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Dear Mr O'Higgins

### **SEVERANCE SETTLEMENTS FOR LOCAL AUTHORITY CHIEF EXECUTIVES**

Thank you for your letter to me regarding the Audit Commission's inquiry into severance settlements for local authority chief executives.

Our mission in SOLACE is to promote excellence in public service, not to negotiate terms and conditions for council chief executives. However, we believe that excellent management is essential to excellent public services and that, in turn, a necessary condition of excellent management in a political environment is the independence provided by statutory protection. We believe that SOLACE members have time and again proven that they are able to deliver operational solutions in complex multi-service and even multi-agency environments and further believe that constant national pressure on them is unwarranted and unnecessary.

In relation to the current inquiry we believe that the problem has been exaggerated and that there is no epidemic of so called "boomerang bosses". A tiny proportion of chief executives removed on grounds unrelated to their performance by an authority are subsequently appointed by another body such as a local council, a government department or a different part of the public service. Any disincentives for experienced chief executives to re-enter the workforce as a result of this inquiry would have the effect of reducing the talent pool and denying other employers the widest range of candidates. Furthermore, all severance settlements are subject to the scrutiny of an independent district auditor and it is extremely unfortunate that certain individuals have been subject to damaging public comment when they have followed an entirely honourable course of action.

The truth is that severance arises in the vast majority of cases not because of any genuine performance issue, but because a council leader wishes a change in personnel. Some local politicians seem to regard the costs of related severance settlements as an acceptable use of public monies, even though they hold elected office only on a temporary basis. The statutory protection bestowed on chief executives, as well as chief financial and legal officers, rightly provides a check against their whimsical or illegitimate dismissal by politicians which often causes personal distress and financial uncertainty for the individuals affected. To weaken this protection would be against the public interest and dismantle important protection against the potential abuse of power. It is unlikely that successful criminal proceedings for corruption, as in the Lincolnshire Speechley case, would have been as successful if employment protection was not afforded to the Chief Executive.

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In the civil service permanent secretaries cannot be dismissed by ministers and furthermore possess the power to seek a direction from Parliament's Public Accounts Committee where they believe a ministerial request to be unlawful or to represent poor value. The Audit Commission should consider wider benchmarks from the civil service and other parts of the public sector such as NHS management when considering this issue.

Where the council pursues an action to dismiss a chief executive or other statutory officers on grounds unrelated to performance then severance in such cases amounts to breach of contract and cannot take place without proper compensation. The trades union, ALACE have kindly given us sight of their submission to you. It covers much of the employment law issues and we concur with their views on these matters. We will therefore not go into any detailed expositions on legal points. However we do believe that it would be in the interests of council taxpayers to increase the protection for chief executives and to reduce the scope of leaders to breach contracts on non-performance grounds. We hope that the Audit Commission has invited the political parties to provide evidence and that you will consider make recommendations as to how parties should take more responsibility for their members' conduct. It may be that Council leaders and council members would benefit from specific training in their role and relationship with their senior managers and Chief Executives in particular. SOLACE would happily work with your organisation and others in designing and delivering such development work, which should yield benefits to the local communities that Councils serve.

In the course of the SOLACE Commission on a managing in a political environment we collected evidence from a range of interested parties, including a submission from John Bowers QC which I attach for information. Whilst not SOLACE policy we feel it remains very relevant to your inquiry. We would wish to emphasise one point.

Government policy over recent years has increasingly made chief executives responsible for the delivery of and accounting for national programmes, irrespective of local political support. As Mr Bowers writes in his attached paper, "Those who are given direct and personal responsibility to report to the council/public in relation to acts of the council, must have the freedom and confidence to be able to do this without fear for their jobs."

This introduction hopefully provides some context for our brief responses to your four questions.

*1. Do the rules on severance payments to local authority chief executives and other senior officers, including when they are subsequently employed by another council, adequately protect the interests of council taxpayers?*

Yes. It does serve the taxpayers' interest as it provides a necessary check and balance in council governance and gives security to whistle blow and expose corruption. Where the council insists on severance on grounds not related to performance, the breached contract must be honoured.

*2. Do the current rules and conventions need to be changed?*

Statutory protection against severance on non-performance grounds should be strengthened.



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3. Is a different approach required from any of the key players in these cases? E.g., council leaders, chief executives, monitoring officers, Section 151 officers, audit committees, or external auditors. If so, how might that change be achieved?

Government ministers and political parties should be careful not to talk down public servants, by doing so they legitimise the kind of attacks that may often lead to unnecessary severances locally. Local politicians deserve support in understanding their roles and responsibilities. In the absence of any from the established political parties, we would happily work with others on a programme of such support.

4. If rules or contracts were amended, might this affect recruitment or the managerial capacity of councils or have other, unwanted consequences?

The nature of the recent public attacks on chief executives is no doubt one reason why some posts are becoming difficult to fill. We have only anecdotal evidence of this currently but I fear a trend may soon become measurable.

Therefore, we conclude:

- Statutory protection is legitimate; it ought to be difficult to remove a chief executive where there are no robust performance issues.
- If political leaders want to seek a change in personnel for non-performance reasons, the logic of natural justice requires that the chief executive's contract must be honoured and they must be free to seek other work.

Our comment on this enquiry overall is that it seems odd to single out a tiny percentage of a specific type of public servant for such detailed scrutiny. In order to provide an intellectually robust report we would wish to see local government practices benchmarked against other public servants including the Armed Services, the Police, the Health and Education Sectors and of course the central civil service. Were there instances of senior personnel leaving with handsome pension and or severance deals, and then walking into highly paid roles in related industry sectors it would provide a useful insight. Private sector benchmarks, in say banking, may also shed some light on this matter.

I look forward to reading the other submissions to your inquiry, including those of political parties and government departments. We will be posting a copy of this submission on our website as a contribution to the overall debate.

I hope you find the above helpful.

Yours sincerely

David Clark  
Director General

