



*Meeting:* **Constitution Committee**

*Date/Time:* **Wednesday, 12 June 2013 at 3.30 pm**

*Location:* **Goscote Committee Room, County Hall, Glenfield**

*Contact:* **Mrs R. Palmer (Tel: 0116 305 6098)**

*Email:* **rosemary.palmer@leics.gov.uk**

### Membership

Dr. R. K. A. Feltham CC  
Mr. S. J. Galton CC  
Mr. N. J. Rushton CC

Mr. Max Hunt CC  
Mr. J. B. Rhodes CC

### AGENDA

<u>Item</u>	<u>Report by</u>
1. Election of Chairman.  Mr N J Rushton CC was nominated Chairman elect at the Annual Meeting of the County Council held on 15 May 2013.	
2. Appointment of Deputy Chairman.	
3. Minutes of the meeting held on 4 March 2013.	(Pages 3 – 5)
4. Question Time.	
5. Questions asked under Standing Order 7(3) and 7(5).	
6. To advise of any other items which the Chairman has decided to take as urgent.	
7. Declarations of interest.	
8. Proposed Changes to the Structure of Overview and Scrutiny Bodies.	Chief Executive (Pages 7 – 19)
9. Special Report of the Independent Remuneration Panel on Members' Allowances.	Chief Executive (Pages 21 – 36)



10. Government Consultation Paper on Pensions for Councillors. Chief Executive and Director of Corporate Resources (Pages 37 – 55)

11. Date of Next Meeting.

The next meeting will take place on Tuesday 24 September at 2.00pm.

12. Any other items which the Chairman has decided to take as urgent.



Minutes of a meeting of the Constitution Committee held at County Hall, Glenfield on Monday, 4 March 2013.

PRESENT

Mr. N. J. Rushton CC (in the Chair)

Dr. R. K. A. Feltham CC  
Mr. S. J. Galton CC

Mr. Max Hunt CC  
Mr. J. B. Rhodes CC

17. Minutes.

The minutes of the meeting held on 27 September were taken as read, confirmed and signed.

18. Question Time.

The Chief Executive reported that no questions had been received under Standing Order 35.

19. Questions asked under Standing Order 7(3) and 7(5).

The Chief Executive reported that no questions had been received under Standing Order 7(3) and 7(5).

20. Urgent items.

There were no urgent items for consideration.

21. Declarations of interest.

The Chairman invited members who wished to do so to declare any interest in respect of items on the agenda for the meeting.

No such declarations were made.

22. Review and Revision of the Constitution.

The Committee considered a report of the Chief Executive which recommended changes to the Constitution. A copy of the report marked 'B' is filed with these minutes.

The Chief Executive indicated that since the report had been prepared he had identified that further amendments were necessary to the Constitution as follows:-

- (i) The amendment of paragraph 18 of the Summary and Explanation to read as follows:-

“The County Council will establish a joint committee with other Social Services Authorities to scrutinise any health issue or consultation which has an impact on an administrative area larger than the County Council where it considers it necessary or it is required to do so.”

(ii) Article 6.03 (c) - the deletion of all the words after “Secretary of State.”

(iii) The amendment of Article 6.09 (a) to read as follows:-

“The County Council will establish a joint committee with other Social Services Authorities to scrutinise any health issue or consultation which has an impact on an administrative area larger than the County Council where it considers it necessary or it is required to do so. Where it is not considered appropriate or possible to establish a joint committee the Overview and Scrutiny Committee responsible for the scrutiny of health services in the area of the County will carry out this role.”

Arising from discussion the following points were raised:-

- (i) The Local Authority Regulations 2012 required that public notice of at least 28 clear days be given for potential exempt Cabinet items. This allowed the public the opportunity to make representations as to why an item should be taken in public session;
- (ii) Where agreement of the Chairman of the relevant Overview and Scrutiny Committee was being sought for an urgent exempt item not included on the Forward Plan, officers needed to provide the Chairman with all the relevant information to ensure that he/she could be satisfied that the matter was urgent and could not reasonably be deferred;
- (iii) The Shadow Health and Wellbeing Board (HWB) was to be established as a Subcommittee of the Cabinet. Guidance suggested that the Lead Members for Health, Adults and Communities, and Children and Young People’s Services should serve on the Board. Regulations issued from the Department of Health disappplied political balance rules in relation to membership on HWB’s;  
  
(Note: Mr Hunt asked that it be recorded that it was his view that membership of the Board should include representation from amongst the opposition parties).
- (iv) The amendment to Article 6.03 (c) of Part 2 of the Constitution had been suggested as recent changes in the role of Monitor meant that it could no longer receive referrals.
- (v) It was noted that the power of referral to the Secretary of State for Health rested with the full County Council rather than the Health Scrutiny Committee. With regards to Joint Health Scrutiny, the power of referral would be retained by the County Council. This would allow any decision on a referral to be inclusive of all members. It would also ensure that where there was a difference in opinion between Health

Scrutiny and the HWB these could be reconciled;

RESOLVED:

That the County Council be recommended to approve the proposed changes to the Constitution as set out in Appendices 1 and 2 to the report, as now amended.

