

# Public Document Pack



11<sup>th</sup> July 2012

Dear Sir/Madam,

You are summoned to attend the meeting of the Borough Council of Newcastle-under-Lyme to be held in the **Council Chamber, Civic Offices, Merrial Street, Newcastle Under Lyme, Staffordshire ST5 2AG** on **Wednesday, 11th July, 2012 at 7.00 pm**

## B U S I N E S S

**1 Declarations of Interest**

**2 MINUTES OF LAST MEETING**

**(Pages 1 - 6)**

To approve as a correct record the minutes of the meeting held on 16 May 2012.

**3 Mayors Announcements**

**4 QUESTIONS FROM MEMBERS**

Questions to be submitted to the Mayor at least 24 hours in advance of the meeting. Any questions deemed urgent must be agreed by the Mayor before the meeting.

**5 CABINET REPORT FROM THE LEADER OF THE COUNCIL**

Report will be sent to follow.

**6 REPORTS OF THE CHAIRS OF THE OVERVIEW AND SCRUTINY COMMITTEES**

- (a) Overview and Scrutiny Co-ordinating Committee
- (b) Transformation and Resources Overview and Scrutiny Committee
- (c) Active and Cohesive Overview and Scrutiny Committee
- (d) Cleaner, Greener and Safer Overview and Scrutiny Committee
- (e) Economic Development and Enterprise Overview and Scrutiny Committee
- (f) Health Scrutiny Committee

**7 REPORTS OF THE CHAIRS OF THE STATUTORY COMMITTEES**

- (a) Planning Committee
- (b) Licensing Committee
- (c) Public Protection Committee

**8 Questions on Reports of the Chairs of the Statutory and Overview and Scrutiny Committees**

**9 Progress on deferred questions and petitions**

**10 Review of the Constitution (deferred from last meeting)**

**(Pages 7 - 10)**

**11 Members' Allowances (deferred from last meeting)**

**(Pages 11 - 16)**

**12 The Localism Act 2011 - The Amended Standards Regime - (Pages 17 - 30)**  
**Adoption of New Code of Conduct for Members and Adoption**  
**of Arrangements for Dealing With Allegations of Breaches of**  
**Code of Conduct**

**13 Staffing Committee (Pages 31 - 36)**

**14 MOTIONS OF MEMBERS**

A Notice of Motion must reach the Chief Executive ten clear days before the relevant Meeting of the Council.

**15 RECEIPT OF PETITIONS**

To receive from Members any petitions which they wish to present to the Council pursuant to Standing Order 17.

**16 STANDING ORDER 18 - URGENT BUSINESS**

To consider any communications which pursuant to Standing Order No18 are, in the opinion of the Mayor, of an urgent nature and to pass thereon such resolutions as may be deemed necessary.

Yours faithfully

A handwritten signature in black ink, appearing to be 'J. Smith', written over a horizontal line.

Chief Executive

## NOTICE FOR COUNCILLORS

### 1. **Fire/Bomb Alerts**

In the event of the fire alarm sounding, leave the building immediately, following the fire exit signs. Do not stop to collect personal belongings, do not use the lifts.

Fire exits are to be found either side of the rear of the Council Chamber and at the rear of the Public Gallery.

On exiting the building Members, Officers and the Public must assemble at the front of the former Hubanks store opposite to the Civic Offices. DO NOT re-enter the building until advised to by the Controlling Officer.

### 2. **Attendance Record**

Please sign the Attendance Record sheet, which will be circulating around the Council Chamber. Please ensure that the sheet is signed before leaving the meeting.

### 3. **Mobile Phones**

Please switch off all mobile phones before entering the Council Chamber.

### 4. **Tea/Coffee**

Refreshments are available from the drinks machine outside of the Council Chamber.

### 5. **Notice of Motion**

A Notice of Motion other than those listed in Standing Order 19 must reach the Chief Executive ten clear days before the relevant Meeting of the Council. Further information on Notices of Motion can be found in Section 5, Standing Order 20 of the Constitution of the Council.

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**COUNCIL**

**Wednesday 16 May 2012**

**Present:-** The Worshipful the Mayor  
Councillor David Becket – in the Chair

Councillors Allport, Mrs Astle, Bailey, Miss Baker, Bannister, Mrs Bates, Mrs Beech, Boden, Mrs Burgess, Mrs Burnett, Cairns, Clarke Cooper, Miss Cooper, Mrs Cornes, Eagles, Eastwood, Fear, Mrs Hailstones, Hailstones, Mrs Hambleton, Hambleton, Mrs Heames, Holland, Howells, Mrs Johnson, Jones, Kearon, Lawton, Loades, Miss Mancey, Matthews, Olzewski, Miss Olzewski, Miss Peers, Plant, Miss Reddish, Robinson, Mrs Shenton, Mrs Simpson, Snell, Stringer, Stubbs, Studd, Sweeney, Tagg, Taylor J, Taylor M, Turner, Miss Walklate, Waring, Welsh, Wemyss, White, Wilkes, Mrs Williams, Williams and Mrs Winfield

**1. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**2. TO RECEIVE THE RETURNING OFFICER'S STATEMENT OF THE RESULT OF THE ELECTIONS HELD ON THURSDAY 3RD MAY 2012**

**Resolved:-** That the statement be received.

**3. TO ELECT A MAYOR FOR THE NEXT MUNICIPAL YEAR**

Following a proposition from Councillor Robin Studd that was seconded by Councillor Eddie Boden, Councillor David Becket was elected Mayor for the forthcoming Municipal Year.

*The new Mayor, Councillor David Becket in the Chair.*

*The Mayor then made his Declaration of Acceptance of Office.*

**4. TO APPOINT A DEPUTY MAYOR FOR THE NEXT MUNICIPAL YEAR INCLUDING THE DECLARATION OF ACCEPTANCE OF OFFICE**

On the proposition of Councillor George Cairns, seconded by Councillor Thomas Lawton, Councillor Eddie Boden was elected Deputy Mayor for the forthcoming Municipal Year.

**5. MINUTES OF THE MEETING HELD ON WEDNESDAY 28 MARCH 2012**

**Resolved: -** That the minutes of the meeting held on 28 March 2012 be agreed as a correct record.

6. **MAYOR'S APPOINTMENTS**

Mayoress: Dr. Ann Becket  
High Constable: Professor Claire Holdsworth  
Chaplain: Reverend Pamela Lane  
Mace Bearer: Lawrence Tagg

7. **THE MAYOR TO ADDRESS THE COUNCIL**

The Mayor stated that he would present his speech in full at the Civic Reception at Keele University. The Mayor confirmed that his charities for the year would be Borderlines at the New Vic and the Realise Foundation. The Mayor thanked Cllr Trevor Hambleton and Cllr Sandra Hambleton for the hard work undertaken during the previous Municipal Year and highlighted the fact that through their efforts Newcastle Borough Council was held in high esteem throughout Staffordshire.

Cllr Snell also thanked the outgoing Mayor and Mayoress for the work undertaken on behalf of three charities both inside and outside of the Borough.

Thanks were also given to the Mayors Sergeant and Chauffeur.

8. **ELECTION OF LEADER OF THE COUNCIL**

Councillor Gareth Snell was appointed as Leader of the Council for the period 2012 to 2016.

