

Public Document Pack



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PUBLIC

To: Members of Governance, Ethics and Standards Committee

Wednesday, 24 February 2021

Dear Councillor,

Please attend a meeting of the **Governance, Ethics and Standards Committee** to be held at **2.00 pm** on **Thursday, 4 March 2021** in Teams Live Event, 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 - 8)
To confirm the non-exempt minutes of the meeting of the Governance,

Ethics and Standards Committee held on 19 January 2021.

4. Amendments to the Constitution (Pages 9 - 12)
5. Complaints Received Against Councillors Pursuant to the Code of Conduct for Elected Members for the period 01 July 2020 to 31 December 2020 (Pages 13 - 20)
6. Annual Report of the Independent Remuneration Panel (Pages 21 - 28)

PUBLIC

MINUTES of a meeting of the **GOVERNANCE, ETHICS AND STANDARDS COMMITTEE** held on 19 January 2021 at County Hall, Matlock

PRESENT

Councillor C Short (in the Chair)

Councillors N Atkin, K Buttery, J Coyle, K Gillott, L Grooby, C Moesby & S Swann.

Apologies for absence were received from Councillor W Major & L Newby MBE (Independent Persons)

01/20 **MINUTES RESOLVED** that the minutes of the meeting of the Governance, Ethics and Standards Committee held on 22 October 2020 be confirmed as a correct record and signed by the Chairman.

02/20 **UPDATES TO THE CONSTITUTION** A review of the Constitution had been undertaken which had identified several provisions where change should be considered. If Members agreed to recommend the revisions detailed, a report would be prepared for Council in February 2021 to make these amendments to the Constitution. A further report would be presented to the Committee in due course on additional amendments which had been identified as part of the review.

There was a provision in the constitution at Appendix 3, Council Procedure Rules. It was to be noted that after February 2019, the Cabinet Report to Council was no longer presented to Council. However, this change had not been ratified by Council or considered by the Governance, Ethics and Standards Committee and the provision remained in the Constitution. When this issue had been identified, a Report from Cabinet was submitted to the Council meeting held on 2 December 2020 which rectified the position for the period March 2019 to December 2020. Members were asked to consider removing the requirement for a Cabinet Report to Council from the Council Procedure Rules.

There was a provision in the Constitution at Appendix 3, Order of Business, item (n) Receive the minutes of committees, joint committees and the Fire Authority. It was understood that when the Constitution was reviewed in 2019, there had been some consideration by Members to remove this provision from the Council Procedure Rules, however, the Constitution was not amended. Members were asked to consider removal of the requirement for these minutes to be presented to Council from the Council Procedure Rules.

The Constitution set out the scope of public questions. However, there was no such provision for Member questions and the Committee was asked to

consider whether these should be now be included in the Rules relating to Member questions. In the absence of the questioner, the Chairman may ask the question on the questioner's behalf, indicate that a written reply would be given, or decide that the question would not be dealt with. No such provision was made for Member questions and it had been proposed that this now be added.

The Council Procedure Rules set out the order in which the business of a Council meeting should be considered. Should the Committee agree to remove the provisions of the Constitution as detailed in (i) and (ii), the following existing provisions would be removed from the Constitution:

- 4(k) Report from the Cabinet and Members' Questions on the Report
- 4(n) Receive the minutes of committees, joint committees and the Fire Authority

There was currently no provision in the Constitution to provide for the cancellation of a scheduled meeting of the Council as a result of a lack of business or in exceptional circumstances. It was therefore proposed that an additional section be added to the Council Procedure Rules to read: "The Chairman may cancel a scheduled meeting of the Council due to lack of business or in exceptional circumstances after consultation with the Leader of the Council and the Leader of the Main Minority Group."

Section 17.2 of the Council Procedure Rules set out the arrangements for allowing substitutes at standing committees and sub-committees. The provision was, however, somewhat limited and it had been considered that the wording be expanded to provide greater clarity and detail. It was therefore suggested that the section be amended.