23. County Council Elections 2013: Scale of Election Expenses.

The Committee considered a report of the Chief Executive which sought the Committee's approval with regard to a Scale of Fees to be used at the County Council elections in May 2013. A copy of the report marked 'C' is filed with these minutes.

It was reported that Leicestershire County Council Officers would be working with Officers of the District Councils to help ensure that the process of collecting and collating the results from the County Council elections be as efficient as possible.

RESOLVED:

- (a) That the scale of expenses, as set out in Appendix A to the report, be used at the County Council elections to be held on 2 May 2013 and for any subsequent by-elections held before 31 March 2014;
- (b) That the Chief Executive be authorised to fix a scale for the purpose of by-elections occurring between 1 April, 2014 and the next County Council elections in 2017.

11.00 am - 11.25 am  
04 March 2013

CHAIRMAN

This page is intentionally left blank



## **CONSTITUTION COMMITTEE – 12 JUNE 2013**

### **REPORT OF THE CHIEF EXECUTIVE**

#### **PROPOSED CHANGES TO THE STRUCTURE OF OVERVIEW AND SCRUTINY BODIES**

##### **Purpose**

1. The purpose of this report is to seek approval of the Committee to submit proposed changes in the structure of Overview and Scrutiny Bodies to the County Council for approval.

##### **Background**

2. Article 15 of the County Council's Constitution gives the Chief Executive a duty to monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. It requires that changes to the document should only be approved by the full County Council after consideration of the proposal by the Chief Executive and the Constitution Committee or, in the case of Financial Procedure Rules, Contract Procedure Rules and Members' Code of Conduct, the recommendations of the Corporate Governance Committee.

##### **Review of Scrutiny Arrangements**

3. Towards the end of the last Council, discussions were held with the Leaders of all three political groups and with Scrutiny Commissioners regarding the operation of the Overview and Scrutiny bodies which were established in 2009. The outcome of those discussions were that after some initial teething trouble the new system had bedded down and delivered well, particularly in the area of policy review and policy development through the operation of scrutiny review panels. There were, however, been a number of issues/concerns raised by members about the current structure and these are listed below.
  - (i) The role and remit of the Scrutiny Commission was too wide and as such it found it difficult to give adequate attention to the range of activity falling within its remit. Environment and Transport issues dominated the work of the Commission to the detriment of others

- (ii) The standing Panel on Budget and Performance worked well particularly in terms of monitoring the performance and budgets of the County Council and to a lesser extent partnership performance. The demise of the Local Area Agreement and central targets meant that the information now available is varied as the County Council and its partners seek to establish a new performance management framework reflecting the agreed local priorities;
  - (iii) There was a disconnect between the work of the Budget and Performance Panel looking at performance issues and service committees looking at service delivery and this led to duplication of effort.
  - (iv) The role of the Scrutiny Commission in relation to the budget process was somewhat unclear.
  - (v) The workload of the Adults Communities and Health Scrutiny Committee was too broad given its remit over health bodies;
  - (vi) Partnership and external body scrutiny, with the exception of health scrutiny, has been somewhat patchy.
4. In planning for the new Council and the future shape and role of overview and scrutiny, members indicated the need to have regard to the following:
- (i) There have been significant changes to the health sector, with Public Health becoming part of the County Council. Alongside this, the Health and Wellbeing Board is now an executive committee of the Council charged with responsibility of amongst other things ensuring the Adult Social Care and Health work closely in joint planning and commissioning
  - (ii) Establishment of a local Healthwatch with a key role as the champion for patients and carers who access health and social care services with a reporting relationship to the Care Quality Commission;
  - (iii) The election of a Police Crime Commissioner (PCC) in November 2012 and the establishment of a Police and Crime Panel (comprising in the main executive members with the Crime and Disorder portfolios in their respective authorities) with the responsibility for scrutinising the Police and Crime Commissioner.
  - (iv) Major changes in the Children and Young People's service with the likelihood that the majority, if not all schools, becoming Academies and hence independent of the County Council. The existing role of the Local Education Authority will be greatly curtailed as will its direct powers over schools.



- (v) Increased joint working between the County Council and its partners. The Leicestershire Together Partnership has established a themed cross cutting Commissioning Boards to manage the design and delivery of the LT Boards (and hence key partners) agreed priorities. The six Commissioning Boards are:

Health and Wellbeing Board	Safer Communities
CYPS	LEP
Troubled Families	Environment

5. Recognising that the results of the County Council election would, of course, affect the shape of any new structure given that the political balance rules would apply it was agreed that new structure would not be implemented before the election but that shortly thereafter discussions be held at Leader level to agree proposals to be put forward to the new Council. These have now taken place.

### **Proposed New Structure and Membership of Scrutiny Bodies**

6. Attached at Appendix A is a proposed new structure which seeks to address the issues outlined above. The new structure involves the establishment of two additional scrutiny committees (as compared to the current structure) and the abolition of the Budget and Performance Panel. The new structure also proposes that the previous role of Deputy Commissioners be dispensed with. The number of members proposed for the Scrutiny Commission and Scrutiny Committees is set out below:-

#### Scrutiny Commission (11 members)

- Chairman – Leader of the Main Opposition Party;
- 3 Commissioners – Leader of the minority Opposition and 2 Administration Members;
- 4 Chairmen of Scrutiny Committees;
- 3 other members (to achieve the political balance).