9. **APPOINTMENT OF DEPUTY LEADER OF THE COUNCIL**

Councillor Snell announced the appointment of Councillor Boden as Deputy Leader of the Council.

10. **APPOINTMENTS OF CABINET**

Councillor Snell announced the appointment of Cabinet as follows:

<b>Member</b>	<b>Portfolio</b>
Councillor Snell:	Communications, Transformation and Partnerships
Councillor Boden:	Regeneration, Planning and Town Centres
Councillor Stubbs:	Finance and Budget Management
Councillor Mrs Ann Beech:	Environment and Recycling
Councillor Mrs Elsie Bates:	Culture and Leisure
Councillor Tony Kearon:	Safer Communities
Councillor John Williams:	Stronger and Active Neighbourhoods

11. **REPORTS OF THE CHAIRS OF THE OVERVIEW AND SCRUTINY COMMITTEES AND QUESTIONS TO THE CHAIR**

**Resolved:-** That the reports be received.

12. **REPORTS OF THE CHAIRS OF THE STATUTORY COMMITTEES AND QUESTIONS TO THE CHAIR**

**Resolved:-** That the reports be received.

13. **REVIEW OF THE CONSTITUTION**

**Resolved:** - (a) That the Council adopt the amendments to the Constitution recommended by the Working Group until the next full meeting of the Council.

(b) That the Working Group carries out a continued review of the Constitution.

(c) That 'Constitutional Review' forms part of the responsibilities of the Transformation and Resources Scrutiny Committee.

14. **REPORT OF THE INDEPENDENT REMUNERATION PANEL ON MEMBERS ALLOWANCES**

The Chair of the Transformation and Resources Overview and Scrutiny Committee recommended that a decision regarding the report of the Independent Remuneration Panel on Members Allowances be deferred until the next full meeting of the Council. The proposal was seconded by Councillor Mrs Beech. It was agreed that the report required in depth discussion and as such would be deferred.

**Resolved:** - (a) That the report be deferred until the next meeting of the Council.

(b) That the current Member Allowance Scheme be retained until a final decision is made.

15. **APPOINTMENTS TO COMMITTEES**

**Resolved:-** That the following Members serve on Standing Committees:

<b>Audit &amp; Risk</b>			
	Paul Waring	David Loades	Nigel Jones
	Sophia Baker	Tracey Peers	
	Terry Turner		
<b>Conservation Advisory</b>			
	Gill Burnett	Julie Cooper	Simon White
	Kyle Robinson		
	David Allport		
<b>Employees Consultative</b>			
	Terry Turner	Tracey Peers	Elizabeth Shenton
	Sandra Hambleton	Ashley Howells	
	John Taylor		
	Glyn Plant		
<b>Grants Assessment</b>			
	Joan Winfield	James Bannister	Dylis Cornes
	Tony Eagles	Ann Heames	June Walklate
	Hilda Johnson		
	Dave Stringer		
<b>Joint Parking</b>			
	Matt Taylor	Stephen Sweeney	Ian Wilkes
	George Cairns		

<b>Licensing</b>			
	Trevor Hambleton	John Cooper	Andrew Wemyss
	Thomas Lawton	Ann Heames	Billy Welsh
	Sandra Simpson	Simon Tagg	Simon White
	Gill Williams	Chloe Mancey	
	John Williams		
	Colin Eastwood		
	Joan Winfield		
	Elsie Bates		
<b>Planning</b>			
	Sandra Hambleton	Andrew Fear	Marion Reddish
	Gill Williams	Ashley Howells	Robin Studd
	Sophia Baker	Ian Matthews	Nigel Jones
	John Williams	Stephen Sweeney	
	Eddie Boden		
	Mick Clarke		
	George Cairns		
	Trevor Hambleton		
	Paul Waring		
<b>Public Protection</b>			
	Mark Olszewski	Linda Hailstones	Billy Welsh
	Sophie Olszewski	Peter Hailstones	June Walklate
	Reg Bailey	Gill Heesom	
	Gill Williams	Ian Matthews	
	Kyle Robinson		
	Tony Kearon		
	Dave Allport		
<b>Standards Committee</b>			
	Terry Turner	John Cooper	Andrew Wemyss
	Sandra Hambleton	Gill Heesom	
	George Cairns		
	John Taylor		
<b>Health Scrutiny</b>			
	Colin Eastwood	David Loades	David Becket
	Hilda Johnson	Linda Hailstones	
	John Taylor		
<b>Member Development Panel</b>			
	Sophie Olszewski	Julie Cooper	Robin Studd
	Eddie Boden	David Loades	Nigel Jones
	John Williams		
	Tony Kearon		
<b>Overview &amp; Scrutiny Co-ordinating</b>			
	Hilda Johnson	Stephen Sweeney	Elizabeth Shenton
	George Cairns	Ann Heames	June Walklate
	Gill Williams	Ian Matthews	
	Matt Taylor	David Loades	
	Sandra Hambleton		



	Colin Eastwood		
	Mark Olszewski		
<b>Active &amp; Cohesive Communities</b>			
	George Cairns	John Cooper	June Walklate
	Glyn Plant	Mark Holland	Dylis Cornes
	Joan Winfield	Gill Heesom	
	Gill Williams	James Bannister	
	Thomas Lawton		
	Reg Bailey		
	Sophie Olszewski		
<b>Cleaner, Greener &amp; Safer Communities</b>			
	Gill Williams	Peter Hailstones	Marion Reddish
	Silvia Burgess	Simon Tagg	Andrew Wemyss
	Kyle Robinson	Stephen Sweeney	
	Dave Allport	Chloe Mancey	
	Hilda Johnson		
	Sandra Simpson		
	Dave Stringer		
<b>Economic Development &amp; Enterprise</b>			
	Matt Taylor	Ian Matthews	Robin Studd
	Sophia Baker	Tracey Peers	Ian Wilkes
	Thomas Lawton	Mark Holland	
	Sophie Olszewski	Andrew Fear	
	Mark Olszewski		
	George Cairns		
	Margaret Astle		
<b>Transformation &amp; Resources</b>			
	Paul Waring	Ashley Howells	Elizabeth Shenton
	Dave Stringer	Tracey Peers	Simon White
	Trevor Hambleton	Andrew Fear	
	Sandra Hambleton	Ann Heames	
	Thomas Lawton		
	Colin Eastwood		
	Silvia Burgess		
<b>Police and Crime Panel</b>	Tony Kearon		

16. **APPOINTMENT OF CHAIRS AND VICE CHAIRS**

**Resolved:** - That the following Members be Chairs and Vice Chairs of the Committees:

<b>COMMITTEE</b>	<b>CHAIR</b>	<b>VICE-CHAIR</b>
Audit & Risk	<b>PAUL WARING</b>	<b>SOPHIA BAKER</b>
Conservation Advisory	<b>GILL BURNETT</b>	<b>JULIE COOPER</b>
Employees Consultative	<b>TERRY TURNER</b>	
Grants Assessment	<b>JOAN WINFIELD</b>	
Joint Parking	<b>MATT TAYLOR</b>	

Licensing	<b>TREVOR HAMBLETON</b>	<b>THOMAS LAWTON</b>
Planning	<b>ANDREW FEAR</b>	<b>SANDRA HAMBLETON</b>
Public Protection	<b>MARK OLSZEWSKI</b>	<b>SOPHIE OLSZEWSKI</b>
Standards Committee	<b>INDEPENDENT CHAIR</b>	<b>TERRY TURNER</b>
Health Scrutiny	<b>COLIN EASTWOOD</b>	
Overview & Scrutiny Co-ordinating	<b>ELIZABETH SHENTON</b>	<b>HILDA JOHNSON</b>
Active & Cohesive Communities	<b>GEORGE CAIRNS</b>	<b>JUNE WALKLATE</b>
Cleaner, Greener & Safer Communities	<b>GILL WILLAMS</b>	<b>STEPHEN SWEENEY</b>
Economic Development & Enterprise	<b>IAN MATTHEWS</b>	<b>MATT TAYLOR</b>
Transformation & Resources	<b>ELIZABETH SHENTON</b>	<b>ANN HEAMES</b>

**17. RECEIPT OF PETITIONS**

A petition was submitted by Councillor Mrs Astle in relation to the removal of trees in front of the playground at Maryhill Primary School.

