and the associated costs will be reported in colleges' annual accounts.

23. Colleges should complete the template at **Annex B** setting out details of any proposed voluntary severance scheme or changes to an existing scheme.
24. In setting out the justification or business case for the new or changed scheme, colleges should outline:
 - The rationale for introducing/changing the scheme;
 - Mitigating action already taken or planned to avoid the need for headcount reductions e.g. recruitment freeze, redeployment, reductions in working hours;
 - The terms available under the relevant compensation/pension scheme and the rationale for offering terms other than the contractual minimum;
 - The estimated annual costs and savings of the new/revised scheme over the payback period;
 - Details of how, by whom and over what timescale the costs of the scheme will be funded;
 - The impact that the restructuring/headcount reduction will have on the paybill;
 - Any potentially sensitive or high profile cases forming part of the scheme; and
 - Confirmation that relevant management and governance procedures have been followed.
25. Severance schemes must be time limited and linked to a programme of managing early departures. Colleges currently operating a voluntary severance scheme must ensure it has an appropriate end date and compare the terms of the scheme against this guidance. SFC will maintain a register of existing schemes. If colleges have any questions about this guidance in relation to a current voluntary severance scheme they should contact SFC.
26. Colleges considering the setup of a voluntary severance scheme must seek appropriate legal and independent professional advice in establishing and implementing the scheme. Such expert advice must be provided for scrutiny by the Remuneration Committee and/or the Board prior to approval of the scheme and arrangements
27. Assigned incorporated colleges must submit the business case to their regional strategic bodies which are required to consider and approve the business case prior to submission to SFC for approval. Minutes of Board meetings approving the scheme should be sent to SFC with the business case.

How SFC will appraise an application for setting up a voluntary severance scheme

28. The SFC's assessment of any proposed severance will look for confirmation that:
- The principles listed in paragraph 19 have been observed;
 - The business case, including value for money, is clearly set out, includes all related costs (e.g. legal fee for employee to take advice; any associated pension costs) and costs are affordable;
 - The terms of severance packages are appropriate (including checking comparability with the arrangements across the college sector and wider public bodies in Scotland); and
 - Relevant management and governance procedures have been followed.

Settlement agreements or proposal to secure a voluntary resignation

29. As noted above, colleges require SFC's prior approval in **all** cases where a settlement agreement or non-contractual financial consideration is proposed to secure a voluntary resignation, outwith the terms of an existing and approved scheme.
30. In cases where settlement agreements are part of a voluntary severance scheme, individual approval is required for each agreement and colleges should request approval by completing the template at **Annex C**.
31. Settlement agreements are legally binding contracts entered into by an employer and employee to resolve an employment dispute. Settlement agreements are recognised in law and an accepted part of employment practice. These agreements normally relate to the termination of employment, but they can also be used to settle disputes during employment.
32. The terms of a settlement agreement reflect the circumstances under which the person is leaving and may include a sum for loss of office as well as any contractual payments due to the individual. They are designed to allow individuals to leave the organisation on mutually negotiated terms and avoid potentially protracted and more costly employment disputes.
33. Settlement agreements should not be a standard feature of voluntary severance schemes. There should always be a presumption against the use of settlement agreements and colleges will have to justify their use (see **Annex C**).

34. The Scottish Government submitted a report to the Scottish Parliament's Public Audit Committee in June 2014⁵ on the first year of operation of the new guidance. **Annex E** summarises the key messages from the Scottish Government's report in terms of when settlement agreements can be used and why scrutiny is important.

Confidentiality clauses

35. Settlement agreements may include a voluntary provision whereby the parties agree to keep the agreement itself confidential and not disclose its details to third parties.
36. In seeking approval for the use of a settlement agreement, colleges must indicate whether a confidentiality clause is proposed and, if so, on what grounds. There should be a presumption against the use of confidentiality clauses except in exceptional circumstances. However, either party (i.e. employee or employer) can request a confidentiality clause be inserted. In such a situation the terms of the clause must be agreed by both parties.
37. Nothing in any confidentiality clause should restrict an individual's right to make a protected disclosure under the Public Interest Disclosures Act 1998. Where a confidentiality clause is included in a settlement agreement, the text should be included in the business case submission to SFC.