#### Scrutiny Committees (9 members)

- Chairman and Vice Chairman;
- 7 other members to achieve political balance.

*(Co-opted church and parent representatives will need to be appointed to the Children and Families Overview and Scrutiny Committee).*

7. The proposed terms of reference for the new Overview and Scrutiny Bodies are attached at Appendix B. Appendix C sets out the consequential amendments to the Constitution arising from the changes now proposed.

**Member Remuneration**

8. The proposals have been considered by the Council's Independent Remuneration Panel in the context of the impact on the Members' Allowances Scheme. The Panel's report is the subject of a separate report to the Committee's meeting.

**Recommendation**

- (a) That the County Council be recommended to approve the proposed scrutiny structure set out in Appendix A to this report;
- (b) That the County Council be recommended to approve the proposed changes to the Constitution as set out in Appendices B and C to this report;

**Background Papers**

The Constitution of Leicestershire County Council.

**Circulation under Local Issues Alert Procedure**

None.

**Officer to Contact**

David Pitt – Head of Democratic Services and Administration

☎ – 0116 305 6034

Email – [david.pitt@leics.gov.uk](mailto:david.pitt@leics.gov.uk)

**Equal Opportunities Implications**

None.

**SCRUTINY STRUCTURE 2013**

**SCRUTINY COMMISSION**

Overview of the County Council Services not covered by the three Committees (i.e .Corporate Depts) + oversight of the County Council budget and performance  
The Commission will also be responsible for issues relating to the Economy and Strategic Transport (i.e. the LEP and Leicester and Leicestershire Transport Board).

To act as the Crime and Disorder Cttee (working with the PCP)

ADULTS AND COMMUNITIES		CHILDREN AND FAMILIES		ENVIRONMENT AND TRANSPORT		HEALTH	
<u>Commissioning Board</u>	<u>CC Functions</u>	<u>Commissioning Boards</u>	<u>CC Functions</u>	<u>Commissioning Boards</u>	<u>CC Functions</u>	<u>Commissioning Boards</u>	<u>CC Functions</u>
Integrated Commissioning	Adults and Communities	CYP Board	CYPS	Environment	Environment and Transport	Health and Wellbeing	Public Health
		Supporting Leicestershire Families	Chief Execs				
				To scrutinise the Flood Risk Management Board		To act as the Health Scrutiny Body	
<p><i>All Scrutiny Bodies would have responsibility for scrutiny of external bodies relevant to their service remit and would receive performance and budget data related to their area of activity which will include performance reports from the various commissioning boards</i></p>							
<p><b><u>Commissioning Boards - Cross Cutting Themes – Scrutiny Responsibilities</u></b></p>							
Safeguarding Adults		Stronger Communities and Big Society Voluntary and Community Sector Safeguarding Children		Planning and Transport Housing and Rural Services			

This page is intentionally left blank

**OVERVIEW AND SCRUTINY STRUCTURE 2013****TERMS OF REFERENCE**

*[Note: Neither the Scrutiny Commission nor any of the other overview and scrutiny committees or subcommittees are empowered to take decisions or exercise any responsibilities of the Executive or County Council or Health Service bodies. The general role and specific functions are described in Article 6 and for the purposes of that Article the Scrutiny Commission is regarded as an overview and scrutiny committee for those matters which come within its scope.]*

<b>Committee</b>	<b>Scope</b>
<b>Scrutiny Commission</b>	<ol style="list-style-type: none"> <li>1. Any functions which are not specifically within the scope of any other overview and scrutiny committee.</li> <li>2. Any issues which come within the scope of more than one overview and scrutiny committee.</li> <li>3. Oversight and co-ordination of the work of the overview and scrutiny committees and Scrutiny Review Panels.</li> <li>4. Allocating specific issues, on an <i>ad hoc</i> basis, to any of the other overview and scrutiny committees.</li> <li>5. Resolving any disagreements between overview and scrutiny committees.</li> <li>6. The executive functions of the County Council in respect of:-               <ol style="list-style-type: none"> <li>(i) the Revenue Budget</li> <li>(ii) the Capital Programme</li> <li>(iii) Property</li> <li>(iv) Information and Communications Technology</li> </ol> </li> <li>7. To act as the Crime and Disorder Committee in accordance with Section 19 of Part 3 of the Police and Justice Act 2006 and work with the Police and Crime Panel to scrutinise the delivery of effectiveness of measures aimed at reducing crime and disorder.</li> <li>8. To monitor the performance and activities of:-               <ol style="list-style-type: none"> <li>(a) The Leicester and Leicestershire Enterprise Partnership Board</li> <li>(b) The Leicester and Leicestershire Transport Board</li> </ol> </li> <li>9. To monitor the performance and activities of any other partnerships that are associated with the executive functions outlined above and not within the scope of any other Overview and Scrutiny Committee.</li> <li>10. The scope shall not extend to exercising functions relating to scrutiny of the National Health Service in the County, which shall be a matter for the designated scrutiny committee.</li> </ol>

