

DERBYSHIRE COUNTY COUNCIL

COUNCIL

24 March 2021

Report of the Director of Legal and Democratic Services

AMENDMENTS TO THE CONSTITUTION

1. Purpose of the Report

1.1 To invite the Council 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 Appointments and Conditions of Service 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 Two further corrections need to be made to paragraph 7. The current heading is "Action against Officers other than those stipulated in paragraph 4" whereas it should read "Action against Officers other than those stipulated in paragraph 3 (c)" because paragraph 3 (c) and not paragraph 4 includes the list of officers whose appointment and dismissal is to be the responsibility of Members rather than the Head of Paid Service. In addition, paragraph 7 currently includes reference to assistants to political groups, which the Council does not currently employ and as a result it is proposed that this is removed. It is therefore proposed that paragraph 7 is amended to read:

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.* The Governance, Ethics and Standards Committee therefore met on 4 March 2021 and recommended to Council that the changes proposed in the report be approved.

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 Council approves the proposed amendments to the Constitution as detailed in this report.

Helen Barrington
Director of Legal and Democratic Services and Monitoring Officer