Disclosure of information

38. Settlement agreements often include a clause in relation to disclosing of information. Any such clause should explicitly note that SFC, Regional Strategic Bodies (where relevant) and the Scottish Government will have sight of the information. SFC will collate the information for submission to the Scottish Government for the purpose of parliamentary scrutiny. The Scottish Government's settlement agreement guidance⁶ sets out the following draft clause (which has been adapted to reflect regionalisation) which colleges might choose to adopt:

"The Scottish Government , SFC and Regional Strategic Board (where relevant) will be entitled to use the fact that an Agreement has been entered into to enable

5

http://www.scottish.parliament.uk/S4_PublicPetitionsCommittee/General%20Documents/20150603_PE1495_FF_Scottish_Government.pdf

⁶ <http://www.gov.scot/Resource/0045/00454087.pdf>

them to collate and provide information on the number of settlement agreements entered into with the Scottish Government and across the wider public sector and also to provide collated information on the costs involved. The Scottish Government, SFC and Regional Strategic Board (where relevant) will not however disclose the terms or circumstances of the Agreement or the name of the Employee without the written consent of the Employee or as required by the Scottish Parliament solely for the purposes of Parliamentary scrutiny relating to the use of public money or as required by law.”

Use of standard termination letter

39. Some colleges have advised SFC that a settlement agreement is necessary in order to set out the terms of the termination of employment. This is not the case. It is necessary to set out the terms of termination of employment, but this can be done through a standard termination letter or agreement. An example of such a letter is included at **Annex D** which colleges may wish to adopt.

Overview of SFC’s assessment of proposals

40. The request to SFC or RSB as appropriate for approval of a settlement agreement or proposal to secure a voluntary resignation through the offer of a non-contractual financial consideration (outwith an approved scheme) must be in the form of a business case which should include, as a minimum:
- Justification of the need for a settlement agreement;
 - An explanation of the circumstances of the case, including the legal assessment of the risk of litigation and likely outcome;
 - Confirmation that relevant management and governance procedures have been followed;
 - An assessment of the value for money offered by the proposal, including a breakdown of each of the constituent parts of the proposal and any associated contractual elements that may be relevant;
 - Any non-financial considerations; and
 - Confirmation as to whether the use of a confidentiality clause is proposed in the case.
41. Colleges should use the template provided at **Annex C** to submit business cases, the Employment Information Schedule (**Annex C1**) should also be completed.

Compulsory redundancies

42. Colleges should be aware that the policy of no compulsory redundancies is a key pillar of public sector pay policy which colleges should have regard to (this is a term and condition of grant applied through the SFC ‘Financial

Memorandum with Fundable Bodies in the College Sector'⁷, or its financial memorandum with a regional strategic body).

43. Any college considering compulsory redundancies should consult with SFC or RSB as appropriate as early as possible.

Procedure for submitting business cases

44. Business cases must be completed using the templates at **Annex B** or **Annex C**, signed by the College Principal and, where applicable, by the Chief Executive of the regional strategic body and submitted to the Director of Finance at SFC. Receipt of business cases will be acknowledged and processed within five working days (20 where Ministerial views are sought). Colleges should give SFC advance notice of any pending business cases and submit these as early as possible in case further information is required.

Failure to adhere to the severance requirements

45. Failure to adhere to the SPFM requirements constitutes non-compliance with the Financial Memorandum with SFC. Should the college breach the Financial Memorandum, SFC will consider various options, including clawback of grant or reductions in future funding. These options will be reviewed in light of any relevant recommendations arising from the College Good Governance Task Group.

Good practice and learning from poor practice

46. In addition to complying with the terms of this guidance colleges should look to wider sources of good practice, including reports from the Scottish Parliamentary Audit Committee and Audit Scotland. A list of good practice guidance is set out in **Annex F**. In particular, colleges must have regard to the principles of good practice set out in the Audit Scotland report 'Managing early departures from the Scottish public sector' May 2013⁸.