<b>Committee</b>	<b>Scope</b>
<b>Children and Families</b>	<ol style="list-style-type: none"> <li>1. The executive functions of the County Council in respect of Children and Young People's Service.</li> <li>2. The executive functions of the Chief Executive's Department in relation to the Supporting Leicestershire Families Programme.</li> <li>3. To monitor the performance and activities of the Leicestershire Children and Young People's Commissioning Board, the Supporting Leicestershire Families Board and any other partnerships that are associated with the executive functions outlined in 1. and 2. above.</li> </ol>

<b>Committee</b>	<b>Scope</b>
<b>Adults and Communities</b>	<ol style="list-style-type: none"> <li>1. The executive functions of the County Council in respect of the Adults and Communities Department.</li> <li>2. To monitor the activities of the Health and Wellbeing Board aimed at improving the integration of health and social care services.</li> </ol>

<b>Committee</b>	<b>Scope</b>
<b>Environment and Transport</b>	<ol style="list-style-type: none"> <li>1. The executive functions of the County Council in respect of the Environment and Transport Department:</li> <li>2. To monitor the performance and activities of the Flood Risk Management Board in accordance with Section 9FH of Schedule 2 of the Localism Act 2011.</li> <li>3. To monitor the performance and activities of the Environment Board and any other partnerships that are associated with the executive functions outlined in 1. and 2. above.</li> </ol>

<b>Committee</b>	<b>Scope</b>
<b>Health</b>	<ol style="list-style-type: none"> <li>1. The executive functions of the County Council in relation to Public Health.</li> <li>2. To monitor the performance of the Health and Wellbeing Board in respect of the executive functions outlined in 1. above and any other partnerships as appropriate that are associated with those functions.</li> </ol>

	<p>3. <u>Health Service Functions</u></p> <ul style="list-style-type: none"><li>(a) The exercise by health bodies of functions which affect the area of the County Council;</li><li>(b) Arrangements for responding to consultation by local health bodies for substantial development of the health service or substantial variation in the provision of such services save where these are dealt with through a joint committee with other Social Services authorities.</li></ul>
--	---

This page is intentionally left blank



**PROPOSED AMENDMENTS TO THE CONSTITUTION  
OF LEICESTERSHIRE COUNTY COUNCIL  
JUNE 2013**

<b><u>ITEM</u></b>	<b><u>PROPOSED AMENDMENT</u></b>	<b><u>EXPLANATION</u></b>
<b><u>PART 1 - SUMMARY AND EXPLANATION</u></b>	<p>Amend paragraph 18 to read as follows:-</p> <p>“18. There are a number of standing (i.e. permanent) overview and scrutiny committees including the Scrutiny Commission. These overview and scrutiny committees support the Executive and the County Council as a whole. The Health Overview and Scrutiny Committee has the task of scrutinising health bodies in the County.”</p> <p>Amend paragraph 20 to read as follows:-</p> <p>“20. Scrutiny Committees allow citizens to have a greater say in County Council matters and things which the County Council is able to influence because at their meetings citizens may ask questions and present petitions provided they have followed the correct procedures. The Committees produce report which advise the Executive and the County Council as a whole on its policies, budget and service delivery. Overview and scrutiny committees also monitor the decisions of the Executive. The Health Overview and Scrutiny Committee is able to make recommendations on a health service matter to the County Council who in turn may refer the matter to the Secretary of State.”</p>	<p>To reflect the new scrutiny structure.</p> <p>To reflect the new scrutiny structure.</p>

<u>ITEM</u>	<u>PROPOSED AMENDMENT</u>	<u>EXPLANATION</u>
<p><b><u>PART 2 - ARTICLES</u></b></p> <p>Article 6 – Overview and Scrutiny Committees</p> <p>6.06 Membership of the Scrutiny Commission</p>	<p>Amend to read as follows:-</p> <p>“The membership of the Scrutiny Commission, which will reflect the political balance of the Council, will include the following positions:-</p> <p>4 Commissioners, one of whom will be the Chairman determined in accordance with paragraph 6.05 above.</p> <p>The Chairman of the Adults and Communities Overview and Scrutiny Committee</p> <p>The Chairman of the Children and Families Overview and Scrutiny Committee</p> <p>The Chairman of the Environment, Transport and the Economy Overview and Scrutiny Committee</p> <p>The Chairman of the Health Overview and Scrutiny Committee</p> <p>Such other members as may be necessary to achieve political balance.</p>	<p>To reflect the new scrutiny structure</p>
<p>Schedule 3: Table A – Overview and Scrutiny Committees</p>	<p>Adopt Appendix B of the report.</p>	<p>To reflect the new scrutiny structure</p>
<p><b><u>PART 4E – OVERVIEW AND</u></b></p>		

