



Northumberland

County Council

County Council

Wednesday, 20 March 2024

Report of the Director of Law and Corporate Governance

Report of Statutory Officer: Stephen Gerrard, Director of Corporate Governance and Monitoring Officer

1. **Link to Key Priorities of the Corporate Plan**

This report links to the value for money priority of the 2023-2026 Corporate Plan as it addresses the steps taken by the Council to ensure value for money in relation to matters concerning the employment of senior staff.

2. **Purpose of report**

The purpose of this report is to assure Council that all appropriate steps have been taken such that future decisions will be in full compliance with the law and guidance. There is no ongoing issue, all steps to remedy the flawed process have been taken and adopted.

3. **Recommendations**

- 3.1 To note and adopt this report of the Director of Law and Corporate Governance reporting as the Monitoring Officer under Section 5 of the Local Government & Housing Act 1989.

4. **Background**

- 4.1 Section 5 of the Local Government & Housing Act 1989 requires the Council to appoint an Officer to act as the Council's Monitoring Officer. The Council has appointed the Director of Law and Corporate Governance as its Monitoring Officer. The Act provides that it is the personal duty of the Monitoring Officer to report formally to the Council on any proposal, decision or omission by the Council which has given rise to, or is likely to, or would, give rise to, the contravention of any enactment, rule of law or statutory code of practice.

- 4.2 In preparing this Report I have formally consulted with the Chief Executive, as Head of Paid Service, and the section 151 Officer. Members are required to formally consider the report at a meeting of the Full Council. Members will recall that on 26 July 2023 the Executive Director of Transformation and Resources (the 151 officer) advised the Audit Committee that certain payments made to officers may not have been in accordance with the prevailing statutory guidance. That was a very full public report which can be found on the council's website (see below). I do not propose rehearsing the background in this report. All the relevant facts were put in the public domain in the Audit report.
- 4.3 As a result, I have taken the view, on a precautionary basis, that my duty to report under section 5 has been triggered. This report is intended to provide the assurance to Council that the necessary steps have been taken to regularise the position.
- 4.4 The Executive Director of Transformation and Resources and I have, since the report to the Audit Committee taken further advice from leading counsel. The collective view is that this report also satisfies the reporting duty of the Executive Director of Transformation and Resources.
- 4.5 The error was primarily in relation to the adoption, in particular, of a revised Pay Policy in the three years 2019/20, 2020/21 and 2021/22. This document, which the Council must adopt annually, sets out how such decisions relating to the remuneration of certain senior officers are to be made. In what appears to have been an attempt to streamline the process, the role of Members was reduced. The extent to which Members were taken out of the process was inconsistent with government issued guidance. As a result, it was arguable that the policy was not lawful. As a consequence, payments made under that policy were potentially made under a flawed process.
- 4.6 In essence the revised Pay Policy procedure which the Council had been advised to adopt in 2019/20, 2020/21 and 2021/22 failed to provide for the proper level of democratic oversight. The reasons for this remain unclear. Following a detailed review by internal audit a detailed report was presented to the Audit Committee (see the link below). This identified several occasions when it appeared the payments received by officers as part of their severance arrangements may have been made under a flawed procedure. There is no evidence that the officers receiving those payments realised the Council's adopted process was flawed. They received the payments in good faith. The sums received were broadly in line with the arrangements that had previously been made. However, the fact remained that Members were not given the appropriate opportunity to express a view before the payments were made.
- 4.7 In light of the fact that recipients of the payments were not at fault the payments have now been regularised through further consideration by the Staffing and Appointments Committee. The Pay Policy has been completely revised and the necessary element of Member oversight has been restored. This revised policy was adopted by full Council at the last meeting. Compliance with that policy will ensure there can be no recurrence of earlier problems. The advice of leading counsel has been sought throughout when revising the policy.
- 4.8 The purpose of this report is to assure Council that all appropriate steps have been taken such that future decisions of this nature will be taken in full compliance with

the law and guidance. There is no ongoing issue, all steps to remedy the flawed process have been taken and adopted.

- 4.9 It is important to understand what this report cannot do. This report does not seek to assign responsibility for the error to any persons. That is not the purpose of this report. That would be wholly inappropriate in such a setting. This report is solely to confirm to Council that all steps have been taken and adopted to ensure that all identified shortcoming in process have been addressed.

Policy	as set out in the text of the report
Finance and value for money	as set out in the text of the report
Legal	as set out in the text of the report
Procurement	none
Human resources	as set out in the text of the report
Property	none
The Equalities Act: is a full impact assessment required and attached?	No - no equalities issues identified
Risk assessment	None
Crime and disorder	None
Customer considerations	None
Carbon reduction	None
Health and wellbeing	None
Wards	All

5. Background papers

Not applicable

6. Links to other key reports already published

The Audit Committee 26 July 2023

<https://northumberland.moderngov.co.uk/documents/g2473/Public%20reports%20pack%2026th-Jul-2023%2010.15%20Audit%20Committee.pdf?T=10>

7. Author and Contact Details

Stephen Gerrard, Director of Law and Corporate Governance/Monitoring Officer
Email: stephen.gerrard@northumberland.gov.uk