

# Public Document Pack



**Helen Barrington**  
Director of Legal and  
Democratic Services  
County Hall  
Matlock  
Derbyshire  
DE4 3AG

Extension 38324  
Direct Dial 01629 538324  
Ask for Alisha Parker

PUBLIC

To: Members of Governance, Ethics and Standards Committee

Wednesday, 11 January 2023

Dear Councillor,

Please attend a meeting of the **Governance, Ethics and Standards Committee** to be held at **2.00 pm** on **Thursday, 19 January 2023** in County Hall, Matlock, Derbyshire, DE4 3AG, the agenda for which is set out below.

Yours faithfully,

A handwritten signature in black ink that reads 'Helen E. Barrington'.

**Helen Barrington**  
**Director of Legal and Democratic Services**

## **A G E N D A**

### **PART I - NON-EXEMPT ITEMS**

1. Apologies for absence  
To receive apologies for absence (if any)
2. Declarations of Interest  
To receive declarations of interest (if any)
3. Minutes (Pages 1 - 2)

To confirm the non-exempt minutes of the meeting of the Governance, Ethics and Standards Committee held on 20 October 2022.

4. Minor Change to the Constitution: ICP Joint Committee and the Health and Wellbeing Board (Pages 3 - 34)
5. Minor change to the Constitution: Trading Standards – Legislation Update (Pages 35 - 50)
6. Revisions to Council Constitution: Delegations relating to Special Severance Payments (Pages 51 - 58)
7. Revisions to Council Constitution: Local Choice functions (Pages 59 - 74)

# Public Document Pack Agenda Item 3

PUBLIC

**MINUTES** of a meeting of **GOVERNANCE, ETHICS AND STANDARDS COMMITTEE** held on Thursday, 20 October 2022 at Committee Room 1, County Hall, Matlock, Derbyshire, DE4 3AG.

## **PRESENT**

Councillor S Swann (in the Chair)

Councillors R Flatley, C Cupit, D Muller, L Grooby, W Major and K Gillott.

Apologies for absence were submitted for Councillor B Woods.

## **19/22 MINUTES**

**RESOLVED** that the minutes of the meeting of the Governance, Ethics and Standards Committee held on 14 July 2022 be confirmed as a correct record and signed by the Chairman.

## **20/22 COMPLAINTS RECEIVED AGAINST COUNCILLORS PURSUANT TO THE CODE OF CONDUCT FOR ELECTED MEMBERS FOR THE PERIOD 1 FEBRUARY 2022 TO 30 SEPTEMBER 2022**

The Director of Legal and Democratic Services H Barrington introduced a report, informing the Committee of Code of Conduct complaints against Councillors received during the period of 1 February 2022 to 30 September 2022.

**RESOLVED** to

1) Note the complaints received between 1 February 2022 to 30 September 2022 alleging that Members had breached the Code of Conduct.

## **21/22 MINOR CHANGE TO THE CONSTITUTION: AMENDMENT TO THE POWERS DELEGATED TO THE DIRECTOR OF PUBLIC HEALTH**

Principal Solicitor E Wild introduced a report, asking the Committee to note an additional delegation to the Director of Public Health which had been included in the Constitution.

**RESOLVED** to

1) Note the additional delegation to the Director of Public Health which had been included in the Constitution.

**22/22 ANNUAL REVIEW LETTER OF THE LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN FOR THE YEAR ENDED 31 MARCH 2022**

The Director of Legal and Democratic Services H Barrington

1

introduced a report, informing the Committee that Cabinet, at its meeting on 13 October 2022, considered a report of the Local Government and Social Care Ombudsman's (LGSCO) Annual Review Letter for the year ended 31 March 2022.

**RESOLVED to**

1) Note the Annual Review Letter of the Local Government and Social Care Ombudsman for the year ending 31 March 2022 and note that a report on the matter had already been considered by Cabinet on 13 October 2022.



**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**GOVERNANCE ETHICS AND STANDARDS COMMITTEE**

**19<sup>TH</sup> JANUARY 2023**

**Report of the Director of Legal and Democratic Services and Monitoring Officer**

**Minor Change to the Constitution: ICP Joint Committee and the Health and Wellbeing Board**

**1. Purpose**

- 1.1 To ask the Committee to note that reference to the new Integrated Care Partnership (ICP) joint committee and their Terms of Reference have been included within the Council's Constitution, as well as an amended terms of reference for the Health and Wellbeing Board (HWB) which have been revised in light of the creation of the ICP and approval of the terms of reference by Cabinet.

**2. Information and Analysis**

- 2.1 On 13<sup>th</sup> October 2022, Cabinet approved the establishment of the ICP as a Joint Committee, together with terms of reference. The ICP is an executive joint committee and as a result, its creations and the approval of the terms of reference fall within the remit of Cabinet. The ICP is to enable appropriate decision-making to meet the new obligations for every area in England to have an integrated Care System to ensure closer collaboration between NHS and local government partners.
- 2.2 In accordance with paragraph 2 of Article 22 of the Constitution – Review and Revision of the Constitution, the Monitoring Officer is authorised to make changes to the Constitution which are required to be made so as

to put into effect any decision of the Cabinet, Cabinet Member, Committee, sub-Committee or officer exercising delegated powers. The Monitoring Officer received a report on 28<sup>th</sup> November 2022 and approved the making of the amendments. A copy of the Report and Officer Decision Record are attached at Appendix 2. A copy of the Terms of Reference for the ICP joint committee which are now included within Article 18 – Other Joint Committees of the Constitution are attached at Appendix 3, and a copy of the revised Terms of Reference for the HWB which are now included within the Constitution at Article 14 are attached at Appendix 4.

- 2.3 Any such amendments must be reported retrospectively to the Governance, Ethics and Standards Committee and to Full Council for noting.

### **3. Consultation**

- 3.1 None required

### **4. Alternative Options Considered**

- 4.1 This is a report provided for information in order to fulfil the requirements of Article 22 to retrospectively report any amendments made to the Constitution by the Monitoring Officer and Director of Legal Services.

### **5. Implications**

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

### **6. Background Papers**

- 6.1 Report to Cabinet of 13<sup>th</sup> October - Establishment of ICP Joint Committee and nominations  
<https://democracy.derbyshire.gov.uk/documents/s16824/ICP%20Joint%20Committee.pdf>

### **7. Appendices**

- 7.1 Appendix 1 – Implications  
Appendix 2 – Report to the Monitoring Officer and Officer Decision Record

## **8. Recommendation(s)**

That Committee notes:

- a) The inclusion in the Constitution of reference to the new Integrated Care Partnership (ICP) joint committee as established by Cabinet and their terms of reference as approved by Cabinet;
- b) The inclusion in the Constitution of the revised terms of reference for the Health and Wellbeing Board (HWB) at Article 14 as approved by Cabinet; and
- c) That the amendments detailed will also be referred to full Council to note.

## **9. Reasons for Recommendation(s)**

- 9.1 That Committee is required to be retrospectively notified of any amendments made to the Constitution by the Monitoring Officer and Director of Legal Services in order to fulfil the requirements of Article 22.

**Report Author:** Elizabeth Wild  
Principal Solicitor,  
Legal Services

**Contact details:** Elizabeth.wild@derbyshire.gov.uk

**Implications**

**Financial**

- 1.1 There are no significant implications for the Council as this does not involve any expenditure or budgetary changes.

**Legal**

- 2.1 As described within the report

**Human Resources**

- 3.1 This is an administrative decision and as such, there are no Human Resources implications

**Information Technology**

- 4.1 This is an administrative decision and as such, there are no Information Technology implications

**Equalities Impact**

- 5.1 This is an administrative decision and as such, there are no Equalities implications

**Corporate objectives and priorities for change**

- 6.1 This links to the Council Priority of High Performing Value for Money and Resident Focused Services. The changes proposed will enable efficient and up to date functioning of the Council as a corporate body.

**Other (for example, Health and Safety, Environmental, Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

- 7.1 None



**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**REPORT TO THE MONITORING OFFICER AND DIRECTOR OF LEGAL  
AND DEMOCRATIC SERVICES**

**28<sup>TH</sup> NOVEMBER 2022**

**Report of the Principal Solicitor**

**Minor change to the Constitution: ICP Joint Committee and the Health  
and Wellbeing Board**

**1. Purpose**

- 1.1 To seek approval to include in the Constitution reference to the new Integrated Care Partnership (ICP) joint committee and their terms of reference which have been approved by Cabinet and an amended terms of reference for the Health and Wellbeing Board (HWB) which have been revised in light of the creation of the ICP and which also have been approved by Cabinet.

**2. Information and Analysis**

- 2.1 On 13<sup>th</sup> October 2022, Cabinet approved the establishment of the ICP as a Joint Committee, together with terms of reference. The ICP is an executive joint committee and as a result, its creation and the approval of the terms of reference fall within the remit of Cabinet. The ICP is to enable appropriate decision-making to meet the new obligations for every area in England to have an integrated Care System to ensure closer collaboration between NHS and local government partners.
- 2.2 It is therefore proposed to add the Terms of Reference attached at Appendix 2 for the ICP within Article 18 – Other Joint Committees as item 18.4.

- 2.3 The revised terms of reference for the Health and Wellbeing Board which reflect the role of the ICP are attached at Appendix 3 will replace those currently at Article 14. The HWB is also joint executive committee and so consideration of the revision of the terms of reference falls to Cabinet.
- 2.4 In accordance with paragraph 2 of Article 22 of the Constitution – Review and Revision of the Constitution, the Monitoring Officer is authorised to make changes to the Constitution which are required to be made so as to put into effect any decision of the Cabinet, Cabinet Member, Committee, sub-Committee or officer exercising delegated powers.
- 2.5 Any such amendments must be reported retrospectively to the Governance, Ethics and Standards Committee and to Full Council for noting.

### **3. Consultation**

- 3.1 Not applicable as this is an administrative decision to ensure that the Constitution remains up to date.

### **4. Alternative Options Considered**

- 4.1 Not to include the reference to the ICP, the terms of reference and the revised terms of reference for the HWB would not reflect the decisions made by Cabinet. Therefore, not amending the Constitution to include these would not be appropriate.

### **5. Implications**

- 5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

### **6. Background Papers**

- 6.1 Report to Cabinet of 13<sup>th</sup> October - Establishment of ICP Joint Committee and nominations  
<https://democracy.derbyshire.gov.uk/documents/s16824/ICP%20Joint%20Committee.pdf>

### **7. Appendices**

- 7.1 Appendix 1 – Implications
- 7.2 Appendix 2 – Terms of Reference for the ICP
- 7.3 Appendix 3 – Revised Terms of Reference for the HWB

#### 7.4 Appendix 4 – Proposed Officer Decision

### 8. Recommendation(s)

That the Monitoring Officer and Director of Legal and Democratic Services agrees to:

- a) include in the Constitution reference to the new Integrated Care Partnership (ICP) joint committee and their terms of reference as approved by Cabinet at Article 18;
- b) include the revised terms of reference for the HWB as approved by Cabinet at Article 14; and
- c) report the amendment to the Governance, Ethics and Standards Committee and full Council for noting.

### 9. Reasons for Recommendation(s)

- 9.1 To ensure that the relevant part of the Council's Constitution remains accurate and current.
- 9.2 To ensure that a decision of Cabinet is implemented.

**Report Author:** Elizabeth Wild

**Contact details:** [Elizabeth.wild@derbyshire.gov.uk](mailto:Elizabeth.wild@derbyshire.gov.uk)

**Implications**

**Financial**

- 1.1 There are no significant implications for the Council as this does not involve any expenditure or budgetary changes.