**D BECKET**  
**Chair**

## **REVIEW OF THE CONSTITUTION** (deferred from last meeting)

**Submitted by:** Chair of the Transformation and Resources Overview and Scrutiny Committee

**Portfolio:** Customer Services and Transformation

**Ward(s) affected:** All

### **Purpose of the Report**

To improve the efficiency and accessibility of the Constitution and to ensure that it is up to date and fully complies with the Law

### **Recommendations**

- (a) That Council adopt the amendments to the Constitution recommended by the Working Group.**
- (b) That the Working Group carries out a continued review of the Constitution.**
- (c) That 'Constitutional Review' forms part of the responsibilities of the Transformation and Resources Scrutiny Committee.**

### **Reasons**

The proposed amendments are considered to improve the efficiency and accessibility of the Constitution and to ensure that it is up to date and fully complies with the Law. It is considered that further improvement can be achieved and it is considered that the Transformation and Resources Overview and Scrutiny Committee is an effective accountable and inclusive means of achieving this.

## **1. Background**

- 1.1 The current form of the Council's Constitution originated in the modular constitution issued in 2000 by the former Office of the Deputy Prime Minister and was designed to meet the needs of the Executive arrangements imposed by the Local Government Act 2000. That model was adapted to suit the particular arrangements of this council.
- 1.2 At the Transformation and Resources Committee meeting on 7 June 2010 it was resolved to set up a working group to review the constitution. The initial purpose of the review was to improve the Constitution so as to increase the understanding and accessibility of members, officers and the public by recommending amendments and the removal of unnecessary provisions.
- 1.3 At that time the Constitution consisted of 16 Articles and 14 Appendices and the Working Group determined that it would not be possible to consider all of the contents. It was therefore decided to concentrate on the Standing Orders for the regulation of meetings.
- 1.4 Throughout 2010/11 the working group met on three occasions and submitted their initial recommendations to Cabinet. These recommendations included further scrutiny of the constitution by the working group. Cabinet resolved that the proposed amendments be referred back to the Transformation and Resources Overview and Scrutiny Committee for further consideration in the new Municipal Year.

- 1.5 The Transformation and Resources Scrutiny Committee therefore agreed to the Working Party continuing their review throughout the Civic Year 2011/12. The scope of the working party was widened to cover the whole constitution, with the aim of presenting a fully revised document to Full Council at its Annual General Meeting in May 2012. The intention being to shorten and simplify the document without significantly altering the rules under which Council operates.
- 1.6 The Working Party has since met 8 times in the 2011/12 Civic Year. In addition the Chair of the Working Party has conducted individual consultations with the relevant Cabinet Portfolio Holder and various Chairs of Scrutiny, Statutory and Regulatory committees.

*To briefly set out the context – use numbered paragraphs and use sub-headings if they help the reader*

## 2. **Issues**

- 2.1 The Constitution is the set of rules that describe and constrain how the Council operates, how its decisions are made and the procedures to be followed. The Working Party quickly identified that the Constitution needed a complete re-writing as legislative and other changes that have taken place over the past few years have either not been incorporated or added without the original sections being replaced, causing conflicting duplications. A prime example of this is the change to the ‘Strong Leader and Cabinet’ model, adopted by the Full Council in December 2010, which is not reflected in the current constitution. Early in its meetings the Working Party adopted the strap line that ‘Our Council works well - in spite of the constitution’! This demonstrated the need for a full review.
- 2.2 The approach taken by the Working Party has been to:
- (i) Remove obvious duplications.
  - (ii) Identify contradictions and remove the parts that do not accord with local practise or law.
  - (iii) Remove obsolete, inaccurate or unnecessary references to law or processes.
  - (iv) Change dates and time specific items.
  - (v) Use the up to date officer and committee structures and be clear about for example job titles.
  - (vi) Simplify wording and improve the indexing.
  - (vii) To use flowcharts rather than narrative where appropriate.
  - (viii) Take best practise from a number of other constitutions.
- 2.3 Members considered that the requirement to stand to speak at Council meetings was inappropriate, especially in light of the Equality Act 2010. This has now been amended however the rule that a Member must address the Mayor with respect, stop speaking when the Mayor rises (or otherwise indicates) and only speak one at a time is retained. Of course, there is no rule that a speaking Member must remain seated, they may still stand.
- 2.4 A flowchart was designed to help members with the Rules of Debate. This flowchart was actually introduced at Full Council meetings a few months ago to gather feedback and has been well received by members. It is intended that this document will be issued with every Council Agenda going forward.
- 2.5 The Working Party examined the High Court ruling earlier this year concerning the saying of prayers at Bideford Town Council meetings. Local authorities have no power under section 111 of the Local Government Act 1972, or otherwise, to hold prayers as part of a formal local authority meeting, or to summon councillors to such a meeting at which prayers are on the

agenda. The Working Party was satisfied that the current arrangements satisfy this ruling as prayers are not part of the agenda, and in addition the saying of prayers is a decision for the Mayoralty each year.

- 2.6 The Working Party is aware that some elected members have specific concerns regarding the Scheme of Delegation, particularly with regards to staffing matters. It was therefore agreed to defer a full review of the Scheme of Delegation until the 2012/13 Civic year. There were two main reasons for this decision. Firstly that the adoption of the revised Constitution by Full Council should not be delayed, or defeated, by a debate on one single section. Secondly that if any changes to the Scheme of Delegation were recommended, and later adopted, then these might require a lengthy review of staffing policies and procedures. The recommendations of such a review will not have to wait until May 2013, as it would be possible to bring this item to Full Council at any time during the Civic Year.
- 2.7 The Localism Act 2011 repealed the requirement for local councils to have a Petitions Scheme, and gives councils the choice of whether or not to have such a scheme. In the light of this, the Working Party has made no suggested amendments to the current Petitions Scheme but recommend that they are allowed to add this to their ongoing review.
- 2.8 The Working Party is very concerned that the Constitution has been allowed to become outdated and to ensure that this does not happen in future it is recommended that Constitutional Review forms part of the responsibilities of the Transformation and Resources Scrutiny Committee. This will avoid the need for such a lengthy and involved full review in the future and ensure that the Constitution remains up to date.
- 2.9 The Constitution has been reformatted, and a paper version of the new document is in the Members' Room and also in electronic form on the Members' website. The Working Party is recommending that in their ongoing review that they examine the best way for the Constitution to be made available to Members. There is an aim for the document to be a fully interactive electronic version, with a search function and for future amendments to be added easily without the need for a manual re-pagination.

