

Special Payment Analysis

Title

Summary	<i>Must be completed</i>
Timeline	<i>A timeline would be useful</i>
Risks	<ul style="list-style-type: none"> • <i>Of making the Special Payment</i> • <i>Of not making the Special Payment</i>
Potential costs	<ul style="list-style-type: none"> • <i>Of making the Special Payment</i> • <i>Of not making the Special Payment</i>
Proposed funding source	<i>e.g. departmental budget, General reserve request</i>
The Accountable Officer view	<i>Must be completed</i>
The PAO view	<i>May not be needed</i>
Law Officers Advice	<i>Must be completed</i>
Senior P&CS view (Chief People and Transformation Officer or delegate)	
Treasury View	<i>To be completed by Strategic Finance</i>
The CoM and Ministerial view	<i>May not be needed</i>
PFM requirements	<p><i>Delete anything that doesn't apply</i></p> <p>1. Approval: States Bodies must always consult Treasury and Exchequer on special payments unless there are specific agreed delegation arrangements in place.</p> <p>4. Extra-contractual payments Extra-contractual payments are payments which, though not legally due under contract, there is nevertheless sufficient reason to make the payment. Examples include where there are ex gratia payments as part of complaints procedures, or where there is a particularly compelling moral duty on the States. Another example would be settling an unfounded contractual claim on a commercial basis due to the costs of defending the claim, even where a claim is manifestly unfounded and no money is legally due, it may be best to settle. It is important to avoid creating a risk encouraging unmeritorious claims, so such claims should not be routinely accepted.</p> <p>7. Special severance payments Special severance payments are paid to employees, contractors and others outside of normal statutory or contractual requirements when leaving</p>

	<p>employment in public service whether they resign, are dismissed or reach an agreed termination of contract. Special severance payments when staff leave public service employment should be exceptional.</p> <p>Special severance payments always require additional endorsement from Treasury and Exchequer and People Services because they are typically novel, contentious, potentially repercussive, and may set a precedent. Overall, responsibility for any payment, however, remains with the Accountable Officer. As such, Bodies should always consult the Treasury and Exchequer in advance when considering a special severance payment. A sceptical approach needs to be adopted for proposals for special severance settlements, in particular:</p> <ul style="list-style-type: none"> • precedents from other parts of the public sector may not be a reliable guide in any given case • legal advice that a particular severance payment appears to offer good value for the States Body or employer may not be conclusive since such advice may not take account of the wider public interest • even if the cost of defeating an apparently frivolous appeal will exceed the likely cost of that particular settlement to the Body or employer, it may still be desirable to take the case to formal proceeding • winning such cases demonstrates that the States of Jersey does not reward failure and should enhance the Body or employer’s reputation for prudent use of public funds and deter other similar claims • whether the case could have wider impact, e.g. for a group of potential tribunal cases <p>8. Ex gratia payments: Ex gratia payments go beyond statutory cover, legal liability, or administrative rules, and include:</p> <ul style="list-style-type: none"> ○ payments made to meet hardship caused by official failure or delay where there is no legal obligation to pay ○ out of court settlements to avoid legal action i.e. settling claims which have no merit, and where the settlement has no commercial basis, but for reputational reasons ○ payments to contractors outside a binding contract ○ retention payments designed to encourage staff to delay their departures, particularly where transformations are being negotiated. <ul style="list-style-type: none"> • Such payments always require additional explicit endorsement from Treasury and Exchequer, whether proposed in individual cases or in groups before any commitment, whether oral or in writing, is made. Responsibility for the decision to make any payment remains with the Accountable Officer.
Accounting disclosure requirements	<i>To be completed by Strategic Finance</i>
Conclusion	<i>To be completed by Strategic Finance</i>