<u>ITEM</u>	<u>PROPOSED AMENDMENT</u>	<u>EXPLANATION</u>
<p><b><u>SCRUTINY PROCEDURE RULES</u></b></p> <p>Rule 5: Education representatives</p> <p>Rule 6: Chairmanship and meetings of the overview and scrutiny committees</p>	<p>Amend the note to read as follows:-</p> <p><i>“[Note: for the purposes of this Rule the relevant overview and scrutiny committee is the Children and Families Overview and Scrutiny Committee.]”</i></p> <p>In paragraph (a), substitute the words “Adults, Communities and Health Overview and Scrutiny Committee” with “Health Overview and Scrutiny Committee.”</p>	<p>To reflect the new scrutiny structure</p>

This page is intentionally left blank



**CONSTITUTION COMMITTEE – 12 JUNE 2013**

**REPORT OF THE CHIEF EXECUTIVE**

**SPECIAL REPORT OF THE INDEPENDENT  
REMUNERATION PANEL ON MEMBERS' ALLOWANCES**

**Purpose**

1. The purpose of this report is to present a special report of the Independent Remuneration Panel on Members' Allowances and invite the Committee to make recommendations to the County Council on proposals for a new scheme of allowances in the light of the contents of that report.

**Background**

2. The statutory framework for members' allowances includes the following requirements:-
  - Each local authority is required to establish and maintain an Independent Remuneration Panel with the function of providing the local authority with advice on its scheme and the amounts to be paid. Local authorities must have regard to this advice.
  - Local authorities must, before the beginning of each year, make a scheme for the payment of a basic allowance for the year. The basic allowance must be payable to all members.
  - The scheme may include provision for the payment of special responsibility allowances, travel and subsistence allowances, a dependants' carers' allowance, and co-optees' allowance. The scheme may also make provision for pensions.
  - The approval of a members' allowances scheme has to be determined by the full Council and cannot be delegated to the Cabinet or a committee.
  - A scheme for members' allowances may be amended at any time but may only be revoked at the end of the year, i.e. 31 March. A further scheme must be available to replace the revoked scheme.

3. The Independent Remuneration Panel has recently met to consider matters put to it by the County Council and its recommendations are set out in the Special Report which is attached as Appendix A to this report. It concerns the payment of travel and subsistence to elected members, a matter referred to it by the Corporate Governance Committee. It also concerns the need for changes to the Members' Allowances Scheme in the context of the result of the recent review of the structure of Overview and Scrutiny bodies.

### **Resources Implications**

4. The proposals of the Independent Remuneration Panel are cost neutral and can be met from the provision within the 2013/14 budget for members' expenses and support.
5. The Director of Corporate Resources has been consulted on this report.

### **Equal Opportunities Implications**

6. The scheme incorporates a Carers and Dependants Carers' Allowance.

### **Recommendation**

7. The Committee is asked to determine what recommendations it wishes to put forward to the County Council in response to the Special Report of the Independent Remuneration Panel on Members' Allowances.

### **Background Papers**

Special Report of the Independent Panel – see Appendix A attached.

### **Circulation Under Sensitive Issues Procedure**

None.

### **Officer to Contact**

David Pitt, Head of Democratic Services and Administration

☎ 0116 305 6034.

Email: [david.pitt@leics.gov.uk](mailto:david.pitt@leics.gov.uk)

# APPENDIX A



**SPECIAL REPORT OF**

**THE INDEPENDENT REMUNERATION PANEL**

**ON MEMBERS' ALLOWANCES**

**MAY 2013**

## INTRODUCTION

1. This report deals with requests made by the County Council for the Independent Remuneration Panel to consider and make recommendations on the following matters:-

- (a) Travel and Subsistence

The current arrangements for the payment of travel and subsistence to elected members, as requested by the Corporate Governance Committee. This arose from the Committee's consideration at its meeting on 15<sup>th</sup> May, 2012 of a report of the Director of Corporate Resources relating to an Internal Audit Service Report concerning the then Leader of the County Council.

- (b) Allowances payable to members of Overview and Scrutiny Bodies

Changes in the Members' Allowances Scheme to reflect the proposed new structure of Overview and Scrutiny bodies to be agreed by the County Council at its meeting on 26<sup>th</sup> June, 2013.

### Background

2. The Panel last reported to the County Council in 2009 and did so on two occasions. The first report in that year concerned the normal annual review of allowances which recommended a general increase in allowances of 2% and extended the scheme to include a special responsibility payment to Spokesmen of Overview and Scrutiny Committees. Following the County Council elections in that year the Panel reported again giving its recommendations on allowances in the context of the new structure of Overview and Scrutiny bodies which was adopted at that time.
3. The Panel then commented in the following terms:-

“The Panel feels that it must be cautious in its approach and has concluded that any view it takes on the question of allowances for scrutiny members at this stage can only be preliminary. It believes



that it almost certainly will be necessary to review the position. It is suggested that it should do so after a reasonable period, say 18 months' time."

The Council agreed that it would be appropriate to do this as part of the relevant annual review of the scheme.

4. Since 2009, the economic climate has been such that the County Council has not invited the Panel to conduct any review of its Members' Allowances Scheme. Indeed, the County Council has made it clear in the case of the current review that it only wishes the Panel to examine those allowances which are affected by the restructuring of Overview and Scrutiny Committees which is now underway and that any wider review of allowances at a time when the Council is facing such severe financial difficulties would be entirely inappropriate.