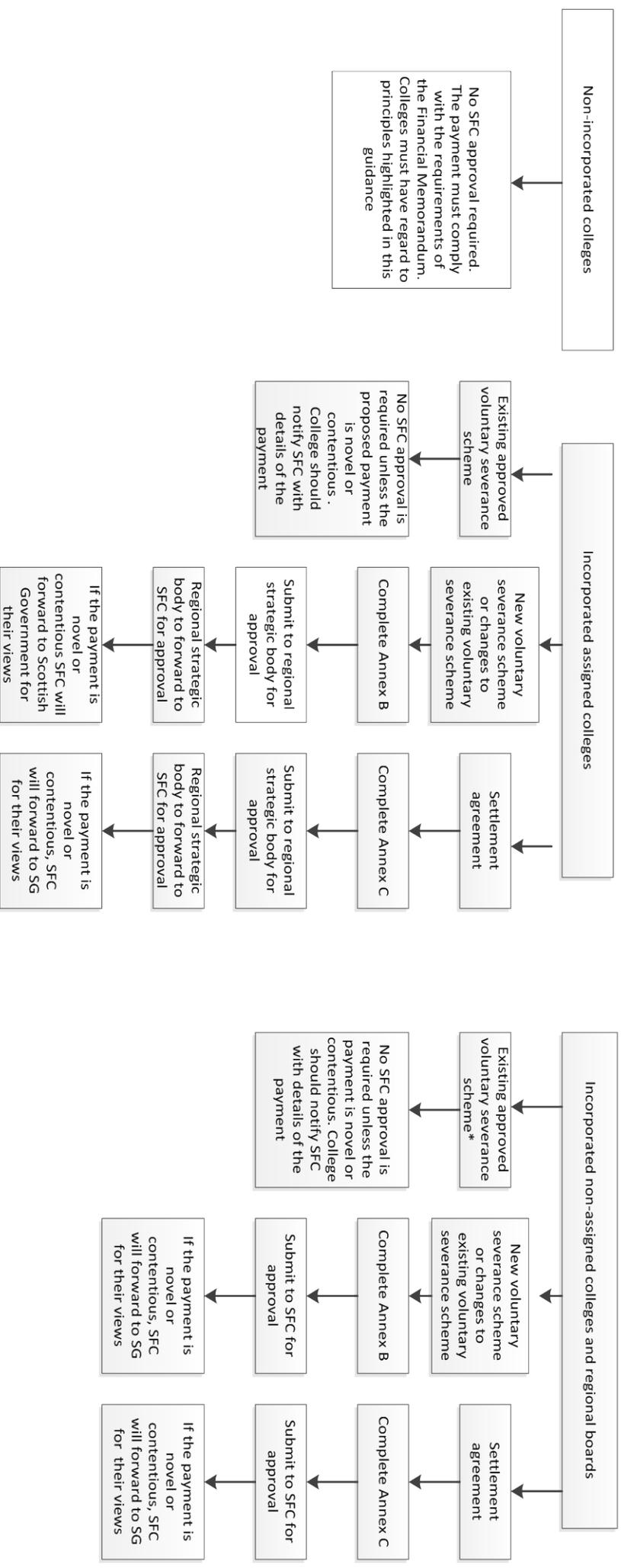
Lorna MacDonal
Director of Finance

⁷[http://www.sfc.ac.uk/web/FILES/Guidance_Governance/Financial Memorandum with the College Sector - 1 December 2014.pdf](http://www.sfc.ac.uk/web/FILES/Guidance_Governance/Financial_Memorandum_with_the_College_Sector_-_1_December_2014.pdf)

⁸ http://www.audit-scotland.gov.uk/docs/central/2013/nr_130523_early_departures.pdf

Process for obtaining approval for severance schemes and settlement agreements

Annex A



* All existing voluntary severance schemes must have a specified end date

Business case for approval for new severance scheme or changes to a previously approved scheme

Name of college/regional board

New scheme or change to existing scheme?

End date of scheme

Rationale for introducing the scheme or changing old scheme

Outline of and confirmation that relevant management and governance procedures have been followed. A copy of the Board or Board committee minute approving the proposed scheme or change to scheme should be provided.

What mitigating actions have been taken or are planned to avoid the need for headcount reductions?

Outline the key terms proposed under the new/changed scheme and the rationale for offering over the contractual minimum.

What are the estimated annual costs and savings of the new/changed scheme over the payback period?