**Legal**

- 2.1 As described within the report.

**Human Resources**

- 3.1 This is an administrative decision and as such, there are no Human Resources implications

**Information Technology**

- 4.1 This is an administrative decision and as such, there are no Information Technology implications

**Equalities Impact**

- 5.1 This is an administrative decision and as such, there are no equalities implications

**Corporate objectives and priorities for change**

- 6.1 This links to the Council Priority of High Performing Value for Money and Resident Focused Services. The changes proposed will enable efficient and up to date functioning of the Council as a corporate body.

**Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**


- 7.1 None

# DERBYSHIRE COUNTY COUNCIL

## OFFICER DECISION AND DECISION REVIEW RECORD

<b>Officer:</b> Helen Barrington <i>*For emergency powers, this would be the Executive Director</i>		<b>Service:</b> Legal & Democratic Services
<b>Delegated Power Being Exercised:</b> Director of Legal and Democratic Services - delegated Power <i>*The delegation detailed in the Constitution to the specified officer or emergency powers</i>		
<b>Subject of Decision:</b> (i.e. services affected)	Minor change to the Constitution to include reference to, and the terms of reference for, the Integrated Care Partnership (ICP) and to include the amended terms of reference for the Health and Wellbeing Board	
<b>Is this a review of a decision? If so, what was the date of the original decision?</b>	No	
<b>Key decision? If so have Democratic Services been notified?</b>	This is not a key decision	
<b>Decision Taken (specify precise details, including the period over which the decision will be in place and <b>when it will be (further) reviewed</b>):</b>	That the Monitoring Officer and Director of Legal and Democratic Services agrees to: <ul style="list-style-type: none"> <li>d) include in the Constitution reference to the new Integrated Care Partnership (ICP) joint committee and their terms of reference as agreed by Cabinet on 13<sup>th</sup> October 2022 at Article 18;</li> <li>e) include the revised terms of reference for the HWB as approved by Cabinet on 13<sup>th</sup> October 2022 at Article 14; and</li> <li>f) report the amendment to the Governance, Ethics and Standards Committee and full Council for noting.</li> </ul>	
<b>Reasons for the Decision (specify all reasons for taking the decisions including where necessary reference to Council policy and anticipated impact of the decision)</b> Where the decision is subject to statutory guidance please state how this has been taken into consideration.	To ensure that the relevant part of the Council's Constitution remains accurate and current.  To ensure that a decision of Cabinet is implemented.	

Alternative Options Considered (if appropriate) and reasons for rejection of other options	Not to include the reference to the ICP, the terms of reference and the revised terms of reference for the HWB would not reflect the decisions made by Cabinet. Therefore, not amending the Constitution to include these would not be appropriate.
Has a risk assessment been conducted ?- if so what are the potential adverse impacts identified and how will these be mitigated?	No – this is an administrative decision and a risk assessment is not required
Would the decision normally have been the subject of consultation with service users and the public? If so, explain why this is not practicable and the steps that have or will be taken to communicate the decision	No, this is an administrative decision.
Has any adverse impact on groups with protected characteristics been identified and if so, how will these be mitigated?	This is an administrative decision and as such, there are no equalities implications
Background/Reports/Information considered and attached (including Legal, HR, Financial, Equality and other considerations as required))	As set out in the report to the Director of Legal & Democratic Services dated 28th November 2022.
Consultation with relevant Cabinet Member (s) – please note this is obligatory.	The decisions to establish the ICP Joint Committee, approve its terms of reference and approve revised the Terms of Reference for the Health and Wellbeing Board were made by Cabinet following a report on 13 <sup>th</sup> October 2022.
Approval of Chair of appropriate Improvement and Scrutiny Committee where call in is intended to be waived – please	Not applicable.

note this is obligatory in those circumstances		
Decision:	Approved by Helen Barrington, Director of Legal & Democratic Services	
Signature and Date:		
		
22 <sup>nd</sup> December 2022		

This page is intentionally left blank

## Appendix 2 – Terms of Reference for Integrated Care Partnership



### **Derby and Derbyshire Integrated Care System Partnership (ICP) Terms of Reference and core strategic functions**

#### **Background**

The Derby and Derbyshire Integrated Care Partnership (ICP) is a statutory joint committee in accordance with Section 116ZA of Local Government and Public Involvement in Health Act 2007 and is part of the Derby and Derbyshire Integrated Care System (ICS).

Derby and Derbyshire Integrated Care System works across the local authority footprints of Derby City and Derbyshire County. The ICP is one of two statutory bodies within the ICS, the other being the Derby and Derbyshire Integrated Care Board (ICB), which has also been established by legislation.

The ICP is a broad alliance of organisations and representatives concerned with improving the care, health, and wellbeing of the population, jointly convened by local authorities and the NHS as equal partners to facilitate joint action to improve health and care outcomes and experiences, influence the wider determinants of health, and plan and deliver improved integrated health and care.

The ICP will work alongside other organisations and members of the voluntary sector, as well as the Health and Wellbeing Boards for Derby and Derbyshire, in relation to delivering population health and wellbeing outcomes.

#### **Purpose and function**

The ICP's primary purpose will be to act in the best interest of people, patients, and the system, rather than representing individual interests of any one constituent partner.

Under s1176ZB of the Local Government and Public Involvement in Health Act 2007 the Derby and Derbyshire ICP is required to prepare an Integrated Care Strategy that:

- Details how the needs of resident of its areas will be met either by the ICB, NHS England or local authorities.

- Considers how NHS bodies and local authorities could working together to meet these needs using section 75 of the National Health Service Act 2006.
- Must have regard to the NHS mandate and guidance published by the Secretary of State.
- Involves Local Healthwatch and people who live or work in the ICP's area.
- Is reviewed and revised as required when a new joint strategic needs assessment is received from a local authority within the ICP.
- Considers how health related services can be more closely integrated with arrangements for the provision of health services and social care in its area.
- Is published and provided to each local authority in its area and each partner Integrated Care Board of those local authorities.

Under s116B of the Local Government and Public Involvement in Health Act 2007 a local authority and each of its partner ICPs must have regard to:

- Any joint assessment of health and social care in relation to the area for which they are responsible.
- Any Integrated Care Strategy that applies to the area of the local authority.
- Any Joint Health and Wellbeing Strategy prepared by the local authorities and any of its partner ICBs.

These statutory functions will be supported by the following actions:

- Provide a forum to build on the joint positive working between the NHS ,local authorities and the voluntary sector.
- Sign off the strategic intent for the health and social care system including the development of the Integrated Care Strategy and refresh
- Oversee integration between NHS and social care, including conversations about shared budgets.
- Leads on preventative actions that are clearly linked to health and social care service provision.
- Drive the delivery of a shift of resources into prevention
- Provide the opportunity to unblock obstacles to success emerging in local Place Alliances and to hear the voices of those on the frontline to inform strategic thinking and planning within Derby and Derbyshire Integrated Care System.
- Develop a clear view on the contribution of the health and social care services into improving population health, the wider determinants of health and reducing health inequalities.
- Contribute to the “anchor” approach.
- Working with Health and Wellbeing Boards and with broader partnerships and partners to support action linked to primary prevention and the wider determinants of health.

- Collaborate with the activity of the Integrated Care Board to ensure an aligned approach to activity.
- Mobilises services linked to partner organisations to operationalise and support delivery in health and social care space

## **Chairing**

### **Chair**

The meeting will be chaired on a rotating basis by the Chair of Derby Health and Wellbeing Board and the Chair of the Derbyshire Health and Wellbeing Board.

The Health and Wellbeing Board representatives or ICB representative can name a suitable delegate to represent them on a regular basis at the meeting.

### **Vice-chair**

The vice chair will be the ICB Board Chair, and this person will deputise should the scheduled Chair be unable to attend a meeting.

The chairs and vice chair will be equal functional roles in this partnership.

### **Chairing arrangements**

The chair of the meeting will rotate after every three meetings. Development sessions will be jointly chaired, and appropriate arrangements will be put in place for any additional meetings convened at short notice.

Should neither the Chair nor vice-chair be able to attend a meeting of the Integrated Care Partnership, the ICP members present at meeting will agree to appoint a Chair for that meeting from the members present. It is assumed that in the first instance the Health and Wellbeing Board Chair not currently holding the chair on the rotation would be asked.

## **Membership**

The full Integrated Care Partnership membership will comprise:

- Rotating Chairs: Derby City Council Health and Wellbeing Board Chair and Derbyshire County Council Health and Wellbeing Board Chair.
- Vice Chair: Integrated Care Board Chair
- NHS Derby and Derbyshire Integrated Care Board:
  - the ICB Chief Executive Officer
  - One Executive Director member
  - One Non-Executive member

At least one member of the ICB must be present at the meeting.

- Political leadership from Derby City Council and Derbyshire County Council comprising:

- Executive member with responsibility for Public Health (if not covered by Health and Wellbeing Board Chair role)
  - Executive member with responsibility Adult Social Care
  - Executive member with responsibility Children's Social Care
- Local authority officers from Derby City Council and Derbyshire County Council comprising:
  - Statutory Officer who fulfils the role of Director of Adult Social Services
  - Statutory Officer who fulfils the role of Director of Children's Services
  - Statutory Officer who fulfils the role of Director of Public Health

At least one representative from each local authority must be present at the meeting. This can be a political or senior officer representative.

Other members of the Integrated Care Partnership include:

- Derbyshire Community Health Services NHS Foundation Trust, Chief Executive
- Derbyshire Healthcare NHS Foundation Trust, Chief Executive
- University Hospitals of Derbyshire and Burton NHS Foundation Trust, Chief Executive Officer
- Chesterfield Royal Hospital NHS Foundation Trust, Chief Executive Officer.
- East Midlands Ambulance Service NHS Foundation Trust representative.
- DHU Health Care, Chief Executive
- Primary Care Networks Clinical Director
- Place Partnerships Clinical Chair
- Provider GP Leadership Board Chair
- Clinical Professional Leadership Board Chair
- District and borough council political leadership comprising:
  - Two elected members who are representatives on Derbyshire Health and Wellbeing Board
- District and borough council chief officers comprising:
  - Two chief officers from the same organisations as the political district and borough council leadership reps
- Voluntary and Community Sector representatives:
  - One person representing Derbyshire based organisations
  - One person representing Derby City based organisations
- Healthwatch Chief Executive Officers
  - Healthwatch Derbyshire, Chief Executive Officer, Healthwatch Derbyshire.
  - Healthwatch Derby, Chief Executive Officer, Healthwatch Derby

Specific officers may be asked to attend meetings to provide detailed insight and input to topics or issues and these officers will not be able to vote on matters. NHS England shall be entitled to attend meeting as an observer and shall not be entitled to vote.

The ICP membership will be reviewed annually in line with the financial year commencing in April.

Public and patient experience, including those with lived experience, will feed into the Derby and Derbyshire ICP through its engagement activities and its Citizens Panel which will inform the work of the partnership.

### **Attendance**

Attendance of ICP meetings will be monitored and fed back to the ICP annually. Members are expected to attend at least four meetings held each calendar year.

### **Term of office**

The term of office of members shall end if:

- a) Rescinded by the organisation by whom they are appointed
- b) If a Councillor appointed by a Council cease to be a member of the appointing Council
- c) If the individual change's role within an organisation and is no longer in the role that led to their appointment to the ICP.