## Findings

### Travel and Subsistence

5. In the light of the reference from the Corporate Governance Committee, the Panel has considered some of the lessons which can be learnt from that particular case in relation to the operation of the Members' Allowances Scheme. In particular, it has reviewed the contents of Schedule 2 of the scheme, namely "Travel and Subsistence – Approved Duties and Other Conditions".
6. Apart from a general tidying up of the document to reflect changes in practices, etc., the Panel is recommending two particular additions in response to the matter, one relating to the reimbursement of the costs of travel in cases where this is appropriate and the other relating to use of the official car. A copy of Schedule 2 which includes the changes now recommended by the Panel is attached as Appendix 1 to this report. The two particular additions referred to are shown in bold.

## Recommendation

- (i) **The Panel recommends that the changes to Schedule 2 of the Members' Allowances Scheme set out in Appendix 1 of this report be approved.**

## Overview and Scrutiny Bodies

7. The Panel has been made aware of the new structure of Overview and Scrutiny bodies within the County Council due to be adopted on 26<sup>th</sup> June, 2013. It has found it helpful that job descriptions have been developed to guide members who are to fulfil the roles of Commissioners, Committee Chairmen and Committee Spokesmen. These have assisted the Panel in drawing its conclusions.
8. The Panel has given particular consideration to the position of Spokesmen of Overview and Scrutiny Committees. In its report of February 2009 the Panel acknowledged that there was a powerful case for a special responsibility allowance to be paid to people holding these positions even though this meant that the number of members on the Council in receipt of special responsibility allowances exceeded 50%. It accordingly recommended the Council to restore the payment of a special responsibility allowance to Overview and Scrutiny Spokesmen, which the County Council then agreed to.
9. Following the County Council elections in 2009 substantial changes to the structure of scrutiny bodies took place which resulted in the Panel's Report of October 2009, the recommendations of which were adopted by the Council and form part of the present scheme of allowances. During that review no case was made for the continuation of the payment of a special responsibility allowance to Scrutiny Committee Spokesmen and these therefore ceased.
10. In light of the proposed changes to the structure of Overview and Scrutiny bodies within the Council, the case has again been made to the Panel for a special responsibility allowance to the Spokesmen of Overview and Scrutiny Committees to reflect the important role they play in working together with Overview and Scrutiny Committee Chairmen in agenda planning and

generally organising the detailed activities of Overview and Scrutiny bodies. The Panel has been advised that this has the support of the Leaders of the three main political groups on the Council and has been persuaded by the arguments put forward, despite the fact that this will again increase the number of special responsibility allowances payable marginally above the 50% mark.

11. In terms of the cost of these arrangements the Panel has been careful to ensure that its recommendations about the level of allowances do not involve any increase.

### **Recommendation**

- (ii) **The Panel recommends that the Members' Allowances Scheme should be amended to make provision for the following Special Responsibility Allowances to members occupying the positions on Overview and Scrutiny bodies as indicated, such allowances to apply from 1<sup>st</sup> July, 2013:-**

<b><u>Position</u></b>	<b><u>Annual Allowance</u></b>
<b>Chairman of Scrutiny Commission</b>	<b>£10,000</b>
<b>Commissioners</b>	<b>£7,250</b>
<b>Chairmen of Overview and Scrutiny Committees</b>	<b>£4,500</b>
<b>Spokesmen of Overview and Scrutiny Committees</b>	<b>£2,000</b>

### **Accountability**

12. In its report of October 2009 the Panel recommended the Council to require all members to prepare an annual report for publication on the Council's website and set out a recommended template for such reports. This followed discussions between the Panel and each Group Leader and was a measure which had cross-party support. The County Council subsequently approved the recommendation and members have been encouraged to respond accordingly.

13. This measure has met with a varied response from members but the Panel continues to believe that it is important and that members should be prepared to set out a summary of their activities in this manner.
14. The attention of the Panel has been drawn to the fact that members can receive allowances from outside bodies on which they serve as representatives of the Council in some cases and that these are not made public in the same way as allowances paid by local authorities. Where this is the case the Panel believes that members should be prepared to declare the allowances they receive. The annual report would seem to be a vehicle through which members in that position could do so.

### **Recommendation**

- (iii) **The Panel recommends the Council to remind members of the requirement to prepare an annual report for publication on the Council's website;**
- (iv) **The Panel also recommends the Council to encourage members to use their annual reports to publish details of any allowances they receive as a result of their service as a representative of the Council on outside bodies where such allowances are not openly published by the body concerned.**

### **Summary of Recommendations**

- (i) **The Panel recommends that the changes to Schedule 2 of the Members' Allowances Scheme set out in Appendix 1 of this report be approved.**
- (ii) **The Panel recommends that the Members' Allowances Scheme should be amended to make provision for the following Special Responsibility Allowances to members occupying the positions on overview and scrutiny bodies as indicated, such allowances to apply from 1<sup>st</sup> July, 2013:-**

<u>Position</u>	<u>Annual Allowance</u>
Chairman of Scrutiny Commission	£10,000
Commissioners	£7,250
Chairmen of Overview and Scrutiny Committees	£4,500
Spokesmen of Overview and Scrutiny Committees	£2,000

- (iii) The Panel recommends the Council to remind members of the requirement to prepare an annual report for publication on the Council's website;
- (iv) The Panel also recommends the Council to encourage members to use their annual reports to publish details of any allowances they receive as a result of their service as a representative of the Council on outside bodies where such allowances are not openly published by the body concerned.