How will the full costs of the new/changed scheme be funded?

What impact will the headcount reduction have on the recurrent paybill?

Are there any potentially sensitive or high profile cases forming part of the scheme?

College Principal Signature /Regional Board chief officer

Date

Regional Board Chief Executive Officer (for assigned college applications only)

Date

Note: this form should be completed where a college intends to establish a new scheme or make changes to a previously approved scheme. The form should be sent to the Director of Finance, Scottish Funding Council

Colleges should also refer to the “Settlement agreements, severance, early retirements and redundancy terms” section of the Scottish Public Finance manual at the following link:

<http://www.gov.scot/Topics/Government/Finance/spfm/severanceetcterms>

Business case for approval of settlement agreement or proposal to secure a voluntary resignation through the offer of a non-contractual financial consideration

Name of college/regional board

Confirm whether this is a proposed settlement agreement or a proposal to offer a non-contractual financial consideration to secure the voluntary resignation of an employee

Justify the need for a settlement agreement where relevant

Background and circumstances of the case

Risks arising

Outline of and confirmation that the relevant management and governance procedures have been followed. A copy of the Board or Board committee minute approving the proposed settlement agreement or financial payment should be provided.

An assessment of the value for money offered by the proposal by reference to the completed (attached) Employment Information Schedule

Any non-financial considerations, e.g. where it is desirable to end a person's employment but dismissal is not warranted

Confirmation that the principles set out at paragraph 19 of “Guidance on seeking approval for severance schemes and settlement agreements” have been applied.

**College Principal /Regional Board Chief Officer
Signature**

Date

**Regional board Chief Executive officer
Signature**
(for assigned college applications only)

Date

Note: this form should be completed where a college intends to make a settlement agreement or pay an employee an amount in excess of contractual terms. The form should be sent to the Director of Finance at the Scottish Funding Council.

Colleges should also refer to the “Settlement agreements, severance, early retirements and redundancy terms” section of the Scottish Public Finance manual at the following link:

<http://www.gov.scot/Topics/Government/Finance/spfm/severanceetcterms>

Employment information schedule for business case

College name:			
Section 1 - Employee detail			
1.1 Employee name			
1.2 Job title			
1.3 Length of continuous service (years/months)			
1.4 Full Time Equivalent			
1.5 Age			
1.6 Current pay grade			
1.7 Contractual notice period			
1.8 Does contract provide for Payment in lieu of notice?			
1.9 Name of pension scheme			
Section 2 - Employment benefits and costs arising through normal course of employment			
Remuneration received by employee before deductions (last 12 months)			
2.1 Current annual salary rate			£
2.2 Any other remuneration received over last 12 months (specify)			£
Total remuneration received by employee before deductions			£
Other benefits received			
2.3 Benefit 1 (specify)			£
2.4 Benefit 2 (specify)			£
Total other benefits			£

Total remuneration and benefits received by employee before deductions					£
Employer on-costs of remuneration and benefits received					
2.5 Employer's Pension Scheme Contributions					£
2.6 Earnings Related National Insurance Contributions (ERNIC)					£
2.7 Other (including VAT)					£
Total employer on-costs of remuneration and benefits received					£
Total cost to employer of benefits received by employee					£
Section 3 – Contractual Termination costs					
3.1 Compensation In Lieu of Notice (CILON)					£
3.2 Payment in lieu of annual leave untaken					£
3.3 Other (e.g. Time Off In Lieu untaken)					£
Total					£
3.4 Employer cost of making up any pension shortfall					£
3.5 Other on-costs (specify, if any)					£
Total termination costs					£
Section 4 - Estimate costs of defending a case					
4.1 Can you confirm whether legal advice has been taken on whether the case should be defended? Please summarise advice given:					
Section 5 - Non-contractual and ancillary costs					
5.1 Gross value of any non-contractual sum to be offered					£
5.2 Net value of any non-contractual sum to be offered after any tax deducted					£
5.3 Other on-costs (N.I., pension)					
5.4 Maximum value of employee support for legal assistance					£

5.5 Other (specify)		£
e.g. cost of outplacement support for employee not available through normal course of employment. (Include any VAT)		
5.6 What are the estimated costs of negotiating and concluding an agreement? (Please provide a breakdown of costs – this should not include organisational staff time)		£
Total proposed terms of non – contractual element of agreement		£
Section 6 - Total costs		
6.1 Contractual termination costs – per Section 3		
6.2 Non-contractual termination cost – per Section 5		
Total		
Section 7– Settlement Agreement		
7.1 Does the settlement agreement include a confidentiality clause? If so, why?		
7.2 Please include the text of the confidentiality clause		
NB. Where the costs in section 5 are estimated, SFC should be provided with updated actual costs when these are known.		