### 3. **Options Considered**

- 3.1 It is a legal requirement that the Council has a Constitution that accords with the Law. The amendments and further work options are set out in the body of the report

### 4. **Proposal**

- (i) That Council adopt the amendments to the Constitution recommended by the Working Group.
- (ii) That the Working Group carries out a continued review of the Constitution.
- (iii) That 'Constitutional Review' forms part of the responsibilities of the Transformation and Resources Scrutiny Committee.

### 5. **Reasons for Preferred Solution**

- 5.1 To improve the efficiency and accessibility of the Constitution, and to ensure that it is up to date and fully complies with the law.

### 6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 6.1 The Constitution governs the way the Council works. These changes are intended to enable the public, members and officers to engage more effectively with the decision-making

processes of the Council and also ensure that processes are lawful. Improvements to processes are key to the corporate priority of transforming the Council to achieve excellence.

7. **Legal and Statutory Implications**

7.1 The Council is required by common law and statute (principally the Local Government Acts 1972 and 2000 and the Local Government and Housing Act 1989) to regulate its proceedings and to have an up to date Constitution.

8. **Equality Impact Assessment**

8.1 Where impact has been identified it has been addressed.

9. **Financial and Resource Implications**

9.1 No significant additional resources will be required in relation to the recommendations. The Constitution provides the framework and rules for ensuring value for money.

10. **Major Risks**

10.1 That the Constitution will be inaccessible, procedures will be inefficient or decisions are vitiated by reason of unlawful procedure with consequential damage to the reputation finances and objectives of the Council

11. **Sustainability and Climate Change Implications**

11. Where such considerations arise they have been will be considered.

12. **Key Decision Information**

12.1 The Constitution affects all decisions and therefore all wards. The majority of the Constitution deals with non-executive matters

13. **Earlier Cabinet/Committee Resolutions**

13.1 The Current constitution was adopted by minute 9/2012.

14. **Background Papers**

The Constitution, the minutes of the Transformation and Resources Overview and Scrutiny Committee, the minutes of the Constitution Working Group the minutes of Cabinet.

## **MEMBERS ALLOWANCES** (deferred from last meeting)

**Submitted by:** The Independent Remuneration Panel/Head of Central Services

**Portfolio:** Resources and Efficiency/Customer Services and Transformation

**Ward(s) affected:** All

### **Purpose of the Report**

To review the Councils Scheme of Members Allowances.

### **Recommendations**

- (a) That for 2012/13, the amount of the Basic Allowance be increased in line with the national pay awards agreed for Newcastle Borough Council staff.
- (b) That for 2012/13, the amount of the Special Allowances be increased in line with the national pay awards agreed for Newcastle Borough Council staff.
- (c) The regulation covering travelling expenses is amended to exclude the option of First Class rail travel.
- (d) The Panel should undertake further work regarding basic and special allowances with a view to producing proposals during the autumn of 2012. The Panel membership should be expanded to a minimum of 5 members to facilitate this work.

### **Reasons**

The current national and regional economic situation is extremely difficult. We therefore do not consider it appropriate to recommend any change to the current level of Basic Allowance in terms of any retrospective review. We do think it important however that an appropriate mechanism be agreed for the national pay award assessment. We are recommending that the Panel continue its work in the coming months with a view to making a further and detailed report to the Council in the autumn at which point we will have been able to complete the additional pieces of work set out in the report.

## 1. **Background**

- 1.1 Under the Local Authorities (Members Allowances) (England) Regulations 2003 and subsequent amendments, the Council is required to establish and convene an advisory independent allowances panel (the Panel) to make recommendations on certain allowances. The Panel has been asked by the Council to review basic and special responsibility allowances for roles carried out by Members.
- 1.2 The current Scheme was established in 2006 to cover the Municipal Years 2006/07, 2007/08, 2008/09 and 2009/10. No inflationary adjustment has been made to allowances since 2007/08. The members of the previous Panel have resigned and the Panel now comprises the following people:-

Malcolm Duncan – Panel Chair – Management Consultant  
Karen Clarke – Director of Finance & IT - Keele University  
Paul Buttery – Deputy Director of Finance – Keele University

- 1.3 In carrying out our review we have considered the role of elected Councillors and in addition we have taken account of the current general economic and political climate. We have also considered statistical information gathered on allowances paid in Councils of similar size/characteristics to Newcastle under Lyme and those of other districts in Staffordshire.
- 1.4 We had the opportunity to speak to the Council Leader, Stephen Sweeney and Deputy Leader, Robin Studd who gave us an insight in to the changing roles of all Councillors, executive and non-executive, particularly with regard to their roles in the community and we were assisted by the Member Training and Development Officer, Geoff Durham.
- 1.5 The Panel is aware that the Council needs to encourage suitable persons to take on the role of Councillor. In considering the levels of allowances, the Panel has been mindful that the Council has to continuously control its budget and any amounts proposed must be affordable. It is also clearly important to strike a balance between the level of remuneration and the voluntary element of the role, inspired by a sense of public duty. In addition it is clearly important that elected Councillors can demonstrate an appropriate and acceptable level of attendance at both Council and committee meetings and training sessions.

## 2. **Issues and Options**

- 2.1 We have considered the following allowances:-

Basic Allowance  
Special Responsibility Allowance  
Travelling and Subsistence Allowance  
Carers' Allowance

- 2.2 Consideration has also been given to the regulations regarding the claiming of expenses.

### **Basic Allowance**

From the table below it is clear that the basic allowance paid in Newcastle is low compared to that paid in other authorities in our 'family group' and near neighbours.

**Table 1 – Comparison of Basic Allowances (at 16/04/2012)**

*All figures shown are from Websites or have been provided.*

Authority	Basic Allowance £	Carers Allowance /hour £	Last increase	%	Members
Cannock Chase District Council	5,339	6.08*	2010		40
Tamworth Borough Council	5,244	5.73			30
St Edmundsbury B. Council	5,184	6.08*	2009	1.0	45
North East Derbyshire Council	5,010		2008	2.5	53
South Staffs Council	5,000		2010	-3.0	49
Wyre Forest District Council	4,900	4.00			42
Bassetlaw District Council	4,628	5.52	2010	5.0	48
East Staffs Council	4,324				39
Chorley Borough Council	4,242	n/a	2009	1.0	47
Erewash Borough Council	3,848	6.08*	2008	2.5	51
Newark and Sherwood	3,800	10	2012	5.5	43
Amber Valley DC	3,722	Paid upon claim	2009	1.0	45



Stafford Borough Council	3,451	6.14		59
Broxtowe Borough Council	3,439	5.45		44
<b>Newcastle-under Lyme BC</b>	<b>3,365</b>	<b>6.08</b>	<b>2008</b>	<b>2.4</b>
Lichfield District Council	2,990			56
Staffordshire Moorlands DC	2,902	10.00		56

**Average** **4,199**

*\*National Minimum Wage*

Whilst demands on Councillors can vary from one authority to another we believe that the demands on Newcastle's Councillors are not significantly less than in these other authorities. However, Newcastle has 60 members, which is one of the highest numbers of elected members and, therefore, any increase in the basic allowance would have a significant effect on the Council's budget.

