

# **Members' expenses and other travelling costs**

**Kent County Council**

**Audit 2010/11**

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# Summary report

## Introduction

**1** I have received and considered an objection to the Council's accounts for the year ended 31 March 2011 relating to the payment of travelling expenses and other associated travelling costs to Members. The objector asked me to issue a report in the public interest and to apply to the courts for a declaration that an item of account is unlawful.

**2** I have now determined the objection and communicated my decision and the reasons for it to the Objector and the Council. Whilst I have decided not to issue a report in the public interest or make an application to the courts, I believe that my findings are relevant to Members' governance responsibilities. I am therefore reporting a summary of my findings and the Council's response to the issues identified, to the Council's Governance & Audit Committee.

**3** In undertaking my work, I considered:

- reimbursements of expenses for use of councillors' private cars;
- the authorisation of Members' expense claims;
- whether the Council's County Cars had been used for private journeys;
- the provision by the Council of transport and paid expenses for Members from their homes to County Hall;
- receipts for journeys made by taxis;
- information published regarding the total payments to Members;
- payments made for Members attending party political conferences; and
- the overall costs of the County Cars service and the costs incurred in providing transport for Members.

## Audit approach

**4** In considering the objection I, or members of the audit engagement team, have:

- considered the arguments advanced and supporting material provided by the Objector;
- sought and considered the Council's response to the objection;
- reviewed the information provided by the Council; and
- met with, and had telephone conversations with, the Council's relevant officers and Members to explore the issues identified in the objection.

**5** My remit relates to the arrangements and actions of the Council and does not extend to monitoring and reviewing the standards of behaviour of individual Members.

## Main conclusions

6 I have not found any evidence of fraud or deliberate abuse by any Member. And I have seen no evidence of a deliberate circumvention of the Council's policies for personal gain.

7 However, my review did identify some weaknesses in the Council's arrangements for Members' allowances and expenses, including the operation of the County Car Scheme. The Council has responded quickly to the weaknesses identified.

### Reimbursements of expenses for use of Members' private cars

8 On some occasions 'duplicate payments' have been made for the reimbursement of expenses. Some Members have had transport provided by taxi (funded by the Council) and claimed travelling expenses for the same journeys. In total, these duplicate payments amounted to £430.80 in 2010/11. The Council has stated that these are administrative errors and I have no evidence to suggest otherwise. All the Members who received such duplicate payments in 2010/11 have repaid them to the Council.

9 The Council has recognised that its internal checking and control procedures should be more robust to detect or prevent these duplicate payments. The Council has now introduced improved control arrangements to prevent and detect such duplicate payments arising in future.

### The authorisation of Members' expense claims

10 Claims are completed on a monthly basis and certain stated checks have to be completed for each claim by officers. I considered a small sample of claims that were drawn to my attention by the Objector and concluded that the claims had not been checked as they should have been. I did not identify any evidence to suggest that these lapses resulted in any payments which had no legitimate basis. Internal Audit has recently undertaken a wider review of member expenses and agreed with this conclusion. Internal Audit has made some recommendations to strengthen procedures with which I concur.

### The use of the Council's County Cars by Members for private journeys

11 The Council's County Cars Service is provided for the use of Members on Council business. The use of County Cars is set out in an agreed policy. A Member has stated that on rare occasions, following the completion of Council business whilst using the County Car service, he used the car for minor diversions in connection with his private business.

12 The Members' office made arrangements with Democratic Services to reimburse the Council for the private use of the County Cars, with a record maintained of the time that the car was being used for private purposes. I understand officers of Democratic Services did not raise any concerns with the reimbursement system. The Member estimated what he believed to be a reasonable amount to cover the salary costs of the driver and other costs of the car for each hour the car was being used for his private purposes.

13 However, due to an administrative and communication misunderstanding between officers of different teams these payments were not initially recovered as intended. The Member believed that the amounts were being routinely deducted by officers from his monthly expense claims. In fact they were not, and it was only realised that the required deductions were not being made when an internal review (prompted by the objection and other external enquiries) revealed this. The Member promptly repaid approximately £600, covering the period from 9 July 2009 to 10 March 2011. Senior officers have advised me that they have satisfied themselves that this represents a small overpayment of the amount due.

14 The use of the County Cars for private purposes raises a risk that the taxation basis on which the County Cars are used could be affected for all journeys. The question arises whether there could be a taxable benefit to be declared by the Council or by individual Members. The Council is seeking advice on this aspect.

15 The Council has acknowledged that the use of the County Cars for private purposes was outside the scope of the agreed policy. Officers have advised me that this practice is suspended until (a) Members have considered whether or not to include provision for such journeys in the County Car policy and (b) the views of HMRC on the taxation status have been received.

### **The provision by the Council of transport and paid expenses for Members from their homes to County Hall**

16 The current Council's policy on the use of the County Cars only permits their use for official Council business. The County Cars have been used by two Members to provide transport from home to County Hall. When a car has not been available a taxi has been provided by the Council.

