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Our ref mmcd/121/ds

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Dear Councillor Wright

Review of Members' Expenses – Councillors B and K Tomlinson

Further to your discussion with Donald Sadler, we write to confirm our completion of the above review.

This letter sets out:

- 1 Our conclusion.
- 2 An introduction to our review.
- 3 Background to the Council's review.
- 4 The process followed by the Council's Monitoring Officer, once the expense claims were referred for review.
- 5 The process followed for making and payment of the claims including the role of officers and how this compared with the Members' Allowances Scheme ("the Scheme") in place at the time.
- 6 The Internal Audit review.

Conclusion

We agreed with the Council's Chief Executive to review the governance arrangements in place in May 2007 in relation to Members' expenses and comment on the procedures followed in relation to the expenses claimed by Councillors B and K Tomlinson at that time.

Further, we wished to satisfy ourselves that the present arrangements are satisfactory and address the weakness found in relation to the above. Based on the information presented, we have concluded that the processes undertaken by the Council when the matter was brought to its attention was appropriate and the actions taken to address the shortcomings identified were also appropriate.

Based on the information made available to us regarding the claims and the subsequent action taken in 2009, we highlight the following:

- the expense claims were not allowable under the Scheme in operation at the time according to legal advice sought by the Council. However, it should be acknowledged that the sums claimed were repaid by the members concerned when this was brought to their attention;
- an independent review concluded that the advice given to the Councillors by the then Chief Executive was not correct;
- the independent review also concluded that the Councillors relied upon the advice of the then Chief Executive whose directorate was responsible for Members' expenses;
- the Senior Members Services Officer should not have completed the Expense Claim Forms for the Councillors, although the independent report concludes that the officer was acting under instruction by the then Executive Office Manager responsible for operating the Scheme. The completion of the claim is entirely the responsibility of the claimant concerned.

Action taken by the Council

- the Internal Audit report dated 14 April 2010 provided reasonable assurance as to the robustness of the present arrangements and makes recommendations to address existing weaknesses in the present system including the design of the claim form and the provision of monthly reminders to Members on how to complete the form as well as escalation procedures in the event of any issues.

Introduction

Following our meeting with Victor Brownlees, the Council's current Chief Executive on 1 June 2010, we confirmed in writing that we would review the expense claims totalling £974.78 of Councillors K and B Tomlinson in respect of air flights on 25 May 2007 and the subsequent action taken in 2009 by the Council when the matter was drawn to attention.

We wished to satisfy ourselves as to the robustness of the arrangements in place at the time for advising Members on their expenses and whether the advice provided to them was consistent with the Scheme. Further, we wished to satisfy ourselves as to the robustness of the present arrangements.

Background to the Council's review

In June 2009, a member of the public sent an email to Mr Brownlees who was then Interim Chief Executive enquiring as to the reason why both Councillors had been paid the same amount. It was at this point that Mr Brownlees requested Mr Eatough, the Council's Monitoring Officer to investigate the matter.

The Council's Monitoring Officer's review process

Mr Eatough investigations highlighted a number of matters including the fact that the claims made did not appear to relate to journeys which they had been obliged to undertake in order to attend the Annual Council Meeting on 24 May 2007, but rather to journeys which they had undertaken on the day after the Meeting. Mr Eatough made the Councillors aware of this matter and sought a meeting with Councillor B Tomlinson in July 2009 who informed him that the then Chief Executive had given advice that the claim would be allowable. Following this meeting, Mr Eatough sought independent legal advice from Peter Keith-Lucas, the Local Government Partner of Bevan Brittan, Solicitors, as to whether the expense claim fell within the Scheme.

The advice received in September 2009 was that it could not be possibly argued that the journeys undertaken on 25 May 2007 had been undertaken "in connection with or relating to" attending the Meeting. This advice was shared with the Councillors and on 28 September 2009, Mr Eatough made the Councillors aware that he would raise the matter as a formal complaint with the Standards Committee. On 28 October 2009, the Referrals Sub-Committee decided that the allegations contained within the complaint merited investigation.

Since Mr Eatough was the complainant, it was felt that Mr Matthew Cumberbatch, Deputy Monitoring Officer should oversee the investigation. He approached Stewart Dobson, a Consultant and retired senior Council Officer to carry out an external independent investigation.