No inflation has been applied to the Basic Allowance since 2007/08 – this includes decisions not to accept awards recommended by previous Panels. As noted in the introduction, the current national and regional economic situation is extremely difficult. We therefore do not consider it appropriate to recommend any change to the current level of Basic Allowance in terms of any retrospective review. We do think it important however that an appropriate mechanism be agreed for the national pay award assessment.

We therefore recommend that for 2012/13, the Basic Allowance be increased in line with the national pay awards agreed for Newcastle Borough Council staff.

### **Special Responsibility Allowances**

We do not recommend for 2012/13 any structural change to the Special Responsibility Allowances. We do recommend that, as with the Basic Allowance, the Special Responsibility Allowances be increased for 2012/13, in line with any pay awards agreed for Newcastle Borough Council staff.

### **Travelling and Subsistence Allowances**

The Council currently pays the nationally agreed rates for travelling and subsistence. Therefore, it is proposed that the current arrangements stay in place with the exception that the regulation covering travelling expenses are amended to exclude the option of First Class rail travel.

### **Carers Allowance**

Currently the Scheme allows for a payment of £6.08 per hour. We would recommend that the Council continues to pay the statutory minimum wage (£6.08 for age 21 and over) as the Carer's Allowance.

### **Pensions for Councillors**

The Panel considered the issue of Members being able to participate in the Local Government Pension Scheme (LGPS) in September 2003 when the Panel's recommendation was not to allow participation, which the Council accepted. We have considered this again, and we understand that there has been no request from Members for us to review this matter again.

## **Further Work by the Independent Remuneration Panel**

We have been formed as the Independent Remuneration Panel to consider your allowances for the municipal year commencing in May 2012. None of those who had served on your previous Panels were willing to continue in the role so we have come together as a group for the first time to undertake this review. Whilst we are content to make our recommendations regarding the Council's allowances for the coming year, we feel that there a number of issues which it might be useful for us to consider and to make further recommendations to you.

Whilst we have seen some comparative data for allowances paid by other councils we have asked your officers to provide a more comprehensive set of information particularly giving breakdowns of remuneration for particular roles. We also feel that it would be useful for the Panel to review the allowances paid for particular roles in the context of the duties and responsibility of those roles. We understand that the council has descriptions for the various roles but the Panel has not had sufficient time to consider these. We think that this would be a useful task for the Panel to do. In particular, we feel that consideration could be given to the allowances paid to Vice Chairmen taking into account the level of work involved in these roles which we are aware varies for individual committees.

Further, we feel that in order to make recommendations about future levels of allowance we need to have more information about the work of councillors not only within the council but also within their communities.

Whilst we have sought information about the roles of councillors from the political Group Leaders, we feel that we would benefit from talking to a wider range of elected Members about their role and the level of work involved. In the limited amount of time available to us we have done some of this work but wish to do a more systematic review.

We note that as the council has not linked its member allowances to any external reference point, the level of allowances has fallen behind the prevailing rates of inflation and other public service remuneration. We consider that this is something which the Panel should give greater thought to and we are minded to recommend an explicit link being established between member allowances and the rate of inflation reflected in measures such as RPI, CPI or staff pay awards. However, we would wish to consider this matter at greater length before making any firm recommendation.

We recognise that the scheme of councillor allowances established by the Local Government Act 2000 swept away the old attendance allowances and that the new scheme is designed to recognise the costs and value of the roles which councillors perform. However, we consider that allowances should be paid on the basis of an acceptable level of attendance at meetings and training sessions. We are not making specific recommendations about this matter at this stage, but think that it is something which should be considered. We have asked that attendance rates be monitored and information on attendance be provided to the Panel.

The Panel currently consists of three members, whilst this is the minimum number required by the regulations, we feel that the Panel would benefit from a wider membership and in particular to have expertise in personnel and of the wider operation of modern councils. We would like to suggest that the membership of the Panel be widened to five or six to enable these skills to be included.

We are recommending that the Panel continue its work in the coming months with a view to making a further and detailed report to the Council in the autumn at which point we will have been able to complete the additional pieces of work set out above.

#### 4. **Proposal**

- (a) That for 2012/13, the amount of the Basic Allowance be increased in line with the national pay awards agreed for Newcastle Borough Council staff.
- (b) That for 2012/13, the amount of the Special Allowances be increased in line with the national pay awards agreed for Newcastle Borough Council staff.
- (c) The regulation covering travelling expenses is amended to exclude the option of First Class rail travel.
- (d) The Panel should undertake further work regarding basic and special allowances with a view to producing proposals during the autumn of 2012. The Panel membership should be expanded to a minimum of 5 members to facilitate this work.

It is hoped that the Council will accept our recommendations as appropriate given the current economic and political climate.

#### 5. **Reasons for Preferred Solution**

- 5.1 The current national and regional economic situation is extremely difficult. We therefore do not consider it appropriate to recommend any change to the current level of Basic Allowance in terms of any retrospective review. We do think it important however that an appropriate mechanism be agreed for the national pay award assessment. We are recommending that the Panel continue its work in the coming months with a view to making a further and detailed report to the Council in the autumn at which point we will have been able to complete the additional pieces of work set out in the report.

#### 6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 6.1 It is important to the Councils priority of transforming the Council to achieve excellence that the Council attracts and retains excellent Members while providing value for money

#### 7. **Legal and Statutory Implications**

- 7.1 Allowances are paid under the Local Government and Housing Act 1989 the Local Government Acts 1972 and 2000 and the Local Authorities Members Allowances Regulations 2003

#### 8. **Equality Impact Assessment**

- 8.1 The panel has taken due account of Equality issues.

#### 9. **Financial and Resource Implications**

- 9.1 The table below is a summary of the costs of the current scheme and our proposals for 2012/13.

**Costs of Members' Allowances Scheme**

ROLE	No.	<u>Current</u>		<u>12/13 Proposal</u>	
		£	<u>Max Cost</u> £	£	<u>Max Cost</u> £
Leader of Council	1	13,590	13,590	13,590	13,590
Deputy Leader of Council	1	9,510	9,510	9,510	9,510
Cabinet Portfolio Member	6	5,660	33,960	5,660	33,960
Chair of Planning	1	4,230	4,230	4,230	4,230
Chair of Public Protection	1	3,430	3,430	3,430	3,430
Chair of Licensing	1	3,430	3,430	3,430	3,430
Chairs of Overview & Scrutiny Cttes	5	2,830	14,150	2,830	14,150
Chair of Audit & Risk Committee	1	2,830	2,830	2,830	2,830
Chair Standards Committee	1	2,830	2,830	2,830	2,830
Chair of Health Scrutiny	1	2,830	2,830	2,830	2,830
Chair of Conservation Advisory WP	1	0	0	0	0
Chair of Employees Consultative	1	0	0	0	0
Grants Assessment WP	1	0	0	0	0
Vice Chair Planning	1	1,410	1,410	1,410	1,410
Vice Chair Public Protection Ctte	1	1,130	1,130	1,130	1,130
Vice Chair Licensing Ctte	1	1,130	1,130	1,130	1,130
Vice Chairs Overview & Scrutiny	5	1,130	5,650	1,130	5,650
Vice Chair Standards Ctte	1	1,130	1,130	1,130	1,130
Vice Chair Audit & Risk Ctte	1	1,130	1,130	1,130	1,130
Group Leaders *	3	1,130	3,390	1,130	3,390
Basic Allowance	60	3,,365	201,900	3,365	201,900
<b>Total</b>			<b>307,660</b>		<b>307,660</b>

\* Currently only 1 paid

10. **Major Risks**

- 10.1 That the allowance scheme is inadequate to meet the needs of the Council or that it is financially unsustainable or seen as unfair with consequential damage. The scheme proposed is considered to address these issues

12. **Key Decision Information**

- 12.1 This is a non-Executive decision

13. **Earlier Cabinet/Committee Resolutions**

275/08,783/07

15. **Background Papers**

None.