The Council was required to appoint an 'Independent Person' who had a role in dealing with Code of Conduct complaints. The remit of the GES Committee implied that the Independent Persons were members of the Governance, Ethics and Standards Committee. However, in practice they had not been formally co-opted onto the Committee or paid a co-opted member allowance. To provide clarity therefore, it was proposed that the wording on the composition of the Committee be amended to read; "The Governance, Ethics and Standards Committee will comprise of 8 Elected Members." Under the responsibility for functions of the Director of Legal and Democratic Services, there was provision for them; "To appoint an independent person of another authority's Standard Committee, where necessary because of a conflict of interest or nonavailability, to serve a temporary member of the Standards Committee." In light of the fact that the Independent Person was not a member of the Governance, Ethics and Standards Committee, it was proposed that the delegation was removed.

Council approved a revised leadership model at its meeting on 2 December 2020. As a result, there were various changes required to Appendix

1 of the Constitution to reflect the new role of Managing Director with effect from 1 January 2021. It was proposed that the Director of Legal and Democratic Services be authorised to make the necessary changes to the Constitution to reflect the new role.

A list of officers outlined in the report would need to be added under Section 20.1(b) - Corporate Management Team. Section 20.1(c) – ‘Head of Paid Service, Monitoring Officer and Chief Finance Officer’ also required amendment so it was clear that the Managing Executive Director – Commissioning, Communities and Policy was the Head of Paid Service.

Section (l) required amendment listed within the report to reflect the current provisions in the Local Authorities (Standing Orders) (England) Regulations 2001.

Before consideration of the recommendations, Councillor C Short proposed the following amendment:

“To accept the recommendations with the exception of item 1(v), substitutes.” Councillor Short felt that the item required more clarity and the Committee would return to the item at the next constitutional review. The remaining recommendations stood.

The motion was duly seconded.

The motion was put to the vote and declared to be WON.

RESOLVED to approve the proposed amendments to the Constitution as detailed in the report with the exception of item 1(v) to Council and recommend them to Council for approval.

03/20 COMMITTEE FOR STANDARDS IN PUBLIC LIFE - NEW MODEL CODE OF CONDUCT

At its meeting on 25th February 2019, the Committee (then the Standards Committee) considered the findings of the review of the Committee on Standards in Public Life dated January 2019. The purpose of the Review was for the CSPL to assure themselves that the current standards framework was conducive to promoting and maintaining the high ethical standards expected by the public.

The Review identified some specific areas of concern and identified a number of risks in respect of the current rules around conflicts and declaring of interests, gifts and hospitality and the increased complexity of local government decision-making.

The CSPL made 26 recommendations and identified 15 recommendations of best practice to improve ethical standards in local government. The recommendations included the suggestion for the LGA to

create an updated code of conduct to enhance consistency and the quality of local authority codes.

In autumn 2020, the CSPL wrote to local authorities seeking an update regarding progress against those recommendations and what steps had been taken to put those recommendations in place. A copy of the response sent to the CSPL on behalf of the Council was attached at Appendix 1.

It had been proposed that further action should be taken in respect of recommendation 5 *“Local Authorities should update their gifts and hospitality register at least once per quarter and publish it in an accessible format”*, with immediate effect and it was proposed that the Gifts and Hospitality Register be published on the website.

However, the Committee would note that further areas of the Code required review in accordance with the best practice recommendations. As required, the LGA had developed a model code of conduct and a copy of the model code was attached at Appendix 2 and consideration would need to be given as to whether the Council wished to adopt the new model Code.

Therefore, the Committee may have wished to convene a working group to review the current Code in accordance with the best practice recommendations of the CSPL and to consider the new model Code to recommend whether this should be adopted by the Council.

RESOLVED that the Committee (1) note the response submitted to the CSPL regarding progress against the best practice recommendations; (2) agreed that the Gifts and Hospitality Register should be published on the Council’s website; (3) determined whether to establish a working group to review the current Code in accordance with the best practice recommendations of the CSPL and to consider the new model Code to recommend whether this should be adopted by the Council; and (4) should the Committee determine to establish such a working group, to agree the membership of that group.