Example of standard termination letter

[Draft letter to the volunteer confirming their redundancy and giving notice]

[To be typed on headed paper and sent out in duplicate with sections in square brackets completed as appropriate and drafting notes removed]

Dear [◆]

NOTIFICATION OF THE OUTCOME OF THE COLLEGE'S INDIVIDUAL CONSULTATION WITH YOU ABOUT YOUR POTENTIAL VOLUNTARY REDUNDANCY

I am writing to notify you of the outcome of the individual consultation process that has been undertaken with you recently. I have considered all of the issues that we have discussed when we met and the documents that have been provided to you during this process. I have also considered your request to volunteer for redundancy.

Voluntary redundancy

On the basis of all of the above, I have decided to confirm your redundancy, and to give you notice of termination of your employment. Your employment will continue until [*insert date*]. That will be your last day of employment with the College.

Although you have volunteered for redundancy, the College will nevertheless continue to look for suitable alternative employment for you within the College until your employment terminates.

Time off to look for new employment

We will allow you reasonable paid time off to look for new employment elsewhere during your notice period. If you do require time off for this purpose, please arrange this with [*insert name and job title*].

[*As you know, we have appointed outplacement consultants, [◆], and you can use their services.*]

If you find another job and wish to leave early, we will consider this request, [*subject to the terms of the Redundancy Policy & Procedure- insert name of policy*]. However, in these circumstances whilst you will receive the redundancy payments outlined below, you will not receive any payment for the unworked part of your contractual notice period.

Continuing salary, holiday pay and redundancy payments

You will be paid in the normal way up to and including [*insert date*], or earlier if your employment ends prior to this date.

[*You will receive payment in lieu of accrued but untaken holiday up to the date your employment terminates.*] **OR** [*You have agreed to take all of your outstanding leave entitlement accrued to the date your employment terminated during your notice period, therefore, no payment will be due on termination in respect of accrued but untaken holiday entitlement.*]

On [*date*], you will receive your redundancy payments (as outlined in the attached schedule, which you have already had a copy of) directly into your bank account. These payments [*along with the payment in lieu of notice outline below*] will, of course, only be due if your employment terminates on [*date*] for voluntary redundancy. If your employment terminates for any other reason prior to [*date*] (such as misconduct), you will not be entitled to these payments.

Information about your rights under the [*name of pension scheme*] and any insurance benefits can be obtained from [*name*] on [*phone number or email address*].

Notice

As regards a payment in lieu of notice, the situation is as follows. Your notice entitlement is [◆] weeks. This means that you will be [*working all of your notice period, and will receive no payment in lieu of notice*] OR [*working for part of your notice period, and will receive a payment in lieu for the remainder of your notice period*]. Your payment in lieu of notice will be [◆] weeks' pay, which will be £[◆]. This payment will be made to you after deduction of tax. It will be paid directly into your bank account with your redundancy payments on or around [*date*].

P45, expenses and return of property

Your P45 will be sent to you shortly after your last day of employment with the College.

You must submit your final expenses claim by [*date*] and return any keys and College property (including car park pass, ID badge, documents, IT equipment and mobile telephone) to [*name*] by [*date*]. Please be advised that you will not be able to access any College computer networks or files after [*date - termination*] so all arrangements to transfer personal information should be done before then.

Right of appeal

You may, if you wish, appeal against the termination of your employment. If you wish to do so, please write to me within seven days from the date of this letter, stating the grounds for your appeal. I will then write to you explaining the appeal procedure.