### **Substitutes**

It is expected that members will prioritise attendance at these meeting and make themselves available. Exceptionally where this is not possible a deputy of sufficient seniority may attend, if required who will be able to make decisions on behalf of their organisation in accordance with the objectives set out in the Terms of Reference for this group. The Chair of the ICP must be informed in advance of the relevant meeting of the identify of a substitute.

### **Responsibilities of ICP members**

Members should be senior leaders and key decision makers who are able to actively contribute to, and be collectively accountable for, the development and delivery of the Integrated Care Strategy and achievement of our shared ambition to health and care outcomes and reduce health inequalities.

All members will:

- Fully engage in the Integrated Care Partnership including active participation in discussions and decision-making relating to all relevant agenda items.
- Propose, as appropriate, agenda items, for information or discussion, to the Integrated Care Partnership.
- Represent their respective organisations or networks they represent and must take responsibility for communicating all relevant information within their organisation or network.
- Actively progress any strategic decision or action agreed at the Integrated Care Partnership through their own organisation and any relevant partners and networks.
- Ensure full support and implementation of the Integrated Care Strategy through their own organisation and relevant networks.
- Ensure their organisations are fully represented and participate in relevant sub-groups and/ or Task and Finish groups as appropriate.
- Members are expected to make good two-way connections between the Derby and Derbyshire ICP and the constituent partners, modelling a collaborative approach to working, and listening to the voices of people, patients, and the public utilising where possible the 'Ten principles for how ICSs work with people and communities, attached as Appendix 2.
- District Council members are in attendance on behalf of the other district councils and therefore have an obligation to feed in and out from the broader group of district councils.
- For Local Authority representatives this will be in accordance with the due political process.
- The Integrated Care Partnership will direct and commission specific pieces of work
- ICP members will be expected to action, coordinate, and feedback on agreed actions within agreed timescales.

## **Frequency**

The ICP will meet every eight weeks for a maximum of 3 hours unless the ICP agrees via a formal vote of members at the meeting to continue beyond this time limit.

If there is insufficient business the Chair can agree to cancel the meeting up to 5 days in advance of the set meeting date.

The date, time and venue of meetings will be fixed in advance and an annual schedule of meetings will be agreed.

Additional meetings may be convened at the request of the Chair or Vice Chair.

## **Reporting**

Reports considered by the Integrated Care Partnership will need to make a clear recommendation and demonstrate how they are delivering against integrated Care Strategy priorities. Reports for information and noting will be circulated electronically between meetings to ensure that information is shared in a timely manner.

### **Agenda planning**

All partnership members will be asked to put forward reports for consideration prior to agendas being finalised.

The Chair will set the agenda for the meeting.

### **Meeting Agenda**

The agenda will be approved by the co-chairs and will follow the following format:

- a) Apologies
- b) Declarations of Interest
- d) Minutes and action log of previous meeting
- e) Items for discussion and decision
- f) Items for information (where no decision is required).

All reports associated with agenda items must meet standard reporting requirements and be received by the secretariat by the date stated when agenda items are requested.

No late items will be accepted.

The agenda will be published at least five clear working days before the meeting, a copy of the agenda and associated papers will be sent to every member of the ICP.

### **Minutes**

The minutes of the proceedings will be approved at the next suitable meeting after they have been agreed as a correct record at that meeting. The minutes will be accompanied by a list of agreed action points which may be discussed in considering the minutes of the previous meeting should they not be specifically listed as items on the agenda for that meeting.

### **Quorum**

The meeting will be quorate when one ICB representative and one local authority member from both Derby and Derbyshire local authorities are present. The meeting will not proceed if Quorum is not met.

If any member of the Derby and Derbyshire ICP has been disqualified from participating in the discussion and/or decision-making for an item on the agenda, by reason of a declaration of a conflict of interest, then that individual shall no longer count towards the quorum.

### **Declaration of Interests**

Any interests held by members should be declared on any item of business at the meeting in accordance with procedures of the host authority.

The code of conduct for the members organisation will apply e.g., Derbyshire County Council Councillor will utilise their code of conduct. If organisations do not have their own code of conduct, then the code of conduct for the organisation hosting the meetings will apply.

### **Voting**

At this stage of its development the ICP will operate on a consensus basis.

Where items cannot be agreed on a consensus basis a small task and finish group involving necessary representatives will be established to consider matters outside of the ICP meeting, reporting back with an agreed way forward. If required, this will be facilitated by a third party.

### **Development sessions**

In addition to the formal public meetings, the ICP will hold regular development sessions. Development sessions will be held in private to support specific issue focused discussion and learning and active development of ICP members.

### **Operational Delivery**

Where possible delivery against priorities in the ICS Strategy and actions agreed by the ICP will be delivered by established system groups.

The ICP will be mindful of other system priorities and key groups, such as the Health and Wellbeing Board, Health and Wellbeing Partnerships and City Partnership when agreeing work programmes or actions.

The ICP will have a clear understanding of its relationships with other boards and seek to avoid duplication of effort and ensure alignment with other system activity. The governance diagram at Appendix 1 of this document sets out the

relationship between the ICP and other groups and programmes of work in Derbyshire. If required a protocol document between the ICP and other strategic groups will be established to facilitate discussions and delivery against priorities.

The ICP will have two groups which can as appropriate report into the meeting, the Integrated Place Executive, and the Provider Collaboration Board. The Board will also receive regular updates from Derbyshire Health and Wellbeing Board and Derby Health and Wellbeing Board. The ICP will also update other Boards on its programme of work on a regular basis.

Place Alliances will be aligned to the Integrated Care Partnership and act as a delivery structure, working alongside Derbyshire Health and Wellbeing Partnerships and strategic groups in Derby City, to coordinate delivery of agreed actions and pieces of work.

Task and finish groups will be established by exception to take forward key pieces of work where this is no identified system group. Task and finish groups will include representatives from partner organisations and wider stakeholders.

### **Access to Information/Freedom of information**

The ICP shall be regarded as a local authority committee for access to information purposes and meetings will normally be open to the press/public.

### **ICP papers**

The agenda and supporting papers shall be circulated at least five clear working days in advance meetings and published on the Derby City Council website. Minutes will be published on the Derby City Council website.

Partners will be able to link to this online resource and share information about forthcoming meetings as appropriate.

### **Scrutiny**

Decisions of the ICP will be subject to scrutiny and the “call-in” powers of the constituent councils’ scrutiny arrangements.

### **Secretariat**

The Secretariat role will be provided by Derby City Council. This role will include minute-taking and distribution, administration of all agenda items and associated papers.

## **Remuneration**

Members attendance at meeting will not result in additional payments. Mileage and expenses can be made by the respective authorities or organisations in line with organisational policy and procedures.

## **Support arrangements**

The host authority will also provide support via the Monitoring Officer and Section 151 officer.

## **Information Sharing Protocol**

If necessary, the ICP and partners will develop an information sharing protocol to enable the effective sharing of information and ensure compliance with General Data Protection Regulations.

## **Review**

These terms of reference will be reviewed annually or earlier if required.

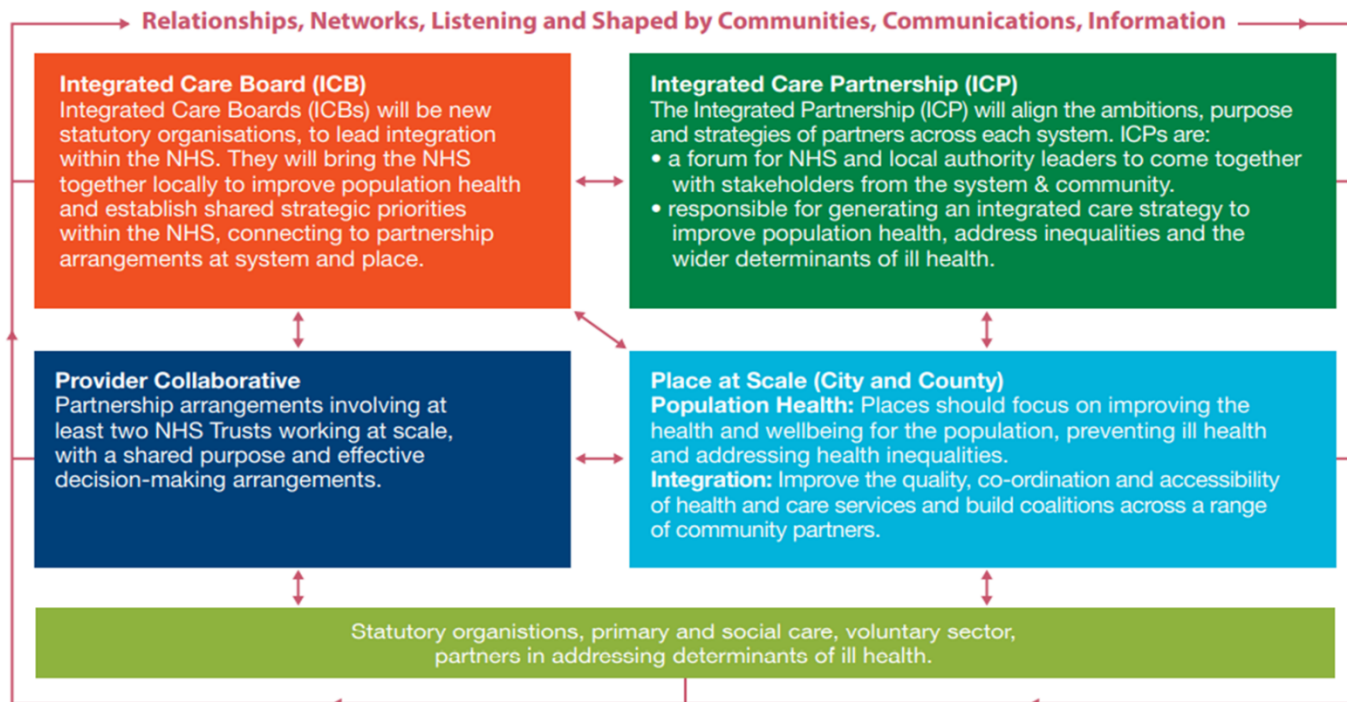
### **Last Review**

September 2022

### **Next Review**

April 2023

## Terms of Reference Appendix 1: ICP Relationship with other Boards



## **Terms of Reference Appendix 2: Ten principles for how ICSs work with people and communities**

1. Put the voices of people and communities at the centre of decision-making and governance, at every level of the ICS.
2. Start engagement early when developing plans and feed back to people and communities how their engagement has influenced activities and decisions.
3. Understand your community's needs, experience and aspirations for health and care, using engagement to find out if change is having the desired effect.
4. Build relationships with excluded groups, especially those affected by inequalities.
5. Work with Healthwatch and the voluntary, community and social enterprise (VCSE) sector as key partners.
6. Provide clear and accessible public information about vision, plans and progress, to build understanding and trust.
7. Use community development approaches that empower people and communities, making connections to social action.
8. Use co-production, insight, and engagement to achieve accountable health and care services.
9. Co-produce and redesign services and tackle system priorities in partnership with people and communities.
10. Learn from what works and build on the assets of all ICS partners – networks, relationships, activity in local places

## **Appendix 3: Derbyshire Health and Wellbeing Board (HWB) - Terms of Reference and core strategic functions**

### **Background**

Under the Health and Social Care Act 2012 all local authorities are required to establish a Health and Wellbeing Board (HWB) for its area. The Health and Wellbeing Board is established as a committee of Derbyshire County Council.

The legislative framework for the wider health and social care system is within the [Health and Social Care Act 2012](#).