04/20 **INDEPENDENT PERSONS** S27 Localism Act required that the arrangements under which decisions on allegations made that a Councillor had breached the Code of Conduct must include provision for the appointment of at least one independent person. The views of the independent person must be sought and taken into account by the authority before it makes its decision on an allegation that it had decided to investigate. The views of the independent person may also be sought by the Council in relation to any allegation made against a member or by a member against whom an allegation had been made.

In addition, the Local Authorities Regulations as amended in 2015 extended the remit of independent persons in that they were now also required to sit on the Panel which was convened as necessary to consider disciplinary

allegations against the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer to advise and make recommendations to the Council.

Until recently, the Council had three independent persons. However, two had resigned during the course of their second term of office and the third, Mr Lloyd Newby, was approaching the end of his second 4-year term of office.

Consequently, the Council must now appoint at least one independent person. In considering independence, the Act specifies that a person was not considered to be independent if the person was –

- (i) a member, co-opted member or officer of the authority, or
- (ii) a relative or close friend of a person who was a member or co-opted member or officer of the authority

In addition a person may not be appointed as an independent person if at any time during the 5 years ending with the appointment, the person was a member, co-opted member or officer of the authority.

Independent persons must be appointed through a process of public advertisement and application. Therefore, a recruitment process had commenced at the end of November 2020. An advertisement was placed on the Council's website and also within the local press. Potential applicants were required to submit an application form detailing their suitability for the role. An appointment to the role of independent person must also be approved by a majority of the members of the authority.

One applicant, Mr Ian Orford, had been shortlisted and was successfully interviewed by the Director of Legal and Democratic Services, the Director of Finance and ICT and the Director of Organisational Development and Policy on 8th January 2021. Following that interview it was proposed that Mr Orford be recommended for appointment as an Independent Person, subject to obtaining satisfactory references. As Mr Orford was new to the role of independent person, the Interview Panel recommended that the appointment should be subject to a review after twelve months. It had been proposed that the review would be conducted by the Monitoring Officer in consultation with the Chair of the Governance, Ethics and Standards Committee.

Additionally, as Mr Orford was a new appointment, it had been proposed that Mr Newby's term of office be extended for a further 12 months in order to retain the knowledge and experience he had gained. It had been reported to the Committee that the current Code of Conduct for Elected Members would be reviewed, and these appointments would provide the Committee with the opportunity to review the current arrangements for independent persons and consider whether further recruitment was required.

It had been proposed that each Independent Person should be paid an allowance of £125 per session for attendance at meetings, hearings or events.

RESOLVED that the Committee agreed (1) to recommend to the Council the appointment of Ian Orford as an Independent Person under the Localism Act for a term of office of four years, but subject to a review after 12 months; (2) to delegate the review referred to at (1) above to the Monitoring Officer in consultation with the Chair of the Governance, Ethics and Standards Committee; and (3) to recommend that the Council extended the term of office for Mr Lloyd Newby for a further 12 months.

05/20 **ACTIVITIES OF THE MEMBER DEVELOPMENT WORKING GROUP**
Councillor Gary Musson as the Chair of the Member Development Working Group (MDWG) gave an update to the committee on work that had taken place and the proposed future plans.

There had been different variations of the MDWG in the past. The Members involved in the current group reflected on previous work done in order to make improvements for the future. One of the first findings was that a documented strategy needed to be agreed and implemented. Work on the new strategy had been completed and had been adopted at the meeting of the full council in September 2020.

Derbyshire learning online would be a portal where Councillors could do various sections of training as well as being a repository for key documents. The Member development skills matrix had been developed, after the role descriptions being approved at a meeting of the full council. This would be basic training that the group thought would be essential or desirable for certain roles. This as well as a number of other things had been out to consultation with the current Elected Members.