Waiver of contractual claims

The payments referred to in this letter are in full and final settlement of all claims under contract law or common law which you have or may have in the future against the College or any of its associated bodies whether arising from your employment with the College or its termination on [*insert date*], including without limitation claims for breach of contract and wrongful dismissal.

Thank you for your co-operation during this redundancy process. Please sign, date and return the enclosed copy of this letter within [*seven*] days from the date of this letter to acknowledge receipt and confirm your agreement to the terms of this letter. Of course, if you have any questions about the contents of this letter you would like to discuss before doing so, please do not hesitate to contact me.

I would also like to take this opportunity on behalf of the College to thank you for your service over the years and give you my personal best wishes for the future.

Yours sincerely

[**Name, job title and contact details**]

REDUNDANCY PAYMENTS FOR [INSERT NAME OF EMPLOYEE]

Statutory Redundancy Payment (payable to employees with at least two years' continuous employment).

Start date: [*Date*]

Termination date: [*Date*]

Period of continuous employment: [*Number*] years

Age at termination: [*Number*] years

Gross weekly salary: £[*amount*]

Statutory cap on weekly salary: £[*475 - limit will be updated on 5 April 2016 and each year thereafter so ensure current figure is used*]

[*Number*] years at one and a half times gross weekly salary: £[*amount*]

[*Number*] years at one times gross weekly salary: £[*amount*]

[*Number*] years at half gross weekly salary: £[*amount*]

Total: £[*amount*]

Voluntary Redundancy Payment

[Set out total figure, the relevant formula, the calculations done to reach that figure and any statutory deductions for payments over £30,000. If no deductions are to be made as the payment is under £30,000 state that the payment will be made free of income tax and national insurance contributions. Refer to any relevant policy which contains the formula for calculating voluntary redundancy payments.]

Key messages from the Scottish Government Annual report on the use of settlement agreements April 2014 to March 2015⁹

Settlement agreements are used in circumstances where:

- The employment relationship has broken down or been significantly impaired;
- The situation cannot be remedied through mediation or other personnel processes; and
- Alternative routes to resolution would involve disproportionate cost at a tribunal or otherwise at law; and impair the functioning of the service.

Consideration on the use of settlement agreements will take into account:

- The direct and indirect costs of alternative proceedings and of any other awards that might be made;
- Disruption to the effective and efficient operation of the service caused by an on-going dispute and the resultant stress on individuals; and
- The likely timescales involved, against the need to bring matters to a timely conclusion.

Scrutiny of settlement agreements by the college and SFC's Accountable Officer is undertaken because:

- They may involve payments to individuals above and beyond their normal contractual entitlement;
- Parliament and the public will want to be assured that, in all circumstances of the case, their use was appropriate and reasonable; and
- There is a need to ensure their use does not cut across the important protection offered to whistleblowers.

9

http://www.scottish.parliament.uk/S4_PublicPetitionsCommittee/General%20Documents/20150603_PE1495_FF_Scottish_Government.pdf

Good practice guidance and further information

Scottish Public Finance Manual

Chapter on Settlement agreements, Severance, Early Retirement and Redundancy Terms:

<http://www.gov.scot/Topics/Government/Finance/spfm/severanceetcterms>

Scottish Government report to Scottish Parliamentary Audit Committee:

http://www.scottish.parliament.uk/S4_PublicPetitionsCommittee/General%20Documents/20150603_PE1495_FF_Scottish_Government.pdf

Scottish Parliamentary Audit Committee reports

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/93106.aspx>

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/95448.aspx>

Audit Scotland

Report on “Managing early departures from the Scottish public sector” May 2013:

http://www.audit-scotland.gov.uk/docs/central/2013/nr_130523_early_departures.pdf

Report on Scotland’s colleges 2015:

http://www.audit-scotland.gov.uk/docs/central/2015/nr_150402_scotlands_colleges.pdf

Section 22 reports:

http://www.audit-scotland.gov.uk/docs/central/2014/s22_140507_north_glasgow_college.pdf

http://www.audit-scotland.gov.uk/docs/central/2015/s22_150626_coatridge_college.pdf