### **Vision and objectives**

Derbyshire Health and Wellbeing Board has a vision to:

Focus on prevention and the wider determinants of health so that the work of the Board will reduce health inequalities and improve health and wellbeing across all stages of life by working in partnership with our communities.

The objectives of the Board are to enable the residents of Derbyshire to:

- Start Well,
- Live Well and Stay Well,
- Age Well and Die Well.

### **Purpose and function**

Derbyshire Health and Wellbeing Board must undertake the following statutory functions by:

- Preparing and publishing a Joint Strategic Needs Assessment (JSNA) of current and future health and social care needs and ensuring it informs the Health and Wellbeing Strategy and Integrated Care Strategy.
- Preparing and publishing a Joint Local Health and Wellbeing Strategy (JLHWS) for Derbyshire.
- Promoting integrated working in planning, commissioning and delivery of services to improve the health and wellbeing of the population of Derbyshire, including the use of Section 75 agreements.
- Receiving and responding to the plan of the Integrated Care Board
- Preparing and publishing a Pharmaceutical Needs Assessment to assess the need for pharmaceutical services in Derbyshire.
- Expressing an opinion when an application is received from pharmacies in Derbyshire where they wish to consolidate or merge.

These statutory functions will be supported by the following actions:

- Holding organisations and partners to account for delivering against the priorities outlined in the Health and Wellbeing Strategy.

- Ensuring the Health and Wellbeing Strategy has a clear focus on activity linked to primary and secondary prevention, which the Board, through the organisations represented on it, can lead on.
- Championing prevention and population health as important strategic issues and influencing organisations and partnerships both within and external to ICS to reflect this in their work.
- Working as part of the wider system to address strategic challenges for population health, with a particular focus, where appropriate, of working collaboratively with Derby City Health and Wellbeing Board.
- Representing Derbyshire in relation to health and wellbeing issues at a regional and national level where appropriate.
- Working closely with the Derbyshire Healthwatch to ensure appropriate engagement and involvement with patients and service users.
- Ensuring that, where appropriate, system wide delivery plans or shared spaces to collaborate are in place to support the HWBS strategic priorities and outcomes.
- Challenging performance against the outcomes outlined in the HWBS via the HWB dashboard indicators which make links to performance frameworks for the NHS, public health and local authorities.
- Developing mechanisms to measure, monitor and report improvements in health and wellbeing outcomes for Derbyshire.
- Ensuring there are effective and appropriate mechanisms to communicate, engage and co-produce health and wellbeing strategy priorities with local people and stakeholders.

## **Membership**

The Health and Wellbeing Board will involve Integrated Care System and wider partners. The Cabinet member with Executive responsibility for Public Health will Chair the Board. The Vice Chair is indicated in the membership list below should the Chair be unable to attend a meeting.

Should neither the Chair nor vice-chair be able to attend a meeting of the Health and Wellbeing Board, the members present at the meeting will agree to appoint a Chair for that meeting from the members present.

The full Health and Wellbeing Board membership will comprise:

- Cabinet Member with Executive responsibility for Public Health (Chair) (Statutory)
- Chief Executive Officer for Derby and Derbyshire Integrated Care Board (Statutory)
- Non-Executive Director for Derby and Derbyshire Integrated Care Board (Vice chair) (Statutory)

- Senior officer with statutory responsibility for Adult Social Care, Derbyshire County Council (Statutory)
- Senior officer with statutory responsibility for Children's Services, Derbyshire County Council (Statutory)
- Director of Public Health, Derbyshire County Council (Statutory)
- One representative from Healthwatch Derbyshire (Statutory)

Statutory officer who fulfils role of

- Cabinet Member with responsibility for Adult Social Care
- Cabinet Member with responsibility for Children's Social Care
- Chair of 3D to represent the voluntary sector
- One elected member holding a relevant Cabinet portfolio or committee chairperson from each district or borough council in Derbyshire
- Police and Crime Commissioner for Derbyshire
- One senior officer representative from Derbyshire Constabulary
- One senior officer representative from Derbyshire Fire and Rescue Service

The Board can co-opt additional members as it considers appropriate in relation to Health and Wellbeing Strategy priorities.

Representatives from NHS England, Public Health England, the UK Health Security Agency, or Office of Health Improvement can attend the Board meetings as required, but in relation to specific issues or area of interest. These officers will not be able to vote on matters.

Senior officers from district and borough councils may attend the meeting to support district and borough elected members who are formal members of the committee. These officers will not be able to vote on matters.

Specific officers may be asked to attend one or a series of HWB meetings to provide detailed insight and input to particular topics or issues, such as one of the Health and Wellbeing Board priorities. These officers will not be able to vote on matters.

The Board membership will be reviewed annually in line with the municipal year.

### **Responsibilities of Board members**

Members should be senior leaders and key decision makers who are able to actively contribute to, and be collectively accountable for, the development and delivery of the Health and Wellbeing Strategy and achievement of our shared ambition to improve population health and wellbeing outcomes and reduce health inequalities.

All members will:

- Endeavour to attend all meetings of the Health and Wellbeing Board as no substitutes will be permitted. If they are unable to attend any actions or issues will need to be raised via liaison with another Health and Wellbeing Board member.
- Fully engage in the Health and Wellbeing Board including active participation in discussions and decision-making relating to all relevant agenda items.
- Propose, as appropriate, agenda items, for information or discussion, to the Health and Wellbeing Board.
- Represent their respective organisations or networks they represent and must take responsibility for communicating all relevant information within their organisation or network.
- Actively progress any strategic decision or action agreed at the Health and Wellbeing Board through their own organisation and any relevant partners and networks.
- Ensure full support and implementation of the Health and Wellbeing Strategy through their own organisation and relevant networks.
- Ensure their organisations are fully represented and participate in relevant sub-groups and/ or Task and Finish groups as appropriate.
- In addition to the above expectations of all members, it is also the role of the Healthwatch representative to ensure the appropriate representation of the patient, public and carer population.

### **Term of office**

The term of office of members shall end if:

- a. Rescinded by the organisation by whom they are appointed
- b. If a Councillor appointed by a Council cease to be a member of the appointing Council
- c. If the individual change's role within an organisation and is no longer in the role that led to their appointment to the HWB

### **Governance**

#### **Agenda Planning**

The Chair and Vice Chairs in conjunction with the Director of Public Health will set the agenda for future meetings. All Board members will be asked to put forward reports for consideration prior to agendas being finalised. The Board will be updated quarterly on the work of the Derby and Derbyshire Integrated Care Partnership.

#### **Reporting**

Reports considered by the Health and Wellbeing Board will need to make a clear recommendation and also demonstrate how they are delivering against Health and Wellbeing Strategy priorities. Reports for information and noting

will be circulated electronically to the Board between meetings to ensure that information is shared in a timely manner.

All reports associated with agenda items must meet standard reporting requirements and be received by the secretariat by the date stated when agenda items are requested.

No late items will be accepted.

The agenda will be published at least five clear working days before the meeting, a copy of the agenda and associated papers will be sent to every member of the Board.

### **Minutes**

The minutes of the proceedings will be approved at the next suitable meeting after they have been agreed as a correct record at that meeting. The minutes will be accompanied by a list of agreed action points which may be discussed in considering the minutes of the previous meeting should they not be specifically listed as items on the agenda for that meeting.

Minutes will be published on the Derbyshire County Council website.

### **Meetings of the Board**

#### **Frequency**

The Health and Wellbeing Board will meet on a quarterly basis.

The date, time and venue of meetings will be fixed in advance by the Board and an annual schedule of meetings will be agreed.

Meetings will normally take place at County Hall, Matlock unless the Board is required to visit another venue or participate in a joint session with Derby City. The Board is a statutory committee of the council and therefore it is required to meet in person.

If there is insufficient business the Chair can agree to cancel the meeting up to 5 days in advance of the set meeting date

Additional meetings may be convened at the request of the Chair or Vice Chair.

#### **Quorum**

A quorum of five will apply for meetings of the HWB, with at least three statutory members present.

If any member of the Board has been disqualified from participating in the discussion and/or decision-making for an item on the agenda, by reason of a declaration of a conflict of interest, then that individual shall no longer count towards the quorum.

### **Attendance**

Attendance of Health and Wellbeing Board meetings will be monitored and fed back to the Health and Wellbeing Board annually.

### **Development sessions**

In addition to the formal public meetings, the Board will hold regular development sessions – both as a Derbyshire Health and Wellbeing Board and jointly with Derby Health and Wellbeing Board as appropriate. Development sessions will be held in private to support specific issues, focused discussion and learning, ongoing review of Board functioning and active development of the Board and its members.

### **Voting**

At this stage of its development the HWB will operate on a consensus basis. If a vote is required, it will be amongst the statutory members of the Board only.

### **Declaration of Interests**

Any interests held by members or co-opted members should be declared on any item of business at meetings in accordance with the Council's Code of Conduct for Members and the Localism Act 2011.

### **Public questions**

Public questions must be tabled 3 working days in advance and in line with the procedures for Full Council and will be considered at the Chair's discretion to ensure they are relevant to the work of the Health and Wellbeing Board. Questions must be asked exactly as submitted, and no supplementary questions are allowed.

### **Scrutiny**

Decisions of the Health and Wellbeing Board will be subject to scrutiny, but will not be subject to the "call-in powers" of the Improvement and Scrutiny Committee.

### **Remuneration**

Members attendance at meeting will not result in additional payments. Mileage and expenses can be made by the respective authorities or organisations in line with organisational policy and procedures.

### **Secretariat**

The Secretariat role will be provided by Council Democratic Services. This role will include minute-taking and distribution, administration of all agenda items and associated papers. Democratic Services will be supported with co-ordination and operational assistance by Public Health officers.

### **Support arrangements**

Derbyshire County Council will also provide support via the Monitoring Officer and Section 151 officer.

### **Information Sharing Protocol**

If necessary, the ICP and partners will develop an information sharing protocol to enable the effective sharing of information and ensure compliance with GDPR.

### **Access to Information/Freedom of information**

The Board shall be regarded as a County Council committee for access to information purposes and meetings will normally be open to the press/public.

### **Operational Delivery**

Work will be delivered by established system groups at a county wide level. The Health and Wellbeing Board will direct and commission specific pieces of work via Board members who will need to action, coordinate and feedback to the Board within agreed timescales.

Task and finish groups will be established by exception to take forward key pieces of work for the Health and Wellbeing Board. Task and finish groups will include representatives from Health and Wellbeing Board member or partner organisations and wider stakeholders.