**THE LOCALISM ACT 2011 – THE AMENDED STANDARDS REGIME - ADOPTION OF NEW CODE OF CONDUCT FOR MEMBERS AND ADOPTION OF ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF BREACHES OF THE CODE OF CONDUCT**

**Submitted by:** Head of Central Services and Monitoring Officer

**Ward(s) affected:** All

**Purpose of the Report**

To inform Members of the changes and recommended actions required for the Council to implement the new regime and for Council to approve the draft Code of Conduct for Members attached at Appendix A and the arrangements for dealing with complaints at Appendix B.

**Recommendations**

- (a) That the Borough Council adopt the new Code of Conduct for Members.
- (b) That Council adopt the Arrangements for dealing with allegations of breaches of the Code of Conduct.

**Reasons**

To promote and maintain high standards of conduct and to comply with the Localism Act 2011.

**Background**

1. **The Localism Act 2011**

1.1 The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Members.

2. **Duty to Promote and Maintain High Standards of Conduct**

2.1 The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members. District councils will continue to have responsibility for dealing with standards complaints against elected and appointed members of Parish Councils.

3. **Code of Conduct**

3.1 The Council is required to adopt a new Code of Conduct governing elected and co-opted Members conduct when acting in that capacity. A draft Code in accordance with the new legislation has been prepared by the Monitoring Officer. Unfortunately due to the requirement to have a code in place by July 2012 that accords with the Regulations and Guidance which were made only a few weeks ago there has been limited time to consult with Members. However the previous recommendation from the standards committee was to retain the current code as far as that was possible and your officer has sought to do that in this draft. The Code can of course be reviewed at any time.

#### 4. **Dealing with Misconduct Complaints**

##### 4.1 **“Arrangements”**

The Act requires that the Council adopt “arrangements” for dealing with complaints of alleged breach of Code of Conduct both by district and parish council Members, and such complaints can only be dealt with in accordance with such “arrangements”. The arrangements must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a Member found to have failed to comply with the relevant Code of Conduct

4.2 The Monitoring Officer has drafted a set of ‘Arrangements’. This document is attached at Appendix B. It has been drawn up in accordance with what was agreed by Standards committee in March of this year having taken note of the views of the Local Government Association the Association of Council Solicitors and Secretaries leading practitioners and the Guidance.

#### 5. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

5.1 The new regime will contribute to the overall ethical wellbeing of the Council, and help to ensure a culture of high ethical standards, which the public and the Council’s partners can have confidence in. This will thereby contribute to the Council’s priority of transforming our Council to achieve excellence.

#### 6. **Legal and Statutory Implications**

The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted Members and to provide the Monitoring Officer with such staff, accommodation and such other resources as are in his opinion sufficient to allow him to perform the duties of the post.

#### 7. **Equality Impact Assessment**

No differential equality impact issues have been identified.

#### 8. **Major Risks**

There are no specific risk issues.

#### 9. **Financial Implications**

There are none flowing from this report.

#### 10.1 **List of Appendices**

Appendix A – Adoption of New Code

Appendix B – New Model Arrangements for Dealing With Standards Allegations Under the Localism Act 2011

## Draft

# NEW MODEL CODE OF CONDUCT FOR MEMBERS – JULY 2012

### 1. Application

This Code of Conduct applies to you whenever you are acting in your capacity as a Member of the Borough Council of Newcastle-under-Lyme, including:

- 1.1 At formal meetings of the Council, its committees and sub-committees, its Cabinet and Cabinet committees.
- 1.2 When acting as a representative of the Authority.
- 1.3 In taking any decision as a Cabinet member or Ward Councillor.
- 1.4 In discharging your functions as a Ward Councillor.
- 1.5 At briefing meetings with officers.
- 1.6 At site visits.
- 1.7 When corresponding with the Authority other than in a private capacity.

### 2. General Conduct

You must:

- 2.1 Provide leadership to the Authority and communities within its area, by personal example; and
- 2.2 Respect others and not bully any person
- 2.3 Recognise that officers (other than political assistants) are employed by and serve the whole Authority
- 2.4 Respect the confidentiality of information which you receive as a Member by:
  - 2.4.1 not disclosing confidential information to third parties unless required by law to do so or where there is a clear and overriding public interest in doing so;  
  
and
  - 2.4.2 not obstructing third parties' legal rights of access to information
- 2.5 Not misconduct yourself in a manner which is likely to bring the Authority into disrepute
- 2.6 Use your position as a Member in the public interest and not for personal advantage

- 2.7 Accord with the Authority's reasonable rules on the use of public resources for private and political purposes
- 2.8 Exercise your own independent judgment, taking decisions for good and substantial reasons by:
  - 2.8.1 attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups
  - 2.8.2 paying due regard to the advice of officers, and in particular to the advice of the statutory officers, namely the Head of the Paid Service, the Monitoring Officer and the Chief Finance Officer; and
  - 2.8.3 stating the reasons for your decisions where those reasons are not otherwise apparent
- 2.9 Account for your actions, particularly by supporting the Authority's scrutiny function
- 2.10 Ensure that the Authority acts within the law.

### 3. **Disclosable Pecuniary Interests**

You must:

- 3.1 Comply with the statutory requirements in order to register, disclose and withdraw from participating in respect of any matter in which you have a disclosable pecuniary interest (DPI(s))
- 3.2 Ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your DPIs
- 3.3 Make verbal declaration of the existence and nature of any DPI at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent
- 3.4 'Meeting' means any meeting organised by or on behalf of the Authority, including:
  - 3.4.1 any meeting of the Council, or a committee or sub-committee of the Council
  - 3.4.2 any meeting of the Cabinet and any committee of the Cabinet
  - 3.4.3 in taking a decision as a Ward Councillor or as a Member of the Cabinet
  - 3.4.4 at any briefing by officers; and
  - 3.4.5 at any site visit to do with business of the Authority.

### 4. **Other Interests**

- 4.1 In addition to the requirements of paragraph 3, if you attend a meeting at which any item of business is to be considered and you are aware that you have a 'non-disclosable pecuniary interest or non-pecuniary interest' in that item, you must



make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent

4.2 You have a 'non-disclosable pecuniary interest or non-pecuniary interest' in an item of business of your authority where:

4.2.1 a decision in relation to that business might reasonably be regarded as affecting the wellbeing or financial standing of you or a member of your family or a person with who you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the Ward or electoral area for which you have been elected or otherwise of the Authority's administrative area, or

4.2.2 it relates to or is likely to affect any of the interests listed in the table in the appendix to this Code, but in respect of a member of your family (other than a 'relevant person') or a person with whom you have a close association

and that interest is not a disclosable pecuniary interest.