Discretionary Voluntary Severance Scheme 2016/17

1. Introduction

- 1.1 Originally, the Voluntary Severance Scheme was put in place to support the merger of Aberdeen College and Banff and Buchan College to effect efficiency savings.
- 1.2 This scheme, which is in effect an extension of this original scheme, is now in place to allow a mechanism to effect any further efficiency savings identified in terms of reducing the headcount of the College after other alternatives have been fully explored eg vacancy management, natural turnover etc.
- 1.3 The Board of Management is committed to achieving necessary savings by voluntary means and through natural turnover and will only consider compulsory redundancy as a last resort, after consulting with the Scottish Funding Council.
- 1.4 The original Voluntary Severance Scheme had been approved by the relevant Boards of Management and the Scottish Funding Council; this slightly revised scheme will be subject to the agreement of the Board of Management of North East Scotland College and the Scottish Funding Council before it is put into operation.

2. Scope and Terms of the Scheme

- 2.1 The Voluntary Severance Scheme commenced on 17 June 2013, and was extended to 31 December 2015. The revised Scheme is designed to operate to 31 December 2016, in the first instance, though the College may, at its discretion, seek Scottish Funding Council approval to extend it further.
- 2.2 The Scheme is discretionary and entirely voluntary. No member of staff has a right to severance under this Scheme. There is no contractual right to a voluntary severance payment and these payments may not be available in the future.

- 2.3 This is not a redundancy scheme. Any staff leaving under the terms of this scheme will do so by mutual agreement with the College. Therefore, employees leaving under the terms of this scheme will not be entitled to redundancy pay. All outstanding leave and TOIL must be taken prior to an individual's leaving date.
- 2.4 The decision-making process outlined in this document will be final. There will be no right of appeal against a decision at any stage of the process.

3. Eligibility

- 3.1 All employees of North East Scotland College are eligible to apply for Voluntary Severance unless they are covered by 3.2 below.
- 3.2 This scheme will not apply to any member of staff who has:
- Indicated formally an intention to leave or retire (e.g. winding down);
 - Who has at the date of application for voluntary severance been offered a job by another organisation but has yet to resign;
 - Resigned or has been issued with notice of termination for any reason by the date that the scheme opens for applications,
 - Applied for ill-health retirement.

4. Calculation of Payments

- 4.1 Severance Payments will be calculated as follows:
- One month's gross pay for each complete year of service subject to a minimum payment of £2,000.
 - The maximum payment to an individual will be one year's gross pay (excluding on-costs).

[The cost to the College will normally be no more than one year's gross salary cost. However, this limit may be exceeded where the payment is made to a pension fund in order to cover the "strain" on the fund arising from early release of pension benefits, subject to the limits in 5.3 below, as well as affordability and value for money considerations.]

- 4.2 The severance settlement may be taken in one of two ways.
- 4.2.1 **As a lump sum.** It is expected that, in accordance with HM Revenue and Customs Regulations, the first £30,000 of any severance payment will not be subject to deductions for tax and national insurance.
- 4.2.2 **As a pension.** Subject to the rules of the relevant pension scheme it may, in some cases, be possible for staff aged over 50/55, who are members of the Local Government Pension Scheme or Scottish Teachers' Superannuation Scheme, to take early retirement and for the voluntary severance payment otherwise due to be used to fund pension benefits by funding the actuarial cost associated with the early release of the pension. Any such application

would be considered in the light of the rules of the relevant pension scheme and following consultation with the relevant pension scheme administrator.

- 4.3 If only part of the settlement available under the Voluntary Severance Scheme is used to fund pension benefits, the remainder will be paid to the member of staff as a lump sum Voluntary Severance payment.

5. Application Process

- 5.1 Employees who are interested in applying for Voluntary Severance should complete an Expression of Interest Form and return it to Ms E Hart, Vice Principal, Human Resources at Aberdeen City Campus. A member of the Senior Management Team should send their expression of interest directly to Mr R Wallen, Principal.