D Wilson  
Chairman  
On behalf of the Panel

This page is intentionally left blank

## SCHEDULE 2

**TRAVEL AND SUBSISTENCE – APPROVED DUTIES AND OTHER  
CONDITIONS**

The duties listed below qualify for travel and subsistence allowances.

**(A) GENERAL COUNTY COUNCIL DUTIES**

- (a) Attendance at meetings of the County Council and relevant bodies appointed by or on behalf of the Council.
- (b) Working Parties or Panels of members properly convened by the Chief Executive in consequence of a decision of the relevant body of the Council.
- (c) Formal briefing meetings or conferences of members convened by the Chief Executive or conferences of members properly convened in relation to the proceedings of meetings or functions of a relevant body of the Council in accordance with arrangements approved by that body. (Separate provisions exist for conferences organised by other bodies.)
- (d) Meetings for the appointments of Chief Officers.
- (e) Inspections and tours of County Council and other establishments and venues, approved in advance by or on behalf of the relevant body of the Council.
- (f) Official deputations to or meetings with government departments, statutory authorities or other local authorities.
- (g) Joint meetings with other local authorities or consortia of authorities.
- (h) Attendance by Members appointed for that purpose, at a meeting properly convened on behalf of a public authority or government department to discuss issues relating to the work of the County Council.
- (i) Meetings of Community Forums covering the Member's particular electoral division.

- (j) Attendance by invitation at a Parish Council or Parish Meeting to participate in the discussion of a County Council function (this provision to apply to travel allowance but not subsistence).
- (k) Meetings between group whips or their nominees to make recommendations on appointments.
- (l) Attendance by members at meetings of County Council bodies, or site visits when requested specifically by the body concerned or in response to a notice sent under the sensitive issues procedure for the purpose of speaking on the item concerned.
- (m) Learning and development events organised by or on behalf of the Chief Executive.
- (n) Official and courtesy visits when:
  - (i) approved by or on behalf of the relevant body; or
  - (ii) made by the Chairman of the County Council (or the Vice-Chairman when deputising for him) in his capacity as Chairman of the County Council for purposes directly connected with the functions of the Council.
- (o) General information visits or tours having been previously approved by or on behalf of the relevant body.
- (p) The following, as tasks approved by the County Council for the purpose of, or in connection with, the discharge of the functions of the County Council, or any of its relevant bodies.
  - (i) Attendance by members at County Hall or other establishments within the County on such occasions as they consider necessary in connection with the discharge of the Council's functions up to a limit of 15 occasions in each Council year. These are known as "duty days". (Please note this provision is an authorisation to carry out an approved duty of member's own choice on 15 occasions of whatever duration and not 15 duty days which could be interpreted for instance as 30 half days.)



- (ii) Attendance by each Group Leader and any member of the Cabinet of the Council or Cabinet Support Member at County Hall or other County Council establishments for any purpose which he/she considers to be necessary in connection with the discharge of the County Council's functions.
- (iii) Attendance by individual members before the Ombudsman when requested by him.
- (iv) Full meetings of Political Groups held at County Hall and specifically related to the business of the County Council on not more than 15 occasions in the period commencing with the day of the Annual Meeting of the Council in any year and terminating on the day preceding the Annual Meeting in the following year.

#### **(B) CONFERENCES**

Overnight accommodation and conference fees are normally booked by or on behalf of the Chief Executive and paid for by the Authority direct. Travel and subsistence allowances are payable for conferences organised by other bodies. Attendance must be approved beforehand by or on behalf of the relevant body and the rates for conference travelling and subsistence are the same as for other duties.

#### **(C) OTHER BODIES**

Attendances by individual members at meetings of outside bodies to which the County Council makes appointments or nominations qualify for travel and subsistence allowances. The approval relates to meetings of the bodies concerned, its standing committees and subcommittees but not to other activities of the body except in the case of the Local Government Association where the approval extends to all its activities including service on other bodies on the appointment or nomination of the Association.

**Where travel arrangements are made by the County Council on a member's behalf and the member is able to claim travel/subsistence from the body concerned, the member shall ensure that the County Council is reimbursed in full. Wherever possible the member should arrange for the County Council to be reimbursed directly by that body.**

## **USE OF OFFICIAL CAR**

**The County Council has the ability to provide an official car and driver to certain members on occasions, particularly the Chairman and Vice Chairman. This is on a strictly regulated basis and on the following conditions:-**

- (a) The duties must relate to the discharge of the County Council's functions or as an appointed representative of the County Council. Under no circumstances can they be used for private or party political purposes;**
- (b) The activities of the Chairman will take precedence over any others;**
- (c) All such transport will be managed by the Civic Affairs Team within the Chief Executive's Department.**

## **TRAVEL AND SUBSISTENCE RATES**

In all cases expenditure must have been actually and necessarily incurred.

