

**CORPORATE GOVERNANCE COMMITTEE – 14 JUNE 2013****REPORT OF THE COUNTY SOLICITOR****INVESTIGATION INTO ALLEGATIONS CONCERNING MEMBER
CONDUCT****Purpose of Report**

1. The purpose of this report is to seek the agreement of the Committee on the next steps in relation to the investigation into allegations concerning the conduct of the former Leader of the County Council, Mr David Parsons, regarding his use of County Council resources, the review of the current arrangements for authorising the payment of travel and subsistence to elected members and action to be taken to recover costs which have been incurred, otherwise than in relation to County Council business.

Background

2. In March 2012, the County Council received a Freedom of Information request from the local media asking for details of a variety of costs which the County Council had incurred in relation to Mr Parsons' allowances, offices and travel arrangements.
3. On 20 March 2012, Councillor Bill Boulter, CC, asked for an Internal Audit Investigation to be undertaken into the costs which had been disclosed. Corporate Governance Committee received a report at its meeting on 15 May 2012 on the work which had been undertaken in response to that request. The Committee noted the conclusion of the report and supported further investigation by Internal Audit Service, which was reported to the Committee on 29 June 2012.
4. At the meeting on 15 May 2012, the Committee resolved that it:-

“... “requests the Standards Committee to consider what issues arise for that Committee from this report in regard to the use of a County Council car for non-Council business;

notes that the Director of Corporate Resources will take steps in due course to recover costs which have been incurred, including journeys undertaken by the member, otherwise than in relation to County Council business and asks the Director to report further to this Committee;

asks the Chief Executive to:-

- (1) request the Independent Remuneration Panel on Members' Allowances to re-examine the Members' Allowances Scheme with a view to recommending any changes to the County Council via the Constitution Committee;
 - (2) review the current arrangements for authorising the payment of travel and subsistence to elected members;
 - (3) report to future meetings of the Corporate Governance Committee as appropriate on the action taken."
5. Complaints were made under the Standards regime then in operation in relation to Mr Parsons' conduct by a member of the public on 30 April 2012 and by Mr Bill Boulter, CC on 15 May 2012. On 7 June 2012, the Standards (Assessment) Subcommittee decided to refer the allegations for investigation and on 27 June 2012, the matter was referred by the Monitoring Officer to Weightmans Solicitors to conduct the investigation.
 6. The Director of Corporate Resources has undertaken work to assess the costs incurred; however, as a consequence of the decision to refer the matter for investigation, that work has not yet been finalised and action to recover those costs was deferred pending the outcome of the investigation.

The Member Conduct Investigation

7. The investigation proved time consuming in light of the number of journeys undertaken by Mr Parsons, including those by public transport. The journeys were analysed by reference to the source of information (for example a diary entry, or a transport request), the origin and destination of the journey, its purpose and the persons (if any) accompanying Mr Parsons. Support was provided to the Investigator through analysis undertaken by Internal Audit Services, the Monitoring Officer and Head of Democratic Services.
8. The original "list" of journeys contain thousands of entries and of these a total of 94 were selected for further investigation. Witnesses were interviewed and Mr Parsons' views obtained.
9. The report of the Investigator, running to 50 pages, was received on 2 May 2013 and the full supporting documentation accompanying the report running to several hundred pages was received on the following day.
10. In analysing the 94 journeys, the Investigator discounted 20 which related to business for the Local Government Association as to have pursued enquiries relating to these journeys would, in his opinion, have been too onerous and disproportionate given the need to involve the Local Government Association. The conclusion reached was that Mr Parsons used the car and chauffeur inappropriately on 29 of the remaining occasions; in 27 of these, the journeys were not sufficiently connected with his role as a County Councillor or as

Leader of the Council and in the other two, the purpose of the journey was acceptable but the use of the car and the waiting time for the driver was not appropriate given the short distance involved. Mr Parsons was invited to comment on the journeys concerned and did so. It is clear that he did not agree with that analysis but that the Investigating Officer took his comments fully into account in reaching conclusions.

11. The conclusions of the Investigator are that Mr Parsons breached the Council's Code of Conduct by:-
 - (a) bringing his office or authority into disrepute
 - (b) using his position improperly to secure for himself an advantage
 - (c) when using the authority's resources :
 - (i) failing to act in accordance with the authority's reasonable requirements; and
 - (ii) failing to ensure that such resources were not used improperly for political purposes (including party political purposes).
12. In accordance with the County Council's procedures relating to the investigation into allegations of breach of the Member Code of Conduct, the report of the Investigator has not been made publicly available. A copy of the report has been provided to Mr Parsons.