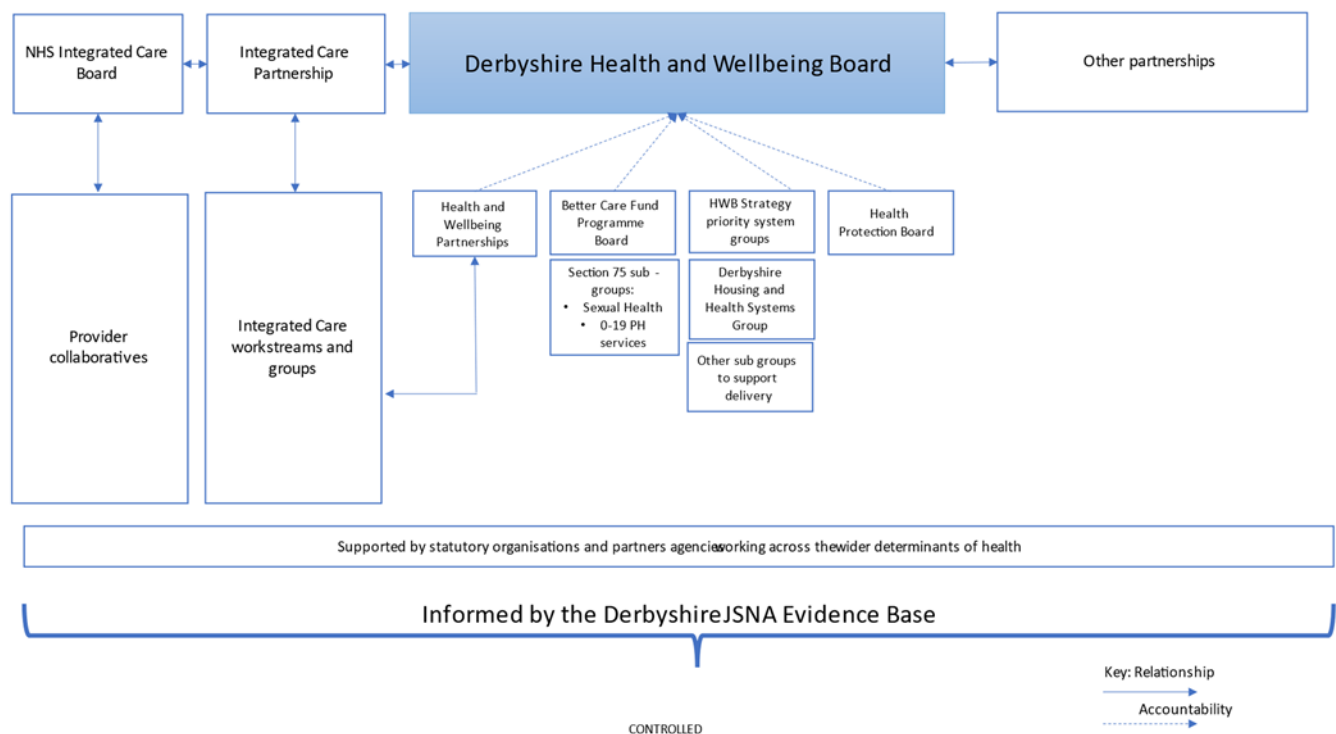
Derbyshire Locality Health Partnerships will act as a delivery structure, working alongside Integrated Care System Place Alliances, to coordinate delivery of agreed actions and pieces of work.

The governance diagram at the end of this document sets out the relationship between the HWB and other groups and programmes of work in Derbyshire. If required a protocol document between the Health and Wellbeing Board and other strategic groups will be established to facilitate discussions and delivery against priorities.

### **Review**

These Terms of Reference will be reviewed annually or earlier if required.

### **Appendix 1: HWB Governance arrangements**



**Last Review**  
May 2022

**Next Review**  
May 2023



Agenda Item

**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**GOVERNANCE, ETHICS AND STANDARDS COMMITTEE**

**19<sup>th</sup> January 2023**

**Report of the Director of Legal and Democratic Services and Monitoring Officer**

**Minor change to the Constitution: Trading Standards – Legislation Update**

**1. Purpose**

- 1.1 To notify Committee of minor amendments to the Constitution to update the list of legislation under which the Council's Trading Standards Service can take enforcement action.

**2. Information and Analysis**

- 2.1 On 28 November 2022, the Director of Legal and Democratic Services under delegated authority from Cabinet agreed to update the existing list of legislation for Trading Standards enforcement and under delegated authority from Council agreed to include that updated list of legislation in Appendix A to Appendix 1 of the Constitution – Responsibility for Functions.
- 2.2 A copy of the report which was approved by the Director of Legal and Democratic Services is attached at Appendix B with the updated list of legislation attached at Appendix 2 to that report.
- 2.3 Under its terms of reference, the Governance, Ethics and Standards Committee is required to advise the County Council on the monitoring, amendments to and overall operation of the Constitution and the delegation to the Director of Legal Services requires any agreed

amendment to be reported retrospectively to the Governance, Ethics and Standards Committee and full Council for noting.

### **3. Consultation**

3.1 Not applicable

### **4. Alternative Options Considered**

4.1 The decision has been made by the Monitoring Officer and Director of Legal Services. The Committee is asked to note the decision. Therefore, there are no appropriate alternatives to consider. Alternatives were considered in the making of the decision as outlined in the report attached at Appendix B.

### **5. Implications**

5.1 Appendix A sets out the relevant implications considered in the preparation of the report.

### **6. Background Papers**

6.1 None identified

### **7. Appendices**

7.1 Appendix A – Implications.

7.2 Appendix B – Report to the Monitoring Officer and Director of Legal Services with Appendices 1 and 2.

### **8. Recommendations**

That Committee notes:

- a) the decision made by the Director of Legal Services to amend the Constitution and include the updated list of legislation to enable the Trading Standards Service to undertake necessary enforcement action; and
- b) that this decision will also be reported to full Council.

### **9. Reasons for Recommendations**

9.1 To comply with the provisions of the Constitution.

**Report Author:** Elizabeth Wild

**Contact details:** [Elizabeth.wild@derbyshire.gov.uk](mailto:Elizabeth.wild@derbyshire.gov.uk)

**Implications**

**Financial**

1.1 None.

**Legal**

2.1 None.

**Human Resources**

3.1 None.

**Information Technology**

4.1 None.

**Equalities Impact**

5.1 None.

**Corporate objectives and priorities for change**

6.1 None.

**Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

7.1 None.



**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**REPORT TO THE MONITORING OFFICER AND DIRECTOR OF LEGAL  
AND DEMOCRATIC SERVICES**

**25<sup>th</sup> November 2022**

**Report of the Principal Solicitor**

**Minor change to the Constitution: Trading Standards – Legislation  
Update**

**1. Divisions Affected**

1.1 County- wide

**2. Key Decision**

2.1 This is not a key decision

**3. Purpose**

3.1 To seek approval to updated the list of enforcement legislation for trading standards enforcement for inclusion in the Constitution.

**4. Information and Analysis**

4.1 The Trading Standards Service subscribes to a vetted facility which provides an updated list of legislation on a six-monthly basis. A new and updated list has recently been provided and it is proposed that this update replaces the list currently included in the Constitution at Appendix A to Appendix 1 – Responsibility for Functions of the Council's Constitution.

4.2 Due to the regularity of the updates the updating of the list of legislation, on 14 October 2021, Cabinet agreed to delegate authority to the Director

of Legal and Democratic Services to update the Constitution as necessary and in response to changes in relevant legislation regarding Trading Standards enforcement or administration and, in particular, to update the list of legislation attached at Appendix A to Appendix 1 of the Constitution – Responsibility for Functions, as necessary.

- 4.3 In accordance with paragraph 2 of Article 22 of the Constitution – Review and Revision of the Constitution, the Monitoring Officer is authorised to make changes to the Constitution which:
- amount to legal or technical amendments that do not materially affect the Constitution; or
  - are required to be made so as to put into effect any decision of the Cabinet, Cabinet Member, Committee, sub-Committee or Officer exercising delegated powers
- 4.4 Delegation 18 to the Director of Legal and Democratic Services also authorises the Director of Legal and Democratic Services to undertake any revisions or amendments to the constitution required as a consequence of amendments or variations to legislation or the implementation of new legislation.
- 4.5 Any such amendments must be reported retrospectively to the Governance, Ethics and Standards Committee and to Full Council for noting.

## **5. Consultation**

- 5.1 Not applicable

## **6. Alternative Options Considered**

- 6.1 Not to approve the updated list and include it within the Constitution. If the updated list of legislation is not included within the Constitution, then the Council's Trading Standards Service would not have the authorisation to undertake its statutory duties in relation to the whole range of consumer protection legislation. This would create a situation where the trading Standards Service was unable to exercise powers under the legislation, could not undertake enquiries or investigation into non-compliance and fail to take formal action, including prosecution against rogue businesses. Such a situation would create unacceptable risks to Derbyshire consumers and legitimate Derbyshire businesses.

## **7. Implications**

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **8. Background Papers**

- 8.1 None identified

## **9. Appendices**

- 9.1 Appendix 1- Implications.
- 9.2 Appendix 2 – Updated list of legislation

## **10. Recommendation(s)**

That the Monitoring Officer and Director of Legal and Democratic Services agrees to:

- a) update the existing list of legislation within the Council's Constitution as set out in Appendix 2;
- b) include this updated list of legislation in Appendix A to Appendix 1 of the Constitution – Responsibility for Functions;
- c) report the amendment to the Governance, Ethics and Standards Committee and full Council for noting.

## **11. Reasons for Recommendation(s)**

- 11.1 To ensure that the relevant part of the Council's Constitution remains accurate and current.
- 11.2 To enable the County Council to meet its statutory duties and to enable the Council's Trading Standards Service to protect residents and businesses under various pieces of criminal and/or civil legislation.

## **12. Is it necessary to waive the call in period?**

- 12.1 No

**Report Author:** Elizabeth Wild – Principal Solicitor  
**Contact details:** [Elizabeth.wild@derbyshire.gov.uk](mailto:Elizabeth.wild@derbyshire.gov.uk)

**Implications**

**Financial**

- 1.1 There are no significant implications for the Council as this does not involve any expenditure or budgetary changes.

**Legal**

- 2.1 As described within the report.

**Human Resources**

- 3.1 This is an administrative decision and as such, there are no Human Resources implications

**Information Technology**

- 4.1 This is an administrative decision and as such, there are no Information Technology implications

**Equalities Impact**

- 5.1 This is an administrative decision and as such, there are no equalities implications

**Corporate objectives and priorities for change**


- 6.1 The Council Plan includes specific priorities linked to Trading standards work. These cover the protection of vulnerable residents susceptible to scams and fraud, and the support for local businesses due to the EU exit process. There would be implications for progress against these priorities if associated enforcement to this work were hampered due to the lack of authorisation to Trading Standards staff.
- 6.2 This also links to the Council Priority of High Performing Value for Money and Resident Focused Services. The changes proposed will enable efficient and up to date functioning of the Council as a corporate body.

**Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

- 7.1 None

**DERBYSHIRE COUNTY COUNCIL  
OFFICER DECISION AND DECISION REVIEW RECORD**

Officer: Helen Barrington <i>*For emergency powers, this would be the Executive Director</i>		Service: Legal & Democratic Services
Delegated Power Being Exercised: Director of Legal and Democratic Services - delegated Power <i>*The delegation detailed in the Constitution to the specified officer or emergency powers</i>		
Subject of Decision: (i.e. services affected)	Minor change to the Constitution: Trading Standards – Legislation Update	
Is this a review of a decision? If so, what was the date of the original decision?	No	
Key decision? If so have Democratic Services been notified?	This is not a key decision	
Decision Taken (specify precise details, including the period over which the decision will be in place and <b>when it will be (further) reviewed</b> ):	<p>That the Monitoring Officer and Director of Legal and Democratic Services agrees to:</p> <p>a) update the existing list of legislation within the Council's Constitution as set out in Appendix 2 to the report;</p> <p>b) include this updated list of legislation in Appendix A to Appendix 1 of the Constitution – Responsibility for Functions;</p> <p>c) report the amendment to the Governance, Ethics and Standards Committee and full Council for noting.</p>	
Reasons for the Decision (specify all reasons for taking the decisions including where necessary reference to Council policy and anticipated impact of the decision) Where the decision is subject to statutory guidance please state how this has been taken into consideration.	<p>To ensure that the relevant part of the Council's Constitution remains accurate and current.</p> <p>To enable the County Council to meet its statutory duties and to enable the Council's Trading Standards Service to protect residents and businesses under various pieces of criminal and/or civil legislation.</p>	
Alternative Options Considered (if appropriate) and reasons for rejection of other options	<p>Not to approve the updated list and include it within the Constitution. If the updated list of legislation is not included within the Constitution, then the Council's Trading Standards Service would not have the authorisation to undertake its statutory duties in relation to the whole range of consumer protection legislation. This would create a situation where the trading Standards Service was unable to exercise powers under the legislation, could not undertake enquiries or investigation into non-compliance and fail to take formal action, including prosecution against rogue businesses. Such a situation would create unacceptable risks to Derbyshire consumers and legitimate Derbyshire businesses.</p>	

Has a risk assessment been conducted ?- if so what are the potential adverse impacts identified and how will these be mitigated?	No.
Would the decision normally have been the subject of consultation with service users and the public? If so, explain why this is not practicable and the steps that have or will be taken to communicate the decision	No, this is an administrative decision.
Has any adverse impact on groups with protected characteristics been identified and if so, how will these be mitigated?	This is an administrative decision and as such, there are no equalities implications
Background/Reports/Information considered and attached (including Legal, HR, Financial, Equality and other considerations as required))	As set out in the report to the Director of Legal & Democratic Services dated 25 <sup>th</sup> November 2022.
Consultation with relevant Cabinet Member (s) – please note this is obligatory.	This was discussed with Cllr Hart by email on 24 <sup>th</sup> November 2022 and agreement confirmed.
Approval of Chair of appropriate Improvement and Scrutiny Committee where call in is intended to be waived – please note this is obligatory in those circumstances	Not applicable.
Decision:	Approved by Helen Barrington, Director of Legal & Democratic Services
Signature and Date:  28/11/2022	

**List of Legislation as at 30 June 2022****Part 1****Authorisation for officers enforcing legislation generally.**

Agriculture (Miscellaneous Provisions) Act 1968  
 Air Quality (Domestic Solid Fuels Standards)(England) Regulations 2020  
 Animal Health Act 1981  
 Animal Welfare Act 2006  
 Animals Act 1971  
 Anti-social Behaviour Act 2003  
 Birmingham Commonwealth Games Act 2020  
 Botulinum Toxin and Cosmetic Fillers (Children) Act 2021  
 Brucellosis (England) Order 2015  
 Cancer Act 1939  
 Children and Families Act 2014  
 Children and Young Persons (Protection from Tobacco) Act 1991  
 Children and Young Persons Act 1933  
 Clean Air Act 1993 – Motor Fuel (Composition and Content), and Biofuel Labelling Regulations.  
 Companies Act 2006  
 Consumer Credit Act 1974  
 Consumer Protection Act 1987  
 Consumer Rights Act 2015  
 Copyright, Designs and Patents Act 1988  
 Criminal Justice Act 1988  
 Criminal Justice and Police Act 2001  
 Customs & Excise Management Act 1979  
 Education Reform Act 1988  
 Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015  
 Enterprise Act 2002  
 Environmental Protection (Microbeads)(England) Regulations 2017  
 Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020  
 Estate Agents Act 1979  
 European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty:  
     Advanced Television Services Regulations 2003  
     African Horse Sickness (England) Regulations 2012  
     Animal By-Products(Enforcement)(England) Regulations 2013  
     Avian influenza (Preventative Measures)(England) Regulations 2006  
     Avian Influenza (Vaccination)(England) Regulations 2006  
     Beef and Veal Labelling Regulations 2010  
     Biofuel Labelling Regulations 2004  
     Bluetongue Regulations 2008  
     Business Protection from Misleading Marketing Regulations 2008  
     Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008  
     Cattle Identification Regulations 2007  
     Construction Products Regulations 2013  
     Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013  
     Consumer Protection from Unfair Trading Regulations 2008  
     Consumer Rights (Payment Surcharges) Regulations 2012  
     Cosmetic Products Enforcement Regulations 2013 and the EU Cosmetic Products Regulation 1223/2009  
     Crystal Glass (Descriptions) Regulations 1973  
     Detergents Regulations 2010

Diseases of Swine Regulations 2014  
 EC Fertilisers (England and Wales) Regulations 2006  
 Eggs and Chicks (England) Regulations 2009  
 Electrical Equipment (Safety) Regulations 2016  
 Electromagnetic Compatibility Regulations 2016  
 Energy Information Regulations 2011  
 Energy Performance of Buildings (England and Wales) Regulations 2012  
 Equine Identification (England) Regulations 2018  
 Financial Services (Distance Marketing) Regulations 2004  
 Fluorinated Greenhouse Gases Regulations 2015  
 Foot-and-Mouth Disease (Control of Vaccination)(England) Regulations 2006  
 Footwear (Indication of Composition) Labelling Regulations 1995  
 Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018  
 General Product Safety Regulations 2005  
 Package Travel and Linked Travel Arrangements Regulations 2018  
 Packaging (Essential Requirements) Regulations 2015  
 Passenger Car (Fuel Consumption and CO2 Emissions Information) Regulations 2001  
 Personal Protective Equipment (Enforcement) Regulations 2018  
 Pressure Equipment (Safety) Regulations 2016  
 Products of Animal Origin (Disease Control)(England) Regulations 2008  
 Pyrotechnic Articles (Safety) Regulations 2015  
 Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018  
 Radio Equipment Regulations 2017  
 REACH Enforcement Regulations 2008  
 Recreational Craft Regulations 2017  
 Registration of Establishments (Laying Hens)(England) Regulations 2003  
 Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013  
 Simple Pressure Vessels (Safety) Regulations 2016  
 Supply of Machinery (Safety) Regulations 2008  
 Textile Products (Labelling and Fibre Composition) Regulations 2012  
 Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010  
 Tobacco and Related Products Regulations 2016  
 Toys (Safety) Regulations 2011  
 Trade in Animals and Related Products Regulations 2011  
 Transmissible Spongiform Encephalopathies (England) Regulations 2018  
 Veterinary Medicines Regulations 2013  
 Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012  
 Welfare of Animals at Time of Killing (England) Regulations 2015  
 Zoonoses (Monitoring) (England) Regulations 2007

Fireworks Act 2003  
 Food (Promotion and Placement) (England) Regulations 2021  
 Fraud Act 2006  
 Hallmarking Act 1973  
 Health Act 2006  
 Knives Act 1997  
 Leasehold Reform (Ground Rent) Act 2022  
 Legal Services Act 2007  
 Licensing Act 2003  
 Medicines and Medical Devices Act 2021  
 Motor Cycle Noise Act 1987  
 Offensive Weapons Act 2019  
 Olympic Symbol etc. (Protection) Act 1995  
 Prices Act 1974

Protection of Animals Act 1911  
 Psychoactive Substances Act 2016  
 Registered Designs Act 1949  
 Road Traffic Acts 1988 and 1991  
 Road Traffic (Foreign Vehicles) Act 1972  
 Road Traffic Regulation Act 1984  
 Single Use Carrier Bags Charges (England) Order 2015  
 Tenant Fees Act 2019  
 and the Housing and Planning Act 2016 as it relates to Client Money Protection Schemes  
 Theft Act 1968  
 Tobacco Advertising and Promotion Act 2002  
 Trade Descriptions Act 1968  
 Trade Marks Act 1994  
 Unsolicited Goods and Services Acts 1971 and 1975  
 Video Recordings Act 1984  
 Vehicles (Crime) Act 2001

## **Part 2**

### **Additional List of Legislation for officers with qualification/competency in:**

#### **Food Law**

European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty:

Animals and Animal Products (Examination for Residues and Maximum Residue Limits)(England and Scotland) Regulations 2015  
 Country of Origin of Certain Meats (England) Regulations 2015  
 Food for Specific Groups (Food for Special Medical Purposes for Infants, Infant Formula and Follow-on Formula) (Information and Compositional Requirements) (Amendment etc.) (England) Regulations 2020  
 Food for Specific Groups (Information and Compositional Requirements)(England) Regulations 2016  
 Food Information Regulations 2014  
 Food Safety and Hygiene (England) Regulations 2013  
 Genetically Modified Organisms (Traceability and Labelling)(England) Regulations 2004  
 Materials and Articles in Contact with Food (England) Regulations 2012  
 Novel Foods (England) Regulations 2018  
 Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019 *in so far as it relates to food law*  
 Official Feed and Food Controls (England) Regulations 2009 *in so far as it relates to food law*  
 Olive Oil (Marketing Standards) Regulations 2014  
 Organic Products Regulations 2009  
 Poultrymeat (England) Regulations 2011  
 Quick-frozen Foodstuffs (England) Regulations 2007  
 Scotch Whisky Regulations 2009  
 Specified Products from China (Restrictions on First Placing on the Market)  
 (England) Regulations 2008  
 Spirit Drinks Regulations 2008  
 Wine Regulations 2011

Food Act 1984  
 Food (Promotion and Placement) (England) Regulations 2021  
 Food and Environment Protection Act 1985 [Note: Authorisation must be issued directly to the officer by the FSA.]  
 Food Safety Act 1990

### **Part 3**

#### **Additional List of Legislation for officers with qualification/competency in: Feed Law**

Agriculture Act 1970

Animal Feed (Composition, Marketing and Use)(England) Regulations 2015

Animal Feed (Hygiene, Sampling etc and Enforcement)(England) Regulations 2015

European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty:

Animal Feed (Basic Safety Standards) (England) Regulations 2019

Genetically Modified Organisms (Traceability and Labelling)(England) Regulations 2004

Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019 *in so far as it relates to feed law*

Official Feed and Food Controls (England) Regulations 2009 *in so far as it relates to feed law*

### **Part 4 Additional List of Legislation for officers with qualification in: Weights and Measures Law**

European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty:

Measuring Container Bottles (EEC Requirements) Regulations 1977

Measuring Instruments Regulations 2016

Non-automatic Weighing Instruments Regulations 2016

Weights & Measures (Packaged Goods) Regulations 2006

Weights and Measures Act 1985

### **Part 5**

#### **A separate authorisation is required under the Health and Safety at Work etc Act 1974 referring to the following:**

i) Sections 20, 21, 22 and 25 of the 1974 Act;

ii) The following Regulations made under the 1974 Act:

The Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003

The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013

The Chemicals (Hazard Information and Packaging for Supply) Regulations 2009

The Dangerous Substances and Explosive Atmospheres Regulations 2002,

The Explosives Regulations 2014,

The Petroleum (Consolidation) Regulations 2014, and

iii) The provisions of the following Acts mentioned in Schedule 1 to the 1974 Act:

Explosives Act 1875  
Public Health Acts 1936 and 1961

This page is intentionally left blank



**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**GOVERNANCE ETHICS AND STANDARDS COMMITTEE**

**19 January 2023**

**Report of the Director of Legal & Democratic Services and Monitoring Officer**

**Revisions to Council Constitution: Delegations relating to Special Severance Payments**

**1. Purpose**

- 1.1 To agree delegations in the Constitution to approve special severance payments and refer these amendments to full Council for approval.