The strategy and skills matrix were dynamic documents that would be reviewed on an ongoing basis and be brought up to date as required, particularly after reviewing how successful the first implementation had been. From the skills matrix, training needs could be determined. This would be a more effective way of managing the needs of the Members. Attending a face to face session for a few hours would not necessarily give the best benefit to all attendees, so the way training was organised had been reviewed and the different options for delivery of that training would need to be more user friendly and targeted. Feedback from the new delivery of training would be encouraged.

The induction process was under review, this included the period before and after an election. Pieces of information could be made available to ensure that candidates were aware of what would be expected of them and to ensure they had the correct knowledge as early as possible.

The next meeting of the Working Group would be held on 20 January 2021. There were a number of items on the agenda, including pre-election materials, and induction planning in preparation for the next elections. It had been agreed that the budget for training would continue to be rolled over as work was finalised. When needs had been identified, the appropriate budget would be available to be able to support the plans.

There was now a structure in place, and the hard work would begin as the strategy had been approved by full council. The deadline for this work to be completed and implemented was by the May 2021 elections, should they go ahead as planned.

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DERBYSHIRE COUNTY COUNCIL

4th March 2021

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

Report of the Director of Legal and Democratic Services

Amendments to the Constitution

1. Purpose of the Report

1.1 To invite the Committee to consider proposed amendments to Appendix 9 – Officer Employment Procedure Rules within the Constitution.

2. Information and Analysis

2.1 Amendments to Appendix 9 – Officer Employment Procedure Rules are proposed with regard to the arrangements for the appointment of Senior Officers. Currently, the Rules require a Panel to be formed from members of the ACOS Committee. However, it is proposed that the members best placed to consider appointments are those holding the relevant portfolio.

2.2 In accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 as amended, an appointment panel must include at least one member of the Cabinet. An appointment panel is also required to be politically balanced.

2.3 Therefore, in order to meet legislative requirements and to ensure that those members best placed to consider appointments are on the panel, it is proposed that the panel should comprise at least three members, including the Cabinet Member or Cabinet Members holding the relevant portfolio(s), the Shadow Cabinet Members and an additional Member from the Appointments and Conditions of Service Committee.

2.4 It is proposed that paragraphs 3(d) and 3(f) of Appendix 9 – Officer Employment Procedure Rules be amended to read as follows:

Paragraph 3(d)

The full Council will approve the appointment of the Head of Paid Service and Executive Directors following the recommendation of such an appointment by a politically balanced Panel of at least three members formed of the Cabinet Member or Members holding the relevant portfolio or portfolios, the Shadow Cabinet Members and an additional Members from the Appointments and Conditions of Service Committee as necessary to balance the Panel. Where

the Cabinet Member holding one of the relevant portfolios or one of the Shadow Cabinet Members is unable to attend, they may be substituted for a Member of the Appointments and Conditions of Service Committee, provided that the Panel includes at least one member of the Cabinet and remains politically balanced. Arrangements for forming the Panel will be undertaken by the Director of Organisation Development and Policy.

Paragraph 3(f)

A politically balanced Panel of at least three members formed of the Cabinet Member or Members holding the relevant portfolio or portfolios, the relevant Shadow Cabinet Members and additional Members from the Appointments and Conditions of Service Committee as necessary to balance the Panel, will appoint the Council's Monitoring Officer and other officers falling within paragraph (c) above, except the Director of Public Health. The Panel must include at least one member of the Cabinet. Where the Cabinet Member holding one of the relevant portfolios or one of the Shadow Cabinet Members is unable to attend, they be substituted for a Member of the Appointments and Conditions of Service Committee, provided that the Panel includes at least one member of the Cabinet and remains politically balanced. Arrangements for forming the Panel will be undertaken by the Director of Organisational Development and Policy in conjunction with the Head of Paid Service; or by the Head of Paid Service if the appointment is of the Director of Organisation Development and Policy.