17 The Council has recently reviewed whether such journeys fall within its approved policy for the use of County Cars. It has concluded that it is not clear that journeys from Members' homes to County Hall represents official business and has therefore taken the precaution of suspending both the provision of the County Cars for this purpose and the consideration of whether to seek reimbursement of costs from the Members concerned for any of these journeys already made until (a) Members have considered whether or not to include provision for such journeys in the County Car policy and (b) the views of HMRC on the taxation status have been received.

**18** There is a wider issue in relation to the payment of expenses to Members for travelling between their homes and County Hall in their own cars. The Council has quite properly allowed such expenses to be claimed. However, there is some uncertainty whether this should be identified as a taxable benefit. The Council has sought external advice on this point, which hinges on whether Members' homes can be designated as a 'second office'. The position is not clear cut although the initial advice is that it would be unusual for a member's home not to be a workplace and therefore no taxable benefit exists. The Council is pursuing this with HMRC.

### **Receipts for journeys made by taxis**

**19** I considered some instances drawn to my attention where receipts for journeys by taxi were not provided with expense claims. These were where taxis were booked by the driver/administrator when one of the official County Cars was not available. I do not consider there are any breaches of the Council Constitution in respect of these payments and can understand how these occasional taxi bookings by the Council provides a common-sense solution to the sometimes unpredictable nature of elected Members' travel needs. Officers state that consideration of specific provision for this will form part of the review of the County Car policy by Members.

### **Information regarding the total payments to councillors**

**20** The Council's usual practice over many years has been to publish the total costs of payments to Members without reference to the costs of the County Cars. That is the basis of the figure currently shown on its website and in its annual Statement of Accounts.

**21** Having considered the relevant Regulations (the Local Authorities (Members' Allowances) (England) Regulations 2003), I am satisfied that the Council is not required to include the cost of the County Cars within the total costs of Member allowances. The Regulations refer to travelling and subsistence allowances, which imply a reimbursement of costs directly to Members. It is my opinion that the cost of the County Cars represents a corporate expense for the Council, rather than payments to individual Members.

**22** However, I can see that it is possible to interpret this differently and, in the spirit of openness, the Council may wish to consider including the additional information in future.

## **Payments made for Members attending party political conferences**

**23** On two occasions the costs of a Member attending political conferences were incurred by the Council with the intention that they would be reimbursed. There was some delay in the Council seeking reimbursement of these costs, due to an administrative oversight, and it was only recently identified that this reimbursement had not been fully made. These costs have now been repaid to the Council. The Council has recognised that its procedures should be improved and I am assured that in future it will not make such bookings on behalf of any Member.

## **The overall costs of the County Cars service, and the costs incurred in providing transport for one named Member**

**24** The Objector raised concerns that payments appear in total to be excessive. In particular the Objector believed that many of the journeys could have been undertaken more cost effectively through public transport, for instance.

**25** It is not the auditor's role to question the merits of the policies of the Council. It is the Council's responsibility to ensure proper consideration is given to spending public money and to ensure adequate controls are put in place. I have recommended that the Council gives proper and full consideration to costs when it undertakes its planned review of the County Car Service and policy.

## **Way forward**

**26** The Council has already taken action in relation to a number of the above issues.

- Any identified inappropriate payments have been repaid by the relevant Members.
- The Council has suspended the use of the County Cars for private purposes.
- The arrangements for booking and recording the use of County Cars have been improved.

**27** Action is in hand for the remaining issues and in particular:

- the Council is seeking clarification of the tax position in respect of journeys from Members' homes to County Hall from HMRC;
- the Council is undertaking a full review of the County Car scheme which will include a consideration of costs; and
- Internal Audit's recommendations are being implemented.

**28** I will consider the progress made by the Council as part of my 2011/12 audit.

## Recommendations

- R1** Review the County Cars policy to consider and clarify 'private use' and journeys from 'home to County Hall' taking into account advice from HMRC.
  - R2** Consider including the cost of the County Cars within the total costs of Member allowances published on the Council website and within its annual statement of accounts.
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## Appendix 1 Action plan

### Recommendations

#### Recommendation 1

Review the County Cars policy to consider and clarify 'private use' and journeys from 'home to County Hall' taking into account advice from HMRC.

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| <b>Responsibility</b> | Director of Governance and Law |
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|-----------------|------|
| <b>Priority</b> | High |
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| <b>Date</b> | Immediately upon receipt of HMRC advice. |
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#### Comments

#### Recommendation 2

Consider including the cost of the County Cars within the total costs of Member allowances published on the Council website and within its annual statement of accounts.

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| <b>Responsibility</b> | Corporate Director of Finance and Procurement |
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| <b>Priority</b> | Medium |
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| <b>Date</b> | 30 April 2012 |
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#### Comments

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