**2. Information and Analysis**

- 2.1 The Council's Constitution makes it clear that full Council is responsible for considering settlements and exit packages on termination of employment or remuneration on appointment in excess of £100,000. This is in accordance with the Openness and accountability in local pay: Guidance under section 40 of the Localism Act. The Director of Legal and Democratic Services also has delegated authority to prosecute, withdraw, defend, compromise, settle, appeal and appear in proceedings, or compromise or settle proceedings or potential proceedings on behalf of the County Council in any court of law, whether criminal or civil, tribunal, inquiry, chamber or other hearing or before any Judge, Registrar, Recorder, Magistrate, Coroner, Inspector, Arbitrator, Mediator, or expert.
- 2.2 The Department for Levelling Up, Housing and Communities published Statutory guidance on the making and disclosure of Special Severance

Payments by local authorities in England on 12 May 2022. A copy of the guidance is accessible via the following link:

<https://www.gov.uk/government/publications/special-severance-payments/statutory-guidance-on-the-making-and-disclosure-of-special-severance-payments-by-local-authorities-in-england>

- 2.3 The guidance explains that Special Severance Payments are payments made to employees, office holders, workers, contractors, and others outside of statutory, contractual or other requirements when leaving employment in public service. Such payments may be considered in situations where the individual concerned resigns, is dismissed, or agrees a termination of contract. The following do not constitute Special Severance Payments:
- statutory redundancy payments
  - contractual redundancy payments, whether applicable to voluntary or compulsory redundancy, and whether agreed by collective agreement or otherwise
  - severance payments made in accordance with that local authority's policy adopted pursuant to Regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006
  - a strain cost paid to the relevant LGPS administering authority under LGPS Regulation 68(2) which results from a LGPS member's retirement benefits becoming immediately payable without reduction under Regulation 30(7), or under Regulation 30(6) where the employer has waived the reduction under Regulation 30(8)
  - payment for untaken annual leave
  - payments ordered by a court or tribunal or agreed as part of a judicial or non-judicial mediation
  - payments made as part of the ACAS Early Conciliation process
  - payments made to compensate for injury or death of the worker
  - payments made in consequence of the award of ill-health retirement benefits under Regulation 35 of the LGPS Regulations
- 2.4 The guidance recognises that there may be exceptional circumstances where the existing statutory or contractual entitlements, or both, are insufficient to facilitate an exit or to offer sufficient compensation for loss of employment or office. In such circumstances Special Severance Payments may be made where there are exceptional circumstances and they provide value for money.

2.5 The government expects that any Special Severance payments should be approved according to the following process:

- payments of £100,000 and above must be approved by a vote of full council, as set out in the Localism Act 2011.
- payments of £20,000 and above, but below £100,000, must be personally approved and signed off by the Head of Paid Service, with a clear record of the Leader's approval and that of any others who have signed off the payment.
- payments below £20,000 must be approved according to the Council's scheme of delegation.

It is also expected that the Council's s151 Officer and Monitoring Officer should take a close interest in and be able to justify any special severance payments that are made.

2.6 As set out above, the Constitution already includes provisions for payments in excess of £100,000 to be approved by full Council and other settlement payments to be approved by the Director of Legal and Democratic Services. However there is no specific constitutional requirement for payments between £20,000 and £100,000 to be approved by the Head of Paid Service or Leader.

2.7 The requirement to involve council Leaders in such decisions is incongruous when considering that staffing matters are non-executive functions and Leaders hold an executive role. It is understood that the Association of Local Authority Chief Executives is aware of cases where decisions taken solely by a Leader (and not involving other councillors) have been found not to comply with legislation. The Council has an established Appointments and Conditions of Service Committee that is responsible for staffing matters and the Leader is the Chair of that Committee. In order to comply with the spirit of the statutory guidance and avoid challenge to any future decisions it is therefore recommended that the involvement of the Leader in such decisions is in their role of Chair of the Appointments and Conditions of Service Committee and not in their executive role.

2.8 It is therefore proposed that section A4 Staffing Conditions of Appendix 1 – Responsibility for Functions to the Constitution be amended to include a delegation to the Managing Director (as Head of Paid Service) with the approval of the Leader (as Chair of the Appointments and Conditions of Service Committee) to approve any Special Severance Payment on termination of employment between £20,000 and £100,000 in consultation with the s151 officer and Monitoring Officer.

- 2.9 There may be occasions where the Head of Paid Service or Leader are unable to act owing to conflict, absence or illness. Where the Head of Paid Service is unable to act it is proposed that the Monitoring Officer with the agreement of the s151 officer be authorised to approve any Special Severance Payment on termination of employment between £20,000 and £100,000. Where the Leader is unable to act it is proposed that the Vice-Chair of the Appointments and Conditions of Service be authorised to approve any Special Severance Payment on termination of employment between £20,000 and £100,000.

### **3. Alternative Options Considered**

- 3.1 Do nothing – this option is not appropriate as it will not ensure that the Constitution reflects the statutory guidance, is kept up to date and is fit for purpose.

### **4. Implications**

- 4.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

### **5. Consultation**

- 5.1 Not applicable.

### **6. Background Papers**

- 6.1 None identified.

### **7. Appendices**

- 7.1 Appendix 1 – Implications.

### **8. Recommendations**

That the Committee:

- 8.1 agrees to amend section A4 Staffing Conditions of Appendix 1 – Responsibility for Functions to the Constitution to include:
- a) a delegation to the Managing Director (as Head of Paid Service) with the approval of the Leader (as Chair of the Appointments and Conditions of Service Committee) to approve any Special Severance Payment on termination of employment between £20,000 and £100,000 in consultation with the s151 officer and Monitoring Officer;

- b) authority for the Monitoring Officer with the agreement of the s151 officer to approve any Special Severance Payment on termination of employment between £20,000 and £100,000 where the Head of Paid Service is unable to act,
- c) authority for the Vice-Chair of the Appointments and Conditions of Service to approve any Special Severance Payment on termination of employment between £20,000 and £100,000 where the Leader is unable to act; and

8.2 refers these amendments to full Council for approval.

## **9. Reasons for Recommendations**

- 9.1 To comply with legislative requirements and ensure the Council's Constitution is kept up to date and fit for purpose.

**Report Author:** Helen Barrington

**Contact details:** [helen.barrington@derbyshire.gov.uk](mailto:helen.barrington@derbyshire.gov.uk)

**Implications**

**Financial**

1.1 None.

**Legal**

- 2.1 Special severance payments are lawful and can be authorised under existing statutory powers.
- 2.2 The Openness and accountability in local pay: Guidance under section 40 of the Localism Act provides that full council should be offered the opportunity to vote before large severance packages beyond a particular threshold are approved for staff leaving the organisation. The Secretary of State considers that £100,000 is the right level for that threshold to be set. The Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England forms part of the best value regime for local authorities and sets out the government's position on the use of special severance payments.
- 2.3 The Council "must have regard" to the statutory guidance but does not have to follow it slavishly and can depart from it where there is good reason for doing so.
- 2.4 Article 22 of the Constitution makes it clear that changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Governance Ethics & Standards Committee. This report discharges that constitutional requirement.
- 2.5 The Council is required to prepare and keep up to date its Constitution as set out in Section 9P of the Local Government Act 2000 as amended. Approval by full Council of the recommendations in this report will enable the compliance with this duty.

**Human Resources**

3.1 None.

**Information Technology**

4.1 None.

## **Equalities Impact**

5.1 None.

## **Corporate objectives and priorities for change**

6.1 This report links to the Council Priority of 'High Performing Value for Money and Resident Focused Services'. The changes proposed will enable efficient, effective and lawful decision making.

## **Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

7.1 None.

This page is intentionally left blank



**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**GOVERNANCE ETHICS AND STANDARDS COMMITTEE**

**19 January 2023**

**Report of the Director of Legal & Democratic Services and Monitoring Officer**

**Revisions to Council Constitution: Local Choice functions**

**1. Purpose**

- 1.1 To agree amendments to the Local Choice functions in the Constitution and a number of consequential changes and refer these amendments to full Council for approval.

**2. Information and Analysis**

- 2.1 The Local Government Act 2000 introduced new models of governance for local authorities. There were four governance models available to councils under the 2000 Act, namely: -

- (i) Mayor and Cabinet Executive
- (ii) Leader and Cabinet Executive
- (iii) Mayor and Council Manager
- (iv) Alternative arrangements – the modified committee system for authorities with a population of less than 85,000 as at the time of the Act

As Members of Committee are aware, Derbyshire County Council operates executive arrangements, with a Leader and Cabinet model.

- 2.2 The legislation provides for functions to be allocated between the executive (Cabinet) and non-executive (Council and Committees). For this purpose functions are classified as functions which:
- a) must not be the responsibility of the executive;
  - b) must be the responsibility of the executive;
  - c) the local authority can decide whether they are to be the responsibility of the executive; and
  - d) are shared between the council and the executive.
- 2.3 The Act together with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, identify which functions are to be treated as executive functions and non-executive functions. Regulation 3 and Schedule 2 to the Regulations set out which functions the Council can decide should be the responsibility of the executive or the non-executive. These are known as 'local choice functions'.
- 2.4 The current local choice functions are included in the Council's Constitution (Section G Local Choice Functions of Appendix 1 – Responsibility for Functions) attached at Appendix 3. They have been reviewed because they include a number of functions that are specifically specified in the Regulations as non-executive functions and do not include all relevant functions that are listed in Schedule 2 to the Regulations.
- 2.5 It is important to note that the non-executive functions currently included in the Constitution as local choice functions have not been designated as the responsibility of the executive and as a result decisions will have been made lawfully by the non-executive.
- 2.6 It is proposed that an amended Section G Local Choice Functions of Appendix 1 – Responsibility for Functions is approved by Governance, Ethics and Standards Committee. The new version attached to this report at Appendix 2 includes all the functions relevant to a county council that are listed in Schedule 2 to the Regulations and the Committee is recommended to agree it and refer it to Council for approval and inclusion into the Constitution.
- 2.7 The guidance on the approach to the division of functions between the executive and non-executive set out in the 'Local Government Act 2000: Guidance to English Local Authorities' has been taken into account and the amendments are in line with the recommended approach. The only function where a different approach is proposed relates to the making of agreements with other local authorities for the placing of staff at the disposal of those other authorities. It is proposed that this function is

treated as a non-executive function that falls within the remit of the Appointments and Conditions of Service Committee and delegated to the Managing Director/Head of Paid Service and Executive Directors because decisions relating to staffing matters are non-executive functions. Designating this specific staffing function as an executive function has the potential to cause confusion. Therefore it is proposed that it is designated as a non-executive function to ensure there is clarity and certainty that all staffing decisions fall outside of the remit of the executive.

- 2.8 In respect of those functions that are currently including in Section G Local Choice Functions of Appendix 1 – Responsibility for Functions that are not ‘local choice functions’, it is proposed that the following action is taken:

Functions relating to Health and Safety at work	No action. This applies where the functions are discharged otherwise than in the authority's capacity as an employer. Such functions are the responsibility of district councils rather than the county council
Functions relating to Elections	<p>The duty to appoint a returning officer for county council elections is now within the remit of the Appointments and Conditions of Service Committee.</p> <p>It is proposed that the functions of Council is amended to include:</p> <ul style="list-style-type: none"> <li>• making decisions relating to election functions</li> </ul>
Functions relating to the name and status of areas and individuals	<p>The functions of Council already include changing the name of the area. It is proposed that this is amended to:</p> <p>(h) changing the name and status of areas and individuals</p>
Power to make, amend, revoke or re-enact bye-laws pursuant to any provision of any enactment	<p>No action.</p> <p>The functions of Council already include making, amending,</p>

(including a local Act) whenever passed, and s14 Interpretation Act 1978	revoking, re-enacting or adopting bye-laws
Power to promote or oppose local or personal bills pursuant to s239 Local Government Act 1972	No action. The functions of Council already include promoting or opposing the making of local legislation or personal Bills
Powers to make Standing Orders	No action. The functions of Council already include adopting and changing the Constitution which includes the power to make standing orders
Duty to make arrangements for the proper administration of financial affairs	No action. Responsibility for designating an officer as the Chief Financial Officer is now within the remit of the Appointments and Conditions of Service Committee
Preparation of the Council's Statement of Accounts, Income and Expenditure and Balance Sheet including the preparation of the Annual Governance Statement	No action. The functions of Audit Committee already include responsibility for approving the Annual Statement of Accounts and preparation of the Annual Governance Statement

2.9 Governance, Ethics and Standards Committee is therefore asked to agree that the following amendments are made to the list of functions of the Full Council set out in Appendix 1 – Responsibility for Functions to the Constitution as set out in Appendix 2 to this report and refer them to full Council for approval:

- Add “making decisions relating to election functions”
- Amend (h) to “changing the name and status of areas and individuals”

### **3. Alternative Options Considered**

3.1 Do nothing – this option is not appropriate as it will not ensure that the Constitution kept up to date and fit for purpose.