2.5 A further correction needs to be made at paragraph 7, where the reference should be to paragraph 3(c), namely the list of officers who are not the responsibility of the Head of Paid Service and the specific reference to assistants of political groups should be removed as follows:

7. Action against Officers other than those stipulated in paragraph 3 (c)

Any action against these officers is the responsibility of the Head of Paid Service as delegated to Executive Directors for their service area under the Officer Scheme of Delegations at Appendix 1, and decisions regarding action against these officers may not be made by Councillors.

3. Legal Considerations

3.1 In forming a Panel to consider appointments of specified officers, the Council is required to meet legislative requirements set out in the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended). These include the requirement for a panel to include a Cabinet Member.

3.2 In accordance with the Council's Constitution, approval by the full Council is required for any change to the Constitution. However, under its terms of

reference at Article 11 of the Constitution, the Governance, Ethics and Standards Committee is required *to advise the County Council on the monitoring, amendments to and overall operation of the Constitution.*” Therefore, prior to the amendments being considered by the full Council, they must be considered by the Governance, Ethics and Standards Committee.

4. Other considerations

4.1 In preparing this report the relevance of the following factors have also been considered: prevention of crime and disorder, equality and diversity, human resources, environmental, health, property and transport consideration.

5. Background Papers

5.1 The Constitution and file held by the Director of Legal and Democratic Services.

6. Officer’s Recommendations

6.1 That the Committee considers the proposed amendments to the Constitution as detailed in this report and recommends them to the Council.

Helen Barrington
Director of Legal and Democratic Services and Monitoring Officer

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DERBYSHIRE COUNTY COUNCIL

4 March 2021

GOVERNANCE, ETHICS AND STANDARDS COMMITTEE

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

COMPLAINTS RECEIVED AGAINST COUNCILLORS PURSUANT TO THE CODE OF CONDUCT FOR ELECTED MEMBERS FOR THE PERIOD 1 JULY 2020 TO 31 DECEMBER 2020.

1. Purpose of the Report

1.1 To inform the Committee of complaints against Councillors received during the period of 1 July 2020 to 31 December 2020.

2. Information and Analysis

2.1 The Council's Procedure for considering complaints that Councillors have breached the Code of Conduct which is attached at Appendix 1, provides that the Monitoring Officer, in consultation as appropriate with one of the Independent persons from the Standards Committee, decides how complaints should be dealt with. Decisions are made as to whether or not complaints should be investigated and whether or not they should be referred on to the Standards Committee for consideration.

2.2 In order to support the Monitoring Officer with the management of complaints, the Committee is kept informed of complaints received against Councillors on an annual basis. The last report was presented to the Committee in October 2020.

2.3 During the period from 1st July 2020 to 31st December 2020, one complaint was received and determined. The complaint was from a member of the public that the Councillor had spoken in an inappropriate and disrespectful manner. The complaint was not upheld and did not fall within the remit of the Code.

2.4 Two complaints submitted during this time period remain under consideration and details will be provided within the next report.

2.5 One complaint remained outstanding at the time of the last report. That complaint has now been resolved. It has been found that complaints regarding the failure to champion the needs of residents and a failure to treat others with respect were not upheld. However, a third complaint regarding dealing with representations fairly, appropriately and impartially was potentially upheld, but found not to be sufficiently serious to warrant investigation.

3. Legal Considerations

3.1 The Council is required to publish a Member Code of Conduct and a complaints procedure. In accordance with its terms of reference, the Governance, Ethics and Standards Committee supports the Monitoring Officer in taking any action required on the receipt, management and investigation of any Code of Conduct Complaint against an Elected Member.

3.2 As the Committee will appreciate, the details of the individual Councillors against whom the complaints were made cannot be disclosed since this would be in breach of data protection legislation.

4. Other considerations

4.1 In preparing this report the relevance of the following factors have also been considered: prevention of crime and disorder, equality and diversity, human resources, environmental, health, property and transport consideration.