### 5. **Gifts and Hospitality**

5.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a Member from any person or body other than the Authority

5.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality

5.3 This duty to notify the Monitoring officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose

## Disclosable Pecuniary Interests (DPIs)

The duties to register, disclose and not to participate in respect of any matter in which a Member has a DPI are set out in Chapter 7 of the Localism Act 2011.

DPIs are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows:

<b>INTEREST</b>	<b>PRESCRIBED DESCRIPTION</b>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority)
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged
Land	Any beneficial interest in land which is within the area of the relevant authority
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer
Corporate tenancies	Any tenancy where (to the Member's knowledge) – (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant authority has a beneficial interest
Securities	Any beneficial interest in securities of a body where – (a) that body (to the Member's knowledge) has a place of business or land in the area of the relevant authority; and (b) either – (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth

	of the total issued share capital of that class
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For this purpose:

**‘the Act’** means the Localism Act 2011

**‘body in which the relevant person has a beneficial interest’** means a firm in which the relevant person is a partner or a body corporate of which the relevant person has a beneficial interest

**‘director’** includes a member of the committee of management in an industrial or provident society

**‘land’** excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income

**‘Member’** includes a co-opted Member

**‘relevant authority’** means the Member’s Authority

**‘relevant period’** means the period of 12 months ending with the day on which a Member gives a notification for the purposes of Section 30(1) or 31(7) as the case may be, of the Act

**‘relevant person’** means the Member or any other person referred to in Section 30(3)(b) of the Act

**‘securities’** means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

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## Draft

# NEW MODEL ARRANGEMENTS FOR DEALING WITH STANDARDS ALLEGATIONS UNDER THE LOCALISM ACT 2011

### 1. Context

These 'arrangements' set out how you may make a complaint that an elected or co-opted Member of this Authority *[or of a parish council within its area]* has failed to comply with the Authority's Code of Conduct, and sets out how the Authority will deal with allegations of a failure to comply with the Authority's Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place 'arrangements' under which allegations that a Member or co-opted Member of the Authority *[or of a parish council within the authority's area]*, or of a committee or sub-committee of the Authority, has failed to comply with that Authority's Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Authority to appoint at least one Independent Person, whose views must be sought by the Authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Authority at any other stage, or by a Member *[or a member or co-opted member of a parish council]* against whom an allegation as been made.

### 2. The Code of Conduct

The Council has adopted a Code of Conduct for Members, which is attached as Appendix A to these arrangements and is available for inspection on the Authority's website and on request from the Monitoring Officer.

*[Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council's Code of Conduct, you should inspect any website operated by the parish council and request the parish clerk to allow you to inspect the parish council's Code of Conduct.]*

### 3. Making a Complaint

If you wish to make a complaint, please write to:

The Monitoring Officer  
Civic Offices  
Merrial Street,  
Newcastle,  
Staffordshire, ST7 2AG

Or email: [StandardsCommittee@newcastle-staffs.gov.uk](mailto:StandardsCommittee@newcastle-staffs.gov.uk)

The Monitoring Officer has statutory responsibility for maintaining the Register of Members' Interests and is responsible for administering the system in respect of complaints of Member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the Authority's website, or available on request from the Monitoring Officer.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent. The Authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within five working days of receiving it, and will keep you informed of the progress of your complaint.

#### **4. Will Your Complaint be Investigated?**

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he will inform you of his decision and the reasons for that decision.

Where he requires additional information in order to come to a decision, he may come back to you for such information, and may request information from the Member against whom your complaint is directed.

*[Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.]*

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the Authority. Where the Member or the Authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and/or other regulatory agencies.

#### **5. How is the Investigation Conducted?**

If the Monitoring Officer decides that a complaint merits formal investigation, he will appoint an Investigating Officer, who may be another senior officer of the Authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and

suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the Member against whom you have complained and provide him/her with a copy of your complaint, and ask the Member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential, or if disclosure of details of the complaint to the Member may prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the Member, or delay notifying the Member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

6. **What Happens if the Investigating Officer Concludes That There is No Evidence of a Failure to Comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Member concerned [*and to the Parish Council, where your complaint relates to a Parish Councillor*], notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

7. **What Happens if the Investigating Officer Concludes That There is Evidence of a Failure to Comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

7.1 **Local Resolution**

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee [*and the Parish Council*] for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

### 7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings, which is attached as Appendix Three to these arrangements.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

If the Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

### 8. What Action Can the Hearings Panel Take Where a Member Has Failed to Comply with the Code of Conduct?

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may:

- 8.1 Censure or reprimand the member;
- 8.2 Publish its findings in respect of the member's conduct;
- 8.3 Report its findings to Council [*or to the Parish Council*] for information;
- 8.4 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;



- 8.5 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.6 Recommend to Council that the member be replaced as Executive Leader;
- 8.7 Instruct the Monitoring Officer to *[or recommend that the Parish Council]* arrange training for the member;
- 8.8 Remove *[or recommend to the Parish Council that the member be removed]* from all outside appointments to which he/she has been appointed or nominated by the authority *[or by the Parish Council]*;
- 8.9 Withdraw *[or recommend to the Parish Council that it withdraws]* facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.10 Exclude *[or recommend that the Parish Council exclude]* the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

### 9. **What Happens at the End of the Hearing?**

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member *[and to the Parish Council]*, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

### 10. **Who Are the Hearings Panel?**

The Hearings Panel is a sub-committee of the Council's Standards Committee. The Standards Committee has decided that it will comprise a maximum of five members of the Council, including not more than one member of the authority's Executive and comprising members drawn from at least two different political parties. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

The Independent Person is invited to attend all meetings of the Hearings Panel and his views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

### 11. **Who is the Independent Person?**

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be “independent” if he/she:

- 11.1 Is, or has been within the past five years, a member, co-opted member or officer of the authority, with the exception that former Independent Members of Standards Committees can be appointed as Independent Persons;
- 11.2 *[Is or has been within the past five years, a member, co-opted member or officer of a parish council within the authority’s area], or*
- 11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, “relative” means:
  - 11.3.1 Spouse or civil partner;
  - 11.3.2 Living with the other person as husband and wife or as if they were civil partners;
  - 11.3.3 Grandparent of the other person;
  - 11.3.4 A lineal descendant of a grandparent of the other person;
  - 11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
  - 11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
  - 11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

### 12. **Revision of These Arrangements**

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

### 13. **Appeals**

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

## STAFFING COMMITTEE

**Submitted by:** Head of Central Services

**Portfolio:** Communications Transformations and Partnerships

**Ward(s) affected:**

### **Purpose of the Report**

To delegate functions relating to the terms and conditions of staff (including procedures for dismissal) and pensions

### **Recommendations**

(a) That in principle the council establish a staffing committee consisting of 6 Members to be responsible for the Council's functions as an employer including the Local Government Pension Scheme which are not delegated to Officers or referred to Full Council or constrained by the law with the terms of reference set out in this report.