### **4. Implications**

- 4.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **5. Consultation**

- 5.1 Not applicable.

## **6. Background Papers**

- 6.1 None identified.

## **7. Appendices**

- 7.1 Appendix 1 – Implications.  
7.2 Appendix 2 – Proposed Local Choice functions.  
7.3 Appendix 3 – Current Local Choice functions.

## **8. Recommendations**

That the Committee agrees:

- (a) the amended Section G Local Choice Functions set out in Appendix 2 to this report and refers it to full Council for approval and inclusion in Appendix 1 – Responsibility for Functions of the Constitution; and
- (b) the following amendments to the list of functions of the Full Council set out in Appendix 1 – Responsibility for Functions to the Constitution and refers them to full Council for approval:
  - Add “making decisions relating to election functions”
  - Amend (h) to “changing the name and status of areas and individuals”

## **9. Reasons for Recommendations**

- 9.1 To comply with legislative requirements and ensure the Council’s Constitution is kept up to date and fit for purpose.

**Report Author:** Helen Barrington

**Contact details:** helen.barrington@derbyshire.gov.uk

## **Implications**

### **Financial**

1.1 None.

### **Legal**

2.1 As set out in the body of the report, the Local Government Act 2000 introduced new models of governance for local authorities, including the introduction of executive arrangements.

2.2 The Act together with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, identify which functions are to be treated as executive functions and non-executive functions. Regulation 3 and Schedule 2 to the Regulations set out which functions the Council can decide should be the responsibility of the executive or the non-executive. These are known as 'local choice functions'.

2.3 Chapter 5 of the Local Government Act 2000: Guidance to English Local Authorities includes guidance on the approach to the division of functions between the executive and non-executive and relevant extracts are set out below:

“5.8 The Secretary of State has adopted the following approach to the division of functions between the executive and the council:

- determination of the local authority's policy framework and budget (see chapter 2 of this guidance) and other constitutional and quasi-legislative functions are to be the responsibility of the full council;
- functions which involve either determining an application from a person for a licence,
- approval, consent, permission or registration or direct regulation of a person (except in cases where there is only limited discretion in the discharge of the function) together with any related enforcement actions (including prosecution) are not to be the responsibility of the executive; and
- all other functions are to be the responsibility of the executive.”

“**Functions which may be appropriate for either the executive, the full council or a committee**

...

5.38 The functions of determining any appeal against a decision made by or on behalf of the local authority and of making arrangements for the determination of certain appeals (relating to school exclusions and admissions and appointments to Council Tax Benefit and Housing Benefit Review Boards) are also specified in Schedule 2 to the Regulations as local choice functions.

5.39 Where the functions of making arrangements for the determination of certain appeals (relating to school exclusions and admissions and appointments to Council Tax Benefit and Housing Benefit Review Boards) are not to be the responsibility of the executive the local authority's executive arrangements should provide that they will be discharged by the full council.

...

5.43 In addition, Schedule 2 to the Regulations provides that appointments to outside bodies are local choice functions. Whoever makes such an appointment, the member appointed could be either a member of the executive or another councillor.

5.44 The Secretary of State advises that a local authority's executive arrangements should provide that the executive will make appointments to outside bodies in connection with functions which are the responsibility of the executive (e.g. housing, education, social services, regeneration, etc.) and all other appointments should be made by the full council, a committee or officer of the local authority.

5.45 The powers to place staff at the disposal of other local authorities (using section 113 of the Local Government Act 1972 or any other similar provision) are local choice functions.

5.46 Using the powers in section 13(4) and 13(5) of the Act a local authority's executive arrangements should provide that the functions to place staff at the disposal of other local authorities, for example to facilitate the exercise of joint arrangements, are to be the responsibility of the executive except to the extent that the staff are being placed at the disposal of the other authority in relation to the discharge of functions which are not the responsibility of the executive of the authority placing the staff."

- 2.4 Article 22 of the Constitution makes it clear that changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Governance Ethics & Standards Committee. This report discharges that constitutional requirement.
- 2.5 The Council is required to prepare and keep up to date its Constitution as set out in Section 9P of the Local Government Act 2000 as amended. Approval by full Council of the recommendations in this report will enable the compliance with this duty.

## **Human Resources**

3.1 None.

## **Information Technology**

4.1 None.

## **Equalities Impact**

5.1 None.

## **Corporate objectives and priorities for change**

6.1 This report links to the Council Priority of 'High Performing Value for Money and Resident Focused Services'. The changes proposed will enable efficient, effective and lawful decision making.

## **Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

7.1 None.

## Local Choice Functions

Some Council functions are “local choice functions”. This means that the Council can decide whether the function is to be the responsibility of the Executive (an “executive function”) or the responsibility of the Council (a “non-executive” function). The following table sets out these “local choice functions”, designates them as “executive” or “non-executive”, and shows who is authorised to discharge them.

<b>Local Choice function</b>	<b>Executive or Non-Executive</b>	<b>Decision maker</b>	<b>Further delegation</b>
Any function under a Local Act not specifically excepted	See Annex 1		
The determination of any appeal against any decision made by or on behalf of the authority in connection with executive functions	Executive	Cabinet	Relevant Executive Director responsible for the executive function in consultation with the Director of Legal and Democratic Services
The determination of any appeal against any decision made by or on behalf of the authority in connection with non-executive functions	Non-executive	Full Council/Relevant Committee responsible for the non-executive function	Relevant Executive Director responsible for the non-executive function in consultation with the Director of Legal and Democratic Services
Making of arrangements in relation to appeals against the exclusion of pupils from maintained schools (section 52 of the Education Act 2002)	Executive	Cabinet	Appeals heard and determined by a lay independent Panel appointed by the Director of Legal and Democratic Services

Making arrangements for school admission appeals (sections 94(1), (1A) and (4) of the School Standards and Framework Act 1998)	Executive	Cabinet	Appeals heard and determined by a lay independent Panel appointed by the Director of Legal and Democratic Services
Making arrangements for appeals by governing bodies (section 95(2) of the School Standards and Framework Act 1998)	Executive	Cabinet	Director of Legal and Democratic Services
Obtaining information under section 330 of the Town and Country Planning Act 1990 as to interests in land	Executive	Cabinet	Executive Director - Place
Obtaining particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Executive	Cabinet	Director of Legal and Democratic Services
Making agreements for the execution of highway works under Section 278 of the Highways Act 1980	Executive	Cabinet	Executive Director - Place
The appointment of any individual to outside bodies in connection with	Executive	Cabinet	Leader of the Council

functions which are the responsibility of the executive			
The appointment of any individual to outside bodies in connection with all other appointments	Non-executive	Full Council	Managing Director where the appointment is urgent and cannot be dealt with by submission to the next following meeting of the Council
The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities	Non-executive	Appointments and Conditions of Service Committee	Managing Director/Head of Paid Service  Executive Directors

**ANNEX 1**

There are a number of functions in the Derbyshire Act 1981 and the responsibility for the discharge of these functions should be as follows:

<b>Function</b>	<b>Executive or Non-Executive</b>	<b>Decision making body</b>	<b>Further delegation</b>
Section 4 - Application of private street works code to parts of public streets	Executive	Cabinet	Executive Director - Place
Section 8 - Affixing of traffic signs to buildings.	Executive	Cabinet	Executive Director – Place
Section 12 - Provision of parking places in parks, etc.	Executive	Cabinet	Executive Director - Place
Section 21- Grass verges, etc.	Executive	Cabinet	Executive Director - Place
Section 26 - Oil-burning equipment byelaws	Non-Executive	Council	Not delegated

## G. LOCAL CHOICE FUNCTIONS

With regard to local choice functions, these are allocated as follows:

<b>FUNCTION</b>	<b>DECISION MAKING BODY</b>	<b>EXTENT OF RESPONSIBILITY</b>
The determination of an appeal against any decision made by or on behalf of the Council	Cabinet	In the absence of any existing appeals mechanism provided by the constitution  Consultation with the Director of Legal and Democratic Services and relevant Executive Director
The making of arrangements for appeals against the exclusion of pupils from school pursuant to the Schools Standards and Framework Act 1998	Cabinet	The appeals themselves are heard by lay and independent panel members appointed by the Director of Legal and Democratic Services
The making of arrangements for appeals in relation to school admission appeals pursuant to the Schools Standards and Framework Act 1998	Cabinet	The appeals themselves are heard by lay and independent panel members appointed by the Director of Legal and Democratic Services
The making of arrangements in relation to appeals by Governing Bodies pursuant to the School Standards and Framework Act 1998	Cabinet	Delegated to the Director of Legal and Democratic Services as detailed within the Scheme of Delegation at appendix 1 of the constitution
The obtaining of information under	Cabinet	To the extent that it is necessary to exercise these powers in

<b>FUNCTION</b>	<b>DECISION MAKING BODY</b>	<b>EXTENT OF RESPONSIBILITY</b>
s330 Town and Country Planning Act 1990 as to interests in land	Executive Director - Place	respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders
The obtaining of particulars of persons interest in land under s16 Local Government (Miscellaneous provisions) Act 1976	Director of Legal and Democratic Services	
The making of agreements under s278 Highways Act 1980 for the execution of highways works	Executive Director - Place	
The appointment and removal of local authority governors to schools	Cabinet Member for Education	
The arrangements for school transport appeals	Executive Director for Children's Services	
Functions relating to Health and Safety at work	Executive Directors and Directors	As detailed within the Scheme of Delegation at Appendix 1
Functions relating to Elections	Director of Legal and Democratic Services in capacity of County Returning Officer	
Functions relating to	Full Council	

<b>FUNCTION</b>	<b>DECISION MAKING BODY</b>	<b>EXTENT OF RESPONSIBILITY</b>
the name and status of areas and individuals		
Power to make, amend, revoke or re-enact bye-laws pursuant to any provision of any enactment (including a local Act) whenever passed, and s14 Interpretation Act 1978	Full Council	
Power to promote or oppose local or personal bills pursuant to s239 Local Government Act 1972	Full Council	
Powers to make Standing Orders	Full Council	
Dealing with maladministration	Governance, Ethics and Standards Committee	In consultation with the Director of Legal and Democratic Services
Duty to make arrangements for the proper administration of financial affairs	Director of Finance and ICT	
Preparation of the Council's Statement of Accounts, Income and Expenditure and Balance Sheet,	Audit Committee  Full Council	In consultation with the Director of Finance and ICT
Including the preparation of the Annual Governance Statement		In consultation with the Director Finance and ICT, Director of Legal and Democratic Services, Audit Manager, Managing

<b>FUNCTION</b>	<b>DECISION MAKING BODY</b>	<b>EXTENT OF RESPONSIBILITY</b>
		Director and Executive Directors
Appointments to outside bodies	Full Council	