

**STANDARDS & ETHICS COMMITTEE:**

**5 OCTOBER 2006**

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## **DISTRICT AUDITORS REPORT**

**REPORT OF THE MONITORING OFFICER**

**AGENDA ITEM:**

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### **Reason for this Report**

1. To provide Members with information on the response of the Council to the District Auditor's Report dated 24<sup>th</sup> April 2006.

### **Background**

2. A Report In The Public Interest on Members' Allowances and Officer's Remuneration was published by the District Auditor, Janet Jones, on 24<sup>th</sup> April 2006. This report has previously been circulated to all Members and a report was provided to the Standards & Ethics Committee on 2<sup>nd</sup> May 2006 which set out the background to the matter and more particularly the required actions of the Council.
3. The District Auditor's Report was considered by an Extraordinary Meeting of the Council on 18<sup>th</sup> May 2006, when the Council agreed a formal response and also set up a Panel to consider comments relating to the Chief Executive.

### **Response of the Council**

4. Following the debate at Council, a formal submission was sent to the District Auditor dated 18<sup>th</sup> May 2006 and this is attached at Appendix A. The District Auditor subsequently confirmed her approval of the Response, signalling a conclusion to the formal process.
5. The Council further resolved at its meeting on 18<sup>th</sup> May 2006 to set up a Panel (in accordance with Regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2005) to enable Members to consider comments relating to the Chief Executive contained within the Public Interest Report. The Panel was to make appropriate recommendations to Council.

6. The Members Panel met on 7<sup>th</sup> July 2006 and subsequently submitted a full report to Council on 20<sup>th</sup> July 2006, a copy of which is attached at Appendix B. Council accepted the recommendations set out in that report.

### **Legal Implications**

7. There are none arising from this report.

### **Financial Implications**

8. There are none arising from this report.

### **Recommendations**

Members are asked to consider and note the Council's response to the District Auditor's Report.

### **Kate Berry**

Chief Legal and Democratic Services Officer (Monitoring Officer)

Dated: 29<sup>th</sup> September 2006

### **Background Papers**

1. Report in the Public Interest – Members Allowances and Officer's Remuneration 24<sup>th</sup> April 2006.
2. Report of the Monitoring Officer re Report in the Public Interest to the Standards & Ethics Committee – 2<sup>nd</sup> May 2006.
3. Report in the Public Interest – Members Allowances and Officer's Remuneration – Council, 18<sup>th</sup> May 2006.

**COUNCIL:**

**20 JULY 2006**

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**REPORT OF MEMBERS PANEL**

**AGENDA ITEM:**

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**Reason for this Report**

1. To report the recommendations of the Panel meeting on 7 July 2006, which considered comments made in the recently published Public Interest Report relating to the Chief Executive. The contents of this report have been agreed by the Panel.

**Background**

2. A report in the public interest on Members' Allowances and Officer's Remuneration was published by the District Auditor on 24 April 2006. The report was considered by an extraordinary meeting of Council on 18 May 2006, when the Council agreed a response and also set up a proportionate panel of Members to consider comments relating to the Chief Executive.
3. The panel was established using Regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2005, which came into force on 3 July 2006. The relevant extract from the regulations and the terms of reference for the panel are contained within the papers made available to the panel and were attached at appendix A (pages 33-37) of the officer report to the panel.

**Process**

4. The panel was legally advised by Michael Supperstone QC and, at the meeting, agreed that its remit should be to consider whether there was sufficient evidence to proceed to a formal investigation by a designated independent person. The panel agreed to take account of:
  - The nature and seriousness of each allegation;
  - The likely defence to each such matter;
  - Whether or not the allegation is likely to be made out.
5. It also agreed, if necessary, to consider:
  - If there were any mitigating circumstances that may be relevant;
  - Any disciplinary action that may be appropriate.

## **Consideration**

6. The panel considered the following information:
  - The Public Interest Report of 24 April 2006;
  - Other documents which were appended to the officer report to the panel as follows:
    - The Council's response to the Public Interest Report of 18 May 2006 (appendix A, pages 5-29);
    - The District Auditor's letter relating to the Council's response (appendix A, page 39);
    - The written opinion of Michael Supperstone QC (appendix A, pages 41-49);
    - The written submission of the Chief Executive (appendix A, pages 51-60);
    - Written representations from the Association of Local Authority Chief Executives (appendix A, pages 61-66);
    - Written representations from UNISON (Appendix A, pages 67-73);
    - The terms of settlement following mediation in December 2004.

In addition, the panel had available to it the court mediation bundle.

7. The panel heard from Jo Farrar, Assistant Chief Executive, who presented the report and then received submissions from:
  - The Chief Executive, Byron Davies;
  - The Chief Executive's Legal Representative, Peter Keith-Lucas;
  - Richard Penn, Association of Local Authority Chief Executives.
8. Having given due consideration to all the written information and oral evidence the panel agreed (with a majority of eight Members to one) that the recommendation to Council should be that there was insufficient grounds to appoint a designated independent person and that no further action should be taken.
9. The panel confirmed its agreement with the Council's stated position that the Chief Executive took legal advice and acted in good faith and in reliance upon the legal advice provided in all of his actions.

## **Legal Implications**

10. These are addressed in the body of the report.

## **Financial Implications**

11. There are none arising from this report.

## **Recommendations**

The Council is asked to:

1. Note that the Panel accepts the Council's position that the Chief Executive took legal advice and acted in reliance on legal advice in all his actions and in good faith; and
2. Accept the recommendation of the panel that no further action be taken.

**MEMBERS PANEL**  
14 JULY 2006