(b) These functions include the adoption and amendment of all employment policies to the extent they relate to staffing matters to make representations to the Local Government Association and/or the Government or other organisations about any matter relating to employees of the Council and to make arrangements for members of the Committee to determine appeals of employees in accordance with the appropriate policies.

(c) That the Leader of the Council and the Chair of Transformation and Resources Overview and Scrutiny Committee having consulted with the Transformation and Resources Overview and Scrutiny Committee be authorised to finalise the details of the Committee in accordance with the agreed principles and the views of that Committee

### **Reasons**

The Preferred solution balances the benefits and disbenefits of employment decisions being taken by Officers against the benefits and disbenefits of such decisions being made by Members.

#### 1. **Background**

1.1 The Local Government Act 1972 provides that a Local Authority shall appoint such Officers as it considers necessary for the proper discharge of its or another's functions. Any employee appointed is required to hold office on such reasonable terms and conditions, including pay as the Authority thinks fit.

1.2 Prior to 2000 most changes of any significance to terms and conditions were authorised in most authorities by a personnel or joint negotiating committee. Experimental arrangements with Cabinet forms of government saw this replaced with ratification of changes by Cabinet. However the Local Authorities (Functions and Responsibilities) (England) Regulations now provide that:

It is not to be the function of the Executive to determine the terms and conditions on which staff hold office (including procedures for their dismissal)

and

It is not to be the function of the Executive to exercise functions relating to Local Government Pensions.

Further the Local Authorities (Standing Orders) (England) Regulations provides that **the appointment and dismissal of or disciplinary action against Officers below Deputy Chief Officer level** must be delegated to the Head of the Paid Service or to his nominee.

- 1.3 The Regulations do provide that Members may sit on Committees considering **appeals** relating to appointment dismissal or discipline of staff. Such quasi judicial committees would require appropriate training **from those Officer decisions**.
- 1.4 Those Regulations provide that the Head of Paid service can only be appointed and dismissed by Full Council and that Chief Officers the Head of the Paid Service the Monitoring Officer and the Chief Finance Officer are subject to specific procedures which provide for Executive representation and objection and independent investigation.
- 1.5 The Current scheme of Delegation provides that **the day to day management of staff and the adoption and amendment of Employment Policies** are delegated to the Head of the Paid service and to Executive Directors subject to the Council's Budget and its plans and policy framework set by Members.

## 2. **Issues**

- 2.1 Subject to the above constraints (which are provided for in the Councils current Constitution) the matters now dealt with can be delegated by Council to Officers or Committees.
- 2.2 Clearly it is impractical for a Committee to discharge the operational management of staff as this would be likely to lead to delay whilst meetings were called reports written and the appropriate rules about notice etc. complied with. There would also be considerable extra expense in dealing with those matters and ensuring that Members receive the appropriate training and support to make decisions. There is also likely to be a detriment to the managerial ability to control their services appropriately and to their engagement through that responsibility and a loss of the benefit of the experience skills and training that Managers have developed. Over time management skills would also be lost and there is likely to be detriment to the recruitment retention and development of managerial staff.
- 2.3 This has to be balanced against the benefits of Member involvement. Member decision making may be more open and transparent and have opportunities for wider input and equalities. Involvement in making these sorts of decisions would develop Members engagement and understanding of Services and utilise and develop their skills. It would also make services more accountable to the electorate and may increase the trust of employees in policies as being fair.
- 2.4 On balance it is considered that in order to obtain the benefits discussed but to avoid the disbenefits Officers should retain the operational management functions but that Members should set the Employment Policy framework and be responsible for scrutiny (oversight) of the staffing arrangements. Currently, the Employment Policies of the Council provide that most employment decisions are made by Officers but in setting the policies Members would be able to reallocate tasks such as dealing with appeals between the Officers and Members as they considered appropriate.

As with other quasi-judicial committees Members will require training before making decisions. The Members of the Committee will be appointed in accordance with the rules of political proportionality.

As a new committee amends the Constitution it is considered appropriate that the decision should be in principle to allow Transformation and resources overview and Scrutiny to have an input. It is therefore recommended that the final decision be delegated to allow that.

3. **Options Considered**

- 3.1 The relevant Functions can be delegated wholly to Officers wholly to a Committee or Committees (but not to an individual Member) or partly to Officers and partly to a Committee or Committees

4. **Proposal**

- 4.1 That the council establish a staffing committee consisting of Members with the following terms of reference:-

- 4.2 To be responsible for the Council's functions as an employer including the Local Government Pension Scheme which are not delegated to Officers or referred to Full Council or constrained by the law. For the avoidance of doubt the following functions are included:

- (1) The adoption and amendment of all employment policies including the following to the extent they relate to staffing matters:

- Adoption leave policy
- Agency staff procedure
- Alcohol, drugs, substance misuse policy
- Attendance management policy
- Bullying and harassment policy
- Capability procedure
- Officers' Code of Conduct
- Compensatory leave policy
- Computer, telephone and clear desk policy
- Equal opportunities and diversity in employment
- Disciplinary procedure
- Discretionary powers
- Driving at work
- Early retirement
- Employee recognition policy
- Employees' handbook
- Flexible retirement
- Flexible working hours
- Grievance procedure
- Health and safety
- Home working
- Information policies – internet, email
- Job evaluation
- Job sharing
- Local Government Pension Scheme
- Maternity and paternity
- National agreement on pay and conditions of service
- Smoking
- Recruitment
- Redundancy
- Restructuring
- Remote working
- Staff communications and consultation

Stress at work  
Time off for trade union duties  
Working time.

- (2) To make representations to the Local Government Association and/or the Government or other organisations about any matter relating to employees of the Council.
- (3) To make arrangements for members of the Committee to determine appeals of employees in accordance with the appropriate policies.

5. **Reasons for Preferred Solution**

- 5.1 The Preferred solution balances the benefits and disbenefits of employment decisions being taken by Officers against the benefits and disbenefits of such decisions being made by Members.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 6.1 The objective of the proposal is to provide the most effective and efficient employment arrangements to motivate and help the workforce to enable the Council to deliver its priorities. Accordingly the link to transforming our Council to achieve excellence could not be clearer.

7. **Legal and Statutory Implications**

- 7.1 As with all other Local authority functions the power to employ and the control of employment is constrained by statute and controlled by the Courts and Auditor. The Council is of course still subject to the general regime of employment protection and anti-discrimination legislation as well.

8. **Equality Impact Assessment**

- 8.1 The Equality Act 2010 has been considered. It is not considered that there will be a significant impact on equalities issues in relation to the proposal. However, having these decisions made by a committee does make them more open and transparent and the decisions will be made by a group of diverse individuals (members) which may enhance the decision making process from an equalities point of view. Each individual policy will continue to be subject to assessment of its equality impact as is the case now and it will be important to ensure that Members have the appropriate training officer support and information to enable them to make a positive contribution.

9. **Financial and Resource Implications**

It is intended to meet the needs of this Committee out of existing resources

10. **Major Risks**

- 10.1 The proposal takes into consideration the potential detriment to Managerial empowerment and motivation the need for efficient and timely decision making and the requirement to ensure professional and technical competence. It is considered that the correct balance is struck between this and the benefits of member involvement referred to in the issues section of the report which might otherwise be lost.

11. **Sustainability and Climate Change Implications**

Not applicable.

12. **Key Decision Information**

Not a key decision

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