Next Steps concerning the Investigation

13. The purpose of the Standards regime as introduced by the Local Government Act 2000, was to enable Councils to investigate and assess the conduct of their members by reference to a national Code of Conduct. A person who ceased to be an elected member, whether through resignation or through failure to be re-elected, would no longer be the subject to procedures under the Act and the case would come to an end, whatever stage had been reached. The Localism Act 2011 retained the requirement upon local authorities to maintain standards of behaviour and to operate Codes of Conduct whilst removing many aspects of the previous regime, including the Standards Board for England, the national Code and the range of sanctions available for breach of the Code. No provisions were made in the Localism Act for extending the operation of the Code of Conduct regime to the situation where a person ceases to be a member of a local authority prior to the completion of the procedures and such an extension of the powers of the authority would seem to fly contrary to much of the spirit of the Act.
14. The current procedures do not allow for action to be taken against former members and the advice of the County Solicitor is that the Corporate Governance Committee should not consider extending the procedures further on the grounds that:-

- (a) There is no clear statutory authority to do so and such an approach could be ultra vires.
 - (b) To do so may be contrary to the Human Rights Act as this would be unlikely to be a proportionate response to a legitimate aim on the part of the County Council.
 - (c) In these circumstances, there is a risk of successful challenge to the Local Government Ombudsman.
 - (d) To do so would consume the resources of the Local Authority both in terms of time and cost without there being any significant benefit to the authority.
15. In these circumstances, the Committee is asked to agree that no further action be taken under the procedures governing Members' Conduct in relation to this investigation.

Recovery of Costs

16. In light of the Standards investigation, the process of assessing the costs was put on hold pending the outcome of that process. If the Committee is in agreement with the proposal in relation to the investigation, the Director of Corporate Resources will now take further steps to finalise the calculation of those costs and seek recovery. The Committee is asked to agree to this course of action and to receive a further report on this issue. Action taken by the Director to recover costs incurred in relation to journeys to the Committee of the Regions is covered in a report elsewhere on the agenda of the Committee.

Changes to the Members' Allowances Scheme

17. The resolution of the Corporate Governance committee at its meeting on 15 May has been set out at paragraph 4 above. The Independent Remuneration Panel has met recently to consider both this matter and to make recommendations on changes to the Members' Allowances Scheme in response to the proposed changes in the structure of overview and scrutiny bodies. The Panel's report will be considered by the Constitution Committee at its meeting on 12 June and any recommended changes to the Scheme will be put to the County Council's meeting on 26 June. With regard to travel and subsistence, the Panel is recommending two particular additions to Schedule 2 of the Scheme in response to this matter, one relating to the reimbursement of costs of travel and one relating to use of the official car.
18. The Corporate Governance Committee resolved at its meeting on 15 May that the Chief Executive should review current arrangements for authorising payment of travel and subsistence to elected members. This has been done; processes have been improved and are managed by the Civic Affairs Team in the Chief Executive's Department.

Recommendations

19. The Committee is asked to:-

- (a) agree that no further action be taken under the procedures for dealing with allegations of a breach of the Members' Code of Conduct in respect of the complaints against Mr David Parsons;
- (b) agree that further steps be taken by the Director of Corporate Resources to finalise the assessment of the costs incurred for the journeys identified as inappropriate by the investigation into those allegations and to seek recovery of those costs and that the Director of Corporate Resources report further to the Committee on the action taken;
- (c) note the steps taken through the Independent Remuneration Panel to address concerns previously raised and the report to Constitution Committee and agrees that the Chief Executive establishes procedures for authorising payment of travel and subsistence to elected members in accordance with the arrangements established in the Constitution.

Resource Implications

20. These are set out in paragraphs 16 and 17.

Equal Opportunities Implications

None.

Background Papers

Report to the Corporate Governance Committee, 15 May 2012, Progress against the Internal Audit Service Report on members' Allowances and Expenses
Whistleblowing Complaint (East Midlands Councils)
Report to the Corporate Governance Committee, 29 June 2012, Progress against the Internal Audit Service Report on members' Allowances and Expenses
Whistleblowing Complaint (East Midlands Councils)
Report to the Constitution Committee, 12 June 2013, Special Report of the Independent Remuneration Panel on Members' Allowances.

Circulation under the Local Issues Alert Procedure

None.

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