



# OWLS Academy Trust

## Special Payments Policy

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Adopted by The OWLS Academy Trust on	
Next Review Due	

OWLS Academy Trust is committed to assuring that an appropriate and reasonable procedure is followed in terms of the academy's financial arrangements.

This Special Payments Policy outlines the main factors that must be considered when dealing with several types of payments, including:

- Severance
- Compensation
- Ex-gratia
- Indemnities

The purpose of this manual is to ensure that the academy maintains and develops systems of financial control which conform to the requirements both of propriety and of good financial management. It is essential that these systems operate properly to meet the requirements of the academy's funding agreement with the DfE.

The academy is dedicated to following the correct financial procedures, in accordance with relevant legislation and statutory guidance, in order to ensure the best possible outcome for the academy and in the interest of providing quality education.

This policy will be reviewed alongside the academy's annual auditing, in order to ensure that all measurements have been adhered to and that the policy is up-to-date with the latest DfE guidance.



## **Legal Framework**

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This Special Payments Policy has due regard to the following DfE guidance:

- The Academies Financial Handbook 2015.



## **Definitions**

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Transactions that are not part of the academy's planned budgeting are classed as special payments. These payments are non-contractual (non-statutory) and include:

- Staff severance payments – paid to employees when leaving employment in the public service, whether they resign, are dismissed or reach an agreed termination of contract.
- Compensation payments – made to provide redress for loss or injury.
- Ex-gratia payments – transactions which go beyond statutory/contractual cover or administrative rules, e.g. payments to meet hardship caused by official failure or delay.



## **Severance Payments**

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Severance payments will not be made to staff with poor performance; the EFA and HM Treasury will not approve such payments. Before making a severance payment, the academy must reasonably consider the proposed payment to be in the interests of the trust. The academy will appraise any course of action with the associated costs.

- Consideration should be given to whether the academy is more likely to win a severance case or will need to pay out.
- OWLS Academy Trust will be able to demonstrate and provide evidence of why the chosen route was taken to resolve the issue.
- The academy will balance the legal and management costs against the level of pay out.

A severance payment is made from the public purse and, therefore, value for money will be demonstrated.

Any non-contractual financial considerations will be supported with evidence. For example, that pupil performance has been affected by a lack of continuity of teaching due to absence or teaching by temporary staff.

The use of confidentiality clauses associated with staff severance payments will not prevent an individual's right to make disclosures in the public interest, in accordance with the Public Interest Disclosure Act 1998.

Approval will be sought from the EFA prior to all non-contractual payments of £50,000 or more using the [academies severance payments form](#). Non-contractual payments under £50,000 are not required for prior approval; however, the academy will be able to prove that a high level of scrutiny was applied.

A business case will be made for all non-contractual severance payments, which will be available for the EFA if requested. If the payment is not supported correctly, the EFA reserves the right to request a repayment from the academy.

If the academy is subject to a Financial Notice to Improve, any non-contractual payments, irrespective of value, should be sent through to EFA for prior approval, as the notice withdraws the academy's delegated authority limit.

All staff severance payments, of any value, will be disclosed in total in OWLS Academy Trust's audited accounts.



## Compensation Payments

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When considering making a compensation payment, OWLS Academy Trust will base its decision on a careful appraisal of the facts and legal advice to ensure that value for money is achieved.

OWLS Academy Trust has the authority to approve individual compensation payments, provided that all non-contractual elements are under £50,000. The EFA's prior approval will be obtained when the academy is considering making a non-contractual payment of £50,000 or more.

OWLS Academy Trust will routinely consider whether any cases reveal concerns about the internal control systems, taking any necessary actions to improve effectiveness and put failings right.

Irrespective of whether the Secretary of State's approval is required, the academy will disclose aggregate figures of compensation transactions, and separate disclosure for individual transactions above £5,000, in their audited accounts.



## Ex-gratia Payments

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These payments are separate to severance and compensation payments. For example:

- Payments made to meet hardship caused by official failure or delay.

- Payments to avoid legal action on the grounds of official inadequacy.

Any contractual payments received by academy staff, in accordance with the trust's pay and conditions policy, are not classed as ex-gratia payments. All ex-gratia transactions will be referred to the EFA for prior authorisation and HM Treasury's approval will also be sought, dependant on the nature of the payment.

OWLS Academy Trust will always seek prior advice from the EFA if there is any doubt surrounding a proposed ex-gratia transaction.

All ex-gratia payments, of any value, will be disclosed in total in OWLS Academy Trust's audited accounts.



## Indemnities

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When entering into guarantees, letters of comfort, indemnities, OWLS Academy Trust will obtain the EFA's prior approval for transactions beyond the delegated limits.

When writing-off losses and debts, the academy will seek approval from the EFA for transactions beyond the delegated limits.

Indemnities are subject to a £250,000 ceiling, and EFA consent is required, if transactions:

- Exceed one percent of the individual's annual income or £45,000, whichever is smaller.
- Exceed five percent of the academy trust's annual income cumulatively.
- Exceed 2.5 percent of the academy trust's annual income cumulatively. This only applies to academies who have not submitted unqualified audited accounts for the previous two financial years or is a new academy.

Before accepting any of these liabilities, the academy will appraise the proposal through an assessment of the costs and benefits of all relevant options, in order to ensure value for money.

OWLS Academy Trust will only write-off losses after considering whether all reasonable action has been taken and that there is no feasible alternative. All write-offs will be made before any successful claims from the academy's insurer/risk protection arrangements.

Irrespective of whether the Secretary of State's approval is required, the academy will disclose aggregate figures of indemnity transactions, and separate disclosure for individual transactions above £5,000, in their audited accounts.