

**DERBYSHIRE COUNTY COUNCIL**

**4<sup>th</sup> 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**