5. Background Papers

5.1 Confidential files held by the Director of Legal and Democratic Services.

6. Officer's Recommendations

6.1 The Committee is asked to note the complaints made that Members' have breached the Code of Conduct.

Helen Barrington
Director of Legal and Democratic Services and Monitoring Officer

DERBYSHIRE COUNTY COUNCIL

PROCEDURE FOR CONSIDERING COMPLAINTS THAT MEMBERS HAVE BREACHED THE CODE OF CONDUCT

1. The Monitoring Officer acknowledges receipt of the complaint within 5 working days of receipt.
2. The Monitoring Officer informs the subject matter of
 - a) The complaint, giving a summary of it and the name of the complainant
 - b) His right to consult one of the Independent Persons appointed by the Council, through the Monitoring Officer
3. The Monitoring Officer, in consultation with an Independent Person (other than one consulted by the subject member under paragraph 2 (b)), decides, within 20 working days of receipt of the complaint, that;
 - a) The complaint does not come within the remit of the Code of Conduct
 - b) The complaint is not sufficiently serious to warrant an investigation
 - c) That it is not in the public interest to investigate the complaint
 - d) He should seek to resolve the complaint without the need for an investigation (e.g. by way of an apology or training by the subject member)
 - e) The complaint should not be investigated because it is vexatious, malicious or obsessive
 - f) The complaint should not be investigated because it is broadly similar to a complaint against the same member about the same alleged incident

- g) The complaint should not be investigated because there is a clear ulterior/political motive for it or it is just a tit for tat complaint
 - h) An investigation should take place
- 4. Before coming to his decision under paragraph 3 the Monitoring Officer may request further information and/or clarification from the complainant and/or the subject member and the time period shall be extended accordingly.
- 5. If the Monitoring Officer decides that the complaint should be investigated, or his attempts to resolve the complaint without an investigation do not succeed, then he will carry out an investigation or appoint an investigator to carry out an investigation on his behalf.
- 6. The investigator appointed under paragraph 5 by the Monitoring Officer may be;
 - a) A senior officer of the Council
 - b) A senior officer of another council
 - c) An external investigator with relevant experience
- 7. A report into an investigation shall include the Investigator's findings on whether the Code has been breached.
- 8. Before finalising his report the Investigator shall send a copy of it to both the complainant and the subject member and give them at least 5 working days to comment on it.
- 9. If the Investigator's final report finds there has not been a breach of the Code the Monitoring Officer can, in consultation with an Independent Person, decide to;
 - a) Take no action

- b) Refer the report to the Standards Committee for Information
10. If the Investigator's report finds there has been a breach of the Code then the Monitoring Officer must refer the matter to the Standards Committee.
 11. When the matter has been referred to the Standards Committee by the Monitoring Officer, the Standards Committee (or a Hearing Sub Committee if this is considered by the Committee to be appropriate) will:
 - a) Allow the Investigator to present his report and call witnesses, including the complainant
 - b) Allow the subject member to make representations and call witnesses
 - c) Decide if the subject member has breached the Code of Conduct
 - d) Decide what sanction should be imposed if it is decided that the Code has been breached.
 12. The sanctions the Standards Committee or Hearing Sub Committee can impose if a breach of the Code is found are;
 - a) Censuring the member
 - b) Reporting its findings to the Council for information
 - c) Recommending to the member's Group Leader (or in the case of ungrouped members, recommending to the Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - d) Recommending to Council that the member be replaced as Executive Leader of the Authority;
 - e) Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular portfolio responsibilities;

- f) Recommending that the Monitoring Officer arrange training for the member;
 - g) Recommending to Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority
13. In reaching a decision as to whether there has been a breach of the Code and if so what sanction should be imposed the Standards Committee or Hearing Sub Committee will consult and take into account the views of the Independent Persons who attend such hearings and the Independent Persons' views will be recorded in writing.
 14. Following any final decision by the Monitoring Officer or the Standards Committee or Hearing Sub Committee, at whatever stage, the Monitoring Officer shall inform the complainant and the subject member of the decision and the reasons for it within 10 working days.
 15. Wherever there has been a decision that the subject member has breached the Code of Conduct that decision and the reasons for it shall be put on the Council's website in a prominent position.
 16. Wherever there is a decision that the subject member has not breached the Code of Conduct that decision shall be put on the Council's website, in a prominent position if the subject member wishes it to be.
 17. Any decision of the Monitoring Officer or the Standards Committee or Hearing Sub Committee shall be final and binding.

