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DYFED-POWYS  
POLICE AND CRIME  
COMMISSIONER

## REPORT / SUMMARY DECISION SHEET

**PURPOSE: COMMISSIONER DECISION**

**Timing: Pressing**

**Title: Discretionary Payments**

**Category of Decision / Business Area Impact: Employee Benefits**

### **Executive Summary:**

In 2013 the legality of some discretionary payments made to Chief Officers nationally was questioned. Once this issue was raised the Commissioner stopped all such payments in Dyfed Powys and letters were sent to those concerned.

Prior to these payments being stopped, discretionary allowances paid to Chief Officers in Dyfed Powys totalled approximately £160k. Health cover payments of about £14k were also paid.

The Commissioner has received Counsel advice that states that these payments may be unlawful. However, it is believed that in 2009 before the commencement of making these payments that Counsel advice was obtained by the Police Authority that states that these payments are legal. However, despite extensive searching, a copy of this advice has not been found.

This case was due to be tested in the High Court by Cleveland in 2015. However, the case did not appear in the court and therefore a definitive legal position has not been established. The Commissioner has written to the Chief Officers involved and it is unlikely that they will voluntarily repay the allowances received. Therefore to progress this issue further, it is likely that the Commissioner would have to do so through the courts.

The costs associated with establishing a definitive legal position through the court will be significant with an unknown outcome. Even if the payments in question are deemed to be unlawful, there are no guarantees that we will ever successfully recover the monies due but instead, could find ourselves facing an appeal and further legal costs.

This matter has been discussed at length with our auditors and our legal adviser and reported to the Joint Audit Committee and Corporate Governance Group.

**Recommendation:**

In making a recommendation all correspondence with our external and internal legal advisers has been reviewed along with information available from others (such as a press release from North Yorkshire announcing their decision not to pursue this issue further for economic reasons.) It is the view of all those who have reviewed the facts that due to the likely costs associated with progressing this matter further through the courts and the risk of not recovering any of the sums in question even if this issue was successful, that this issue is no longer pursued.

**Police and Crime Commissioner for Dyfed-Powys**

I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Nolan Principles for Conduct in Public Life.

The above request has my approval.

**Signature:**



**Date: 29/09/2015**