

By: Chairman of the Member Remuneration Panel

To: County Council – 18 July 2013

Subject: Report of the Members Remuneration Panel on Members' Travel Expenses

Summary: This report sets out the Member Remuneration Panel's recommendations to the County Council on Members' Travel Expenses.

1. Introduction

(1) Two of the three Independent Members of the Member Remuneration Panel met on 10 July 2013 to consider the report of the Leader of the Council and the Corporate Director of Finance & Procurement on the options to mitigate the impact of a recent ruling by Her Majesty's Revenue & Customs (HMRC) on taxing Members' home to office travel claims.

(2) The views of the third member of the Panel were sought separately, as he was not able to attend the meeting on 10 July. The report that follows is the collective and unanimous view of all members of the Panel.

2. Current Position

(1) The Panel noted that:

(a) the County Council had not been successful in persuading HMRC to amend or disapply their rules, despite representations made at the most senior level. Kent County Council had prepared to implement the rules with effect from 1 May 2013;

(b) if Members regularly see constituents in their own homes, they should declare this and consequently there would be no tax liability on home to office travel claims (and, therefore, no consequential increase in mileage rates);

(c) the County Council has to apply the HMRC rules to be legally compliant. Compliance with the rules will cost Kent County Council an estimated £12k for employer Class 1 National Insurance contributions; and

(d) calculating the financial implications of the options set out in the paper to a precise figure was impossible because:

- (i) There are 38 new Members of the Council in respect of which the County Council had no travel history on which to base future costs;
- (ii) Without examining every Member's travel claim for every month, home to office mileage is not known with precise accuracy;
- (iii) The new rules may change travel behaviour;
- (iv) The age of the Member claiming travel affects their deductions

- (iv) The marginal rate of tax individual members are liable to pay is wither 20%, 40% or 45%;

(2) Therefore, the figures in the report had to be viewed in the context of a best estimate.

3. Views of the Selection & Member Services Committee

(1) Mr P B Carter, Leader of the Council, attended the meeting at the request of the Panel to answer questions of the Panel Members.

(2) Mr Carter informed the Panel that the Selection and Member Services Committee on 9 July had reached the conclusion that Option 2 was the preferred option as it was close to cost neutral as possible for Members (without multiple rates and huge complexity) but incurred greater cost for the Council (approximately £45k in addition to the £12k for the National Insurance contributions).

(3) Seven of the eight Committee members supported Option 2, with one Member abstaining to enable discussions to take place within their political group.

(4) The Corporate Director of Finance and Procurement had been requested by the Committee to seek the written confirmation from HMRC that it would consider Option 2 to be acceptable and, in the absence of any view to the contrary, this Panel be requested to consider the Options set out in the report in the light of the Selection and Members Services Committee's preference for Option 2.

(5) The Committee also agreed that the necessary deductions for tax and National Insurance Contributions (NICs) would take effect from 1 July 2013.

4. Conclusions of the Member Remuneration Panel

(1) The Panel considered very carefully the options set out in the report, the views of the Selection and Member Services Committee on 9 July and the answers to their questions raised with the Leader of the County Council.

(2) The Panel dismissed Option 1 immediately as they did not consider this was viable or fair to the elected Members. The Panel proceeded to focus its discussion on two Options – Option 2 and Option 3. There was an initial attraction to Option 3 which had the potential to be cost-neutral to the County Council but would have some winners and many losers at the individual Member level and, therefore, was not a viable way forward.

(3) Because of the intransigent position taken by HMRC and the way that the rules are applied, the Panel felt it had no option other than to be fair to the elected Members to allow them to carry out their duties as public servants. Therefore, the Panel unanimously support Option 2 but regretted the impact this will have on Kent County Council whilst providing additional revenue to HMRC.

5. Recommendation

The Panel recommends that the County Council adopts Option 2.