18. The Monitoring Officer will every 6 months present a report to the Standards Committee setting out:
 - a) The number of complaints received and brief details
 - b) How they are progressing
 - c) What decisions have been made
 - d) What action has, where appropriate, been taken

19. The Monitoring Officer has delegated power, in consultation with an Independent Person and the Chairman of the Standards Committee, to approve a departure from these arrangements when he considers it is expedient to do so to secure the effective and fair consideration of any matter.

20. In all cases where the Monitoring Officer is unable to perform his role his deputy will do so.

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DERBYSHIRE COUNTY COUNCIL

4 March 2021

AMENDMENTS TO THE CONSTITUTION – MEMBERS ALLOWANCES SCHEME

ANNUAL REPORT OF THE INDEPENDENT REMUNERATION PANEL

Report of the Director of Legal Services and Monitoring Officer

1. Purpose of the Report

1.1 To consider the annual report of the Independent Remuneration Panel and further amendments to the consider amendments to Appendix 15 of the Constitution regarding the Members' Allowances Scheme in order to make recommendations to full Council.

2. Information and Analysis

2.1 The Council is required to adopt and publish a Members' Allowances Scheme and to consider recommendations from the Independent Remuneration Panel. Attached for consideration at Appendix 1, is the report of the Independent Remuneration Panel dated March 2021.

2.2 The Panel recommends that all allowances should remain the same for 2021/2022 as in the current scheme and also sets out its intended work programme for 2021/2022. The Panel also seeks to recruit two further members to the Panel in light of one member having retired at the end of 2020 and a further member being due to retire in June 2021, both having served two full terms of office.

2.3 The Committee is also asked to consider amendments to Appendix 15 – Members' Allowances Scheme within the Constitution. The power to suspend or disqualify a Member in the Local Government Act 2000 was repealed by the Localism Act and this provision now only applies to Wales. Therefore, sections 11 and 12 of the Members' Allowances Scheme as detailed below, need to be removed from the Constitution.

11. Withholding of Payments Made to Members

a) Where a Member is suspended or partially suspended from their responsibilities or duties as a Member of the County Council in accordance with Part III of the Local Government Act 2000, or regulations made under that part, the part of either Basic or Special Responsibility Allowances payable to that Member in respect of duties

or responsibilities from which they are suspended or partially suspended may be withheld by the County Council. The full Council will make any such decision.

12. Recovery of Payments Made to Members

Where a payment has been made to a Member that relates to a period where either the Member concerned: -

a) is suspended or partially suspended from their duties and responsibilities as a member in accordance with Part III of the Local Government Act 2000 or regulations made under that part;

3. Legal Considerations

3.1 Adopting the Members' Allowances Scheme and approval of amendments to the Constitution are both matters which are reserved to full Council.

3.2 However, under its terms of reference at Article 11 of the Constitution, the Governance, Ethics and Standards Committee is required to advise the Council on any matters in connection with the Members' Allowance Scheme, taking into account the recommendations of the Independent Remuneration Panel.

3.3 In addition, the terms of reference also require the Governance, Ethics and Standards Committee to *advise the County Council on the monitoring, amendments to and overall operation of the constitution.*"

3.4 Therefore, the views of the Committee are sought with regard to recommending the proposals of the Independent Remuneration Panel and the amendments to Appendix 15 – Members' Allowances Scheme prior to referral to full Council.

4. Other Considerations

4.1 In preparing this report, the relevance of the following factors has been considered: financial, prevention of crime and disorder, equality and diversity, human resources, human rights, environmental, health, property and transport considerations.

5. Background Papers

5.1 The Constitution and the file held by the Director of Legal and Democratic Services.

6. Officer Recommendation

6.1 That the Committee considers the report of the Independent Remuneration Panel, including the proposal to recruit two members to the

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Panel, and the amendments to the Constitution as detailed in the report and recommends them to Council for approval.

