



Northumberland County Council

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Date: 6 June 2022

Via email

Dear Group Leader/Member

I am writing to you in relation to the report of Jan Willis Section 151 Officer dated 23 May 2022 made under Ss.114 and 114A of the Local Government Finance Act 1988 to all members of Northumberland County Council which is to be considered by the Cabinet in respect of Executive responsibilities (S.114A) and the County Council in respect of non-executive responsibilities (S.114).

I must clarify, I am not writing to object to the issuing this report. It is clear from the report that there are issues of process, where the process identified and followed at the time (on the basis of both internal and external legal advice) are now believed to be incorrect, and this must be rectified. I have always been open to a full and honest appraisal of all issues, hindsight is a wonderful thing, and it is clear that there a number of things that we could have done differently.

I sought QC advice in my role of Chief Executive/Head of Paid Service following the issuing of the S114 report, as I was concerned that some of the information presented within it is factually incorrect. QC advised that a note could be drafted setting out context with any factual errors, and provided to members. I am therefore writing to ensure members have full information, to assist in any decision making by ensuring members have accurate information.

When the Interim Section 151 Officer (S151) was appointed in February 2021, one of the key work leads I allocated to her was for her to lead a review of the International activity, which she took forward with internal audit. The S151 and the team reviewed the arrangements and reported to the financial arrangements to Cabinet and the Corporate Services Scrutiny Committee. The financial position reported following the review demonstrated a £904k surplus, which supported development costs for the company to be properly established and the over £500k surplus income returned to the general fund to specifically support the adult social services budget to support care developments.

Alongside this, the External Auditor had also asked for information to review. I advised the S151 Officer that we needed to ensure that all the information was provided as soon as possible as it became clear that the previous Section 151 Officer had not progressed the information requests as promptly as they could have been. I am aware that as part of this, legal advice was sought (independently of myself) by both Section 151 officers from Counsel Nik Grubeck, and that the view, at that time, was that the business undertaken by the Council could legitimately be undertaken, as it was based on supporting health and wellbeing and was undertaken in a partnership with the NHS under a formal collaboration agreement. This is consistent with the advice received at the time from Ward Hadaway. The current S151 Officer wrote to the External Auditor in November 2021 expressing this view, a copy of this email is attached at Appendix 1.

The S151 Officer contacted me on 25 April 2022 to consult on the Section 114 report, whilst I was off work due to sickness. I sought QC advice to assist my response. The advice I received was that, in order for a full consultation to take place, I would require all of the documentation provided by the S151 to Nigel Giffin QC from whom she had sought advice and based her view, and I required adequate time to consider the information, given my ill health.

Unfortunately, I received neither the information provided to the QC on which his advice is based, or the adequate time for a full response, so you will note from my Consultation response (attached as Appendix 2) that my response was preliminary.

I have subsequently been provided with access to the background papers, I received access at the same time as Members. Having reviewed these documents, it is clear that some of the confusion could have been clarified if I were provided the information requested earlier, as it could have been included in the Consultation response.

I do not feel that the Section 114 report accurately reflects the context and background relating to the International Business and the payment of the International Allowance, so I would encourage Members to read the report in conjunction with this note. I have clarified the information presented in the S114 Report as far as I can to assist Members.

For ease, I use the paragraph numbers presented in the S114 report.

1.6 My consultation response included more material information than that supplied to members in the Appendix B, so I have therefore included my full preliminary response in Appendix 2.

1.8.2 The additional payment for oversight of commercial services including International was paid as part of an uplift in base salary for extra responsibility when I was Deputy Chief Executive from 2015, not 2017 as stated in the report. The payment was made from that point as it does not, (and did not) only relate to the International element of work. The payment was made due to extra responsibilities covering a wide set of work streams, including working on provision of Northumberland services to benefit older people including the development of a new and innovative homes for life for example the care village that we are developing in Alnwick.

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1.15 The payment was discussed at the Interview for the role of Chief Executive and Head of Paid Service in 2017. The continuation of the payment, which internally appears to have become referred to as 'International allowance' was approved by the interview panel, and the then Leader of the Council. The view of the S151 now is that this decision should have been put before Full Council in a form more explicit than what had been presented in the September 2017 report. This is a process issue which needs to be rectified. Due to this relating to the Head of Paid Service, and therefore a personal financial interest arising, the process and lawfulness was managed by the then Leader of the Council and the Monitoring Officer.

Northumbria International Alliance

4.6 I am aware that the year end finances were approved by the Section 151 officers in each relevant year of spend, including the current Section 151 Officer at the end of the financial year 2020/21. The finances were maintained by the Finance Team, as is usual practice with all departments.

4.7 The value of the contract referred as £100,000 is incorrect, it was £200,000. The surplus from this contract was reinvested into business development. This piece of work was completed jointly with NHCT (Northumbria Healthcare Foundation Trust).

4.8 The contract referred did not start until August 2019, and was not completed until August 2020.

4.9 The meetings with Ward Hadaway included the then Section 151 Officer and the Monitoring Officer. The verbal advice received was that without a clearer idea of the business model, scale and surplus, there was no immediate need to form a company, and the Council should take time to identify the optimal form. The Monitoring Officer and Section 151 raised no reservations or issues with this advice to my knowledge.