External Independent Investigation

In November 2009, the above external independent investigation was commissioned by the Council. The review included meetings with the Complainant, the Deputy Monitoring Officer, Councillors K and B Tomlinson (in the presence of their Solicitor) and Internal Audit.

We have reviewed the external independent investigator's report which sets out in detail the events surrounding the expense claims and noted his conclusions that the Councillors had not breached the Council's Code of Conduct for Members. Further, within the main body of the report, it states that "it was perfectly reasonable for the Councillors to have relied, and acted upon, the advice" provided by the then Chief Executive in relation to making the claim.

In addition, the report goes on to conclude that, "on the basis of the information which was available to him at the time, Mr Eatough acted quite correctly in lodging his formal complaint with the Standards Committee. This effectively ensured that the matter would be thoroughly and openly investigated. Given the publicity and rumours associated with the matter, it was plainly essential that there should be such an investigation."

We are satisfied with the processes followed by the Council in relation to investigating the expense claims.

Processing the expense claims

The Members' Allowance Scheme in place at the time stated that "*When reclaiming expenses incurred in line with the terms of the scheme, it is your responsibility to complete a claim form and return it to Member Services by the 4th of the month along with all supporting receipts.*

Claim can only be paid in accordance with the approved scheme, and therefore claims which do not meet the criteria will be omitted or amended as necessary, to so otherwise would be in breach of council policy."

Based on information contained with the external independent investigator's report, the Councillors followed the then Chief Executive's advice and presented the paid invoices for the flights to the then Executive Office Manager (responsible for Members Allowance Scheme) who, we understand from the same report supported the claim and requested Councillor K Tomlinson to sign a blank claim form and informed the Councillor that the team would process the claim.

The report also highlights that the claim was completed on two forms (one for each Councillor) and that Councillor B Tomlinson's form was signed by a member of staff within Member Services. This procedure is not in accordance with the requirements in place at the time. Councillors are required to complete and sign their own expense claim form; however we noted that neither Councillor had submitted a claim form for several years.

It is the responsibility of Members to complete and sign their own claim forms as set out in the Scheme and in the event of any doubt or query, such matters should be referred to the Council's Monitoring Officer or Chief Finance Officer for advice as implied in the Members' Code of Conduct Part 5, Section 1(7.1).

In summary, based on the external investigator's report, the expense claims were made following incorrect advice from the then Chief Executive. Repayment was made in November 2009 after the Council's Monitoring Officer shared the legal advice with the Councillors.

Internal Audit report

The Council's Internal Auditor has recently completed a review of Members' expenses for 2009/10 and concluded that reasonable assurance can be provided as to robustness of the arrangements.

During the audit a number of good practice areas within the process for Members Expenses were identified. These included:

- thorough checking of claims by the Senior Member Services Officer;
- improved layout on the amended members expense claim form;
- documented procedure notes for Members' Allowances and Expense Claims; and

- monthly reminders to Members with guidance on how to complete the claim forms.

The report made eight recommendations to strengthen the existing arrangements including:

- consideration should be given to amending the claim form to include a column for the authoriser to make comments and a statement in the declaration that the Member signing has completed the form in full before submitting for authorisation;
- there should be a written escalation procedure for the Senior Member Services Officer to follow when she has issues with particular claims from Members. For example when members submit forms which are incomplete or are incorrect and do not comply with the guidance that is issued on a monthly basis;
- a deputy for countersigning the Members expense forms should be formally agreed and they should have access to up to date procedure notes; and
- the Senior Member Services Officer should have a list of Members signatures that she can check against before authorising the claims. This could be done using the Declaration of Acceptance of Office form signed by each member.

The Democratic Services Manager has agreed all the recommendations and provided these are implemented and consistently applied, we believe that the Council should have increased assurance over the application of the Members' Allowances Scheme.

We are satisfied that the Council has taken appropriate steps to fully address this matter. Further, we endorse the proposed change in procedures. As a result, we do not believe that any further action is necessary. Our work is therefore concluded.

Please do not hesitate to contact me or Donald if you have any queries.

Yours sincerely

Mike McDonagh
Partner
KPMG LLP