Helen Barrington
Director of Legal and Democratic Services and Monitoring Officer

Report of the Independent Remuneration Panel

Derbyshire County Council

March 2021

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Allowances Appendix 2 – List of Committee Chair

Roles in receipt of an SRA

1. Background

1.1 The current Derbyshire County Council Independent Remuneration Panel comprises five members, none of whom are members of the Council or any of its committees, nor an employee of the Council. The members are:

- **Mrs Pat Boyle**
Magistrate, Governor Royal Hospital, Chesterfield and Independent person on Chesterfield Borough Council Standards and Complaints Committee. Former Bank Official. Member since June 2013.
- **Mr Denis Heaney**
Former Investigations Manager HMRC, previously an Independent Member of the Derbyshire Police Authority Standards Committee and the County Council's Standards Committee. Member since December 2014
- **Mr Andrew Sharpe**
Clerk and Responsible Financial Officer for a number of Parish Councils in Derbyshire. Former Head of Democratic Services and Deputy Monitoring Officer with Erewash Borough Council. Member since December 2014
- **Mr Simon Westwood – elected by the panel as Chair for 2021/22**
Independent Chair of the Safeguarding Children Board for the City of Salford Council. Worked for the County Council until 2000, having held the posts of Head of Planning and Projects and Head of Planning and Strategic Development. Member since December 2014

1.2 The panel met once virtually during the 20/21 year due to COVID restrictions, key officer turnover and supporting officers having to prioritise other key work.

2. Terms of Reference

2.1 The Local Government Act 2000 and the Consolidated Members' Allowances Regulations 2003, and subsequent amendments, require Independent Remuneration Panels to offer advice and rules on what Councillors may claim as expenses and allowances. Specifically, they consider the following allowances:

- Basic allowance
- Special responsibility allowance

- Child care and dependent carer's allowance
- Pensions for members
- Travel and subsistence allowances
- Co-optee allowances
- Provision for suspension of allowances in certain circumstances
- Suitability of an index for allowances and what that index might be.

2.2 All recommendations are to be published and considered by all Councillors and must be voted on by the full Council.

3. **Process of the Review**

The Panel has held a virtual meeting in order to ensure statutory processes are complied with to review the members allowances and expenditure. Officers advised at that meeting that changes in law required amendment to the constitution there for the relevant sections of the scheme have been amended.

4. **Results of Review and Recommendations** **Recommendations:**

4.1 The Panel recommends all allowances should remain the same for 2021/22 as in the current scheme. SRA for the Leader of the Council is the Full Allowance upon which all other SRAs are based.

4.2 SRAs should be uplifted in line with the uplift given to staff from April 2021.

4.3 In 2021 The Panel intends to review the evidence of the workload and allowances for the Civic Chair of Derbyshire County Council and the Chair of the County Council and whether the current allowance reflects the splitting of these responsibilities.

4.4 Indexation of Basic Allowance

The Basic Allowance is linked to pay awards agreed by the National Joint Council for Local Government Services. An increase of 0% is expected to be applied from 1 April 2021 resulting in the Basic Allowance remaining at £11,196.00. The Panel does not recommend any further change.

5. **Work Programme for 2021/2022**

The panel intend to continue to keep under review all aspects of the allowances paid to Members. In particular we will review the workload of the Civic Chair and Vice Chair of Derbyshire County Council to ensure the SRA remains appropriate and the on-going

changes to the Governance of the Council and the impact of this on levels of workload and responsibility.

The panel would welcome input from any Elected Member or Council Official with regard any aspect of the panel's responsibilities.

Meetings are planned to be held in May and September 2021 and January 2022 and can be virtual if required due to the unknown Covid circumstances at the time of the meeting.

6. Conclusion

In preparing this report, and the recommendations contained herein, the Panel wishes to thank the Council Officers who contributed to our discussions and assisted the Panel in its work.