4.11 This information is not accurate. The contract with an approximate value of £3m was not mobilised. A second, smaller addendum contract for a different piece of work was prepared and a mobilisation payment for that was received, before NCC signed the contract. The concern and risk of doing business with this potential client was raised during the due diligence process and agreement was made not to commence work on either contract, the mobilisation payment for the second smaller unsigned addendum contract was returned.

4.13 The advice referred also illustrated that the form had not been finalised at that point.

The Council had been working with NHCT in a partnership, and advice had always been received on that basis until the Council were to partake in the business alone. The Monitoring Officer and Section 151 Officers throughout the period were content that the arrangements were appropriate while in the partnership.

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The S151 Officer has highlighted now that these arrangements appear to be incorrect, and different arrangement should've been in place. The S151 Officer does also state that there is no financial loss to the authority, this is a process issue whereby advice received at the time both internally and externally appears to now be incorrect. This includes the advice relied upon by the S151, which was also copied to the current Monitoring Officer in November 2021. No concerns that I am aware of were raised about this by either the then S151 Officers or the then Monitoring Officer at the time the business was taking place.

International Allowance

5.1 A payment for extra duties was paid from 2015 as an uplift in base salary from 2015, (as Deputy Chief Executive) for extra responsibilities which included business development. It appears, although I was not involved for obvious reasons of a personal financial interest, that in 2017 it was split out to be paid as an extra payment, rather than an uplift in base salary as it had previously.

In the background papers provided by the S151 Officer, the email dated 04/07/2017 shows the breakdown of pay between NCC and NHCT. A recharge arrangement was in place, the breakdown highlighted in the email is clear that the Council paid more than the Trust, this reflected the payment solely from NCC for the commercial work. As the post has always been a joint role and was at that time, if there were no additional payment, NCC and NHCT would have paid the same proportion of the salary.

5.8 As would be expected, due to the report appointing myself as Chief Executive/Head of Paid Service, I left the council chamber for the item and was not involved in the reporting arrangements other than what I was subsequently informed.

5.9 The process for appointment was managed by the then Leader of the Council, who was designated as the line manager of the Chief Executive. Discussions were held with the Leader at that time, and the Deputy Leader and Director of HR were present. The Leader approved the allowance to continue in those discussions, which was subsequently enacted by HR. The confusion I believe is caused by the fact that the payment was made as an uplift to base salary previously, however was split out as an extra payment from appointment in 2017. This process was, as would be expected, managed by HR and Payroll, I was not involved at any point, so I am not aware of the reasons for this change. I received a statement of terms and conditions. The allowance was clearly stated in that document.

5.10 The interview panel who conducted my interview was a sub-committee of the Staff and Appointments Committee. This appears to identify a wider issue that records appear not to have been kept properly.

5.11 The then Leader of the Council confirmed the payment was agreed in a meeting in which the then Leader, the then Deputy Leader, the Director of HR, myself and the Democratic Services Manager were present.

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5.12 From reviewing personal employment documentation, the payment was already made as an uplift in base salary, and only 'split out' on appointment to Chief Executive. As previous, this was originally authorised in 2015 for additional duties.

5.13 The allowance was stated clearly as part of salary in the contract provided by HR.

5.16 The issue of appointment and remuneration was rightly not managed by myself. This would not be appropriate, this was managed by the then Leader with delegation from the Staff and Appointments sub committee.

5.18 The duties undertaken by the Chief Executive/Head of Paid Service were distinct of those undertaken by the Director of International Projects and Systems Transformation. The Chief Executive/Head of Paid Service responsibilities were to lead the commercial business development and strategy of a wider range of services, and the Director role was to the project manager and operational lead.

The decision to approve the continuation of the allowance was taken by the then Leader, and enacted by HR. I was not involved in the process to make the payment at any point. However, it appears that any advice provided to HR and the then Leader by the Monitoring Officer was incorrect, and the decision should have been taken to Full Council, as the Section 151 Officer's view is that the Leader and the Staff and Appointments Committee had no authorisation to make the decision. This of course needs to be rectified in the correct manner.

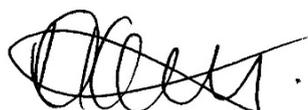
Summary

I hope that the clarity and information provided above is helpful in your consideration of the matters referred to by the Section 151 Officer in the Section 114 report. Officers have always acted in the best interest of the Council, and it appears that advice sought on these issues was incorrect, which meant that, in turn, the process followed was not correct.

This needs to be rectified, and any other issues identified quickly, as set out in the recommendations to the report.

The positive is that the business consultancy brought the Council in over £500k to support our already pressed adult services budgets.

Yours truly



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**Appendix 1 – Email from Jan Willis Section 151 Officer to Cameron Waddell
External Auditor 8 November 2021**

**Appendix 2 - Preliminary Consultation Response Submitted to the Section 151 Officer –
attached as separate document**

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