- 5.2 Applications will be accepted or declined at the College's discretion based on the business interests and efficient exercise of the College's functions. Applications will be considered against the following criteria:

- The business case for releasing member of staff early

- Any financial savings to be gained
- The need to retain specialist knowledge or expertise
- Succession planning
- Fit with strategic or operational plans

- The relevant employee's disciplinary record

- 5.3 It will be expected that the costs of severance will be recovered through permanent salary savings normally within one year although in certain circumstances this may be extended to 2 years subject to the approval of the Human Resources Committee of the Board of Management and the Scottish Funding Council

This may be achieved as follows:

- 5.3.1 The post will not be replaced, or

- 5.3.2 Replacement of the post is necessary but this will be achieved in such a way that still delivers permanent staff salary savings equivalent to the cost of the post (e.g. release of an individual may facilitate a restructuring whereby the post is replaced with an existing staff member from another post of the same cost which, in turn, is not replaced).

- 5.3.3 In cases where there is a cost to the College associated with the early release of the member of staff's pension, this must be deemed affordable by the College and the settlement available under this scheme must normally be used to fund this cost. [Where the payment to the pension fund required to effect early release of pension benefits is greater than the equivalent of one year's gross salary cost that may be allowed subject to the limits in this paragraph 5.3 and subject to affordability and value for money considerations.]

6. Decision Making Process

- 6.1 All applications will be considered by the Senior Management Team on the basis of the business case provided by the line manager and the judgement of the relevant Vice Principal. Full consideration will be given to the need to retain sufficient skills and experience before any application is authorised.
- 6.2 An application from a member of the Senior Management Team will be considered by the Board of Management.

7. Misconduct

7.1. The College reserves the right to withdraw any severance offer if:

7.1.1. it transpires that there are circumstances of which the employee is aware, or which the employee ought reasonably to be aware, which would amount to a repudiatory breach by the employee of an express or implied term of their contract of employment; or

7.1.2. the employee breaches any express or implied term of their contract of employment during their notice period.

8. Procedure

Stage 1 – Expression of Interest

Any employee who wishes to be considered under the Scheme and considers that they meet the eligibility criteria should complete the **Expression of Interest Form** and email or send to Elaine Hart, Vice Principal Human Resources. A member of the Senior Management Team should send their expression of interest directly to Mr R Wallen, Principal.

Stage 2 – Individual Quotes Provided

A severance settlement will be calculated and provided to the individual together with a statement of pension benefits if eligible, if applicable. At this stage this will be an estimate and will be confirmed if and when a formal offer is made.

Stage 3 – Formal Application

If an employee is interested in progressing with a formal application for severance he or she should confirm this in writing to Ms Hart, or Mr Wallen as appropriate, by email.

The line manager will then be asked to confirm their support or rejection of the application by completing the Managers Form, and gaining the approval of the relevant Vice Principal based on the criteria outlined in 5.2 above.

Stage 4 – Decision

The Senior Management Team will consider all applications and confirm or reject the application. The outcome will be notified in writing to the applicant and their line manager.

Stage 5 – Offer

The A voluntary severance offer will be open for acceptance for a period of 14 days following receipt of the offer letter. If the employee fails to confirm that they wish to proceed by the deadline given, the offer will be withdrawn.

Stage 6 – End of Service Agreement

Where an employee confirms that they wish to proceed with the voluntary severance offer, they are required to sign and return the offer letter. The date on which their employment will be terminated will then be confirmed in writing.

A member of staff who accepts voluntary severance under this scheme will not be re-engaged or re-employed except under exceptional circumstances where this is necessary to meet short term needs.

Employees who have had their application rejected may not re-apply within 12 months



DISCRETIONARY VOLUNTARY SEVERANCE SCHEME

EXPRESSION OF INTEREST FORM

Name:	
Job Title:	
Sector/Dept:	
Line Manager:	
<p>I confirm that I would like to express an interest in voluntary severance. (Please tick the appropriate box below)</p> <p><input type="checkbox"/> Option 1 – Voluntary Severance I would like to be provided with estimated figures for a one-off lump sum payment based on age and length of service.</p> <p><input type="checkbox"/> Option 2 – Voluntary Severance with Early Retirement I would like to be provided with estimated figures for a one-off lump sum payment and relevant pension benefits.</p> <p>I understand that I am under no obligation to further this interest once I have been provided with information/estimates.</p> <p>Signed: _____</p> <p>Date: _____</p>	

**Completed forms should be sent to Elaine Hart, Vice Principal Human Resources,
North East Scotland College, Aberdeen City Campus, Aberdeen, AB25 1BN**