### **Travel**

Travelling expenses are limited to the actual journey from home or a members' regular place of work except in exceptional circumstances approved by the Constitution Committee or Chief Executive on the Committee's behalf (for definition of exceptional circumstances see note below).

Long journeys such as travelling back from holiday to attend a meeting do not qualify other than the amount equivalent to the local journey. If a member's home is outside the County the distance and time used for any claim is from the point where the journey to County Hall crosses the County boundary. If a member's usual business address is outside the County the full journey may be claimed on the basis that a person's work venue is not always within an individual's control.

#### **(i) Air**

Air fare may be paid if the rate compares reasonably with the cost of alternative means of travel having regard to the likely savings in time, subject to the agreement of the Chief Executive.

Applications must be raised with the Chief Executive as soon as possible

prior to the date the duty is to be performed.

(ii) **Mileage Rates**

Where a member uses his own private car or one belonging to a member of his family or otherwise provided for his use the rate claimed shall be laid down in the Council's Scheme of Allowances.

Where a member uses a lease car the rate claimed shall not exceed the relevant rates specified for the Council's officers.

(iii) **Rail**

The rate of travel by rail shall be by reference to the second class fare. Tickets may be obtained from the Members Secretariat.

(iv) **Taxis**

The rate for travel by taxi cab shall not exceed,

- (a) In cases of urgency or where no public transport is reasonably available, the amount of the actual fare..
- (b) In any other case, the amount of the fare for travel by appropriate public transport.

(vi) **Other Expenses**

Actual expenditure incurred on buses, tolls, ferries or parking fees.

**Definition of Exceptional Circumstances**

The Constitution Committee, or the Chief Executive on the Committee's behalf, will normally only be prepared to consider granting exceptions to the general policy of the County Council in relation to the payment of travelling allowances for long journeys where the following circumstances apply:-

Nature of Duty

1. Attendance at a meeting to consider a "sensitive" issue which will have a substantial impact on the member's particular electoral division whether or not the member serves on the body concerned; or

2. Attendance at a meeting of the County Council where non attendance, taken together with that of other members, might upset the elected party balance to such an extent that the decision is likely to be affected; or
3. In other cases where it would not be appropriate or reasonable to expect a substitute to act on the member's behalf; and

#### Exceptional Circumstances

4. Illness or bereavement in respect of a close family member; or
5. Unplanned and/or unavoidable absence due to unusual work commitments.

#### General

Applications must be raised with the Chief Executive as soon as possible prior to the date on which the duty is to be performed.

The making of any payments retrospectively will not normally be considered.

#### **Subsistence**

The amount of subsistence claimed relates to the period of time a member is engaged on an approved duty.

Rates and qualification periods are specified in the Council's Scheme of Allowances.

**[end of Members' Allowances Scheme]**



**CONSTITUTION COMMITTEE – 12 JUNE 2013**

**JOINT REPORT OF THE CHIEF EXECUTIVE AND DIRECTOR OF  
CORPORATE RESOURCES**

**GOVERNMENT CONSULTATION PAPER ON PENSIONS FOR  
COUNCILLORS**

**Purpose**

1. The purpose of this report is to draw attention to the publication by the Department of Communities and Local Government of a consultation paper entitled “Taxpayer –Funded Pensions for Councillors and other elected office holders” and to invite the Committee to consider the form of any County Council response.

**Background**

2. Since 2003, Councillors in England have been eligible to join the Local Government Pension Scheme on the recommendation of the Local Independent Remuneration Panel. The County Council’s own Panel made a recommendation that all eligible members should be offered the opportunity of joining the Pension Scheme and that contributions should be based on both the basic and any special responsibility allowances. That recommendation was supported by the Constitution Committee and subsequently approved by the County Council at its meeting on 26 March 2003.
3. Prior to the recent elections, roughly 50% of the members of the Council had opted to join the Scheme.
4. On 16 April 2013, interested parties to the Local Government Pension Scheme received a communication indicating that consultation on access by councillors and other elected local office holders in the Local Government Pension Scheme 2014 had begun on 10 April. A copy of the consultation paper is attached as Appendix A to this report. The deadline for comments is 5 July 2013.
5. The consultation paper indicates that the Government does not believe as a matter of principle that elected members should have access to a “taxpayer-funded pension scheme designed for employees”. It implies that the cost of pensions of elected members is wholly borne by the taxpayer and fails to recognise that local government pensions are managed through funded schemes.

## Options

6. The government has identified three options for consultation as follows:-

### Option 1

No access to the new Local Government Pension Scheme from April 2014 through being directly elected to local office. Thus, councillors, elected mayors, the Mayor of London and members of the London Assembly would be excluded from active Scheme membership – **this is the Government's preferred position.**

### Option 2

Two-tier membership – continued access for 'front bench' councillors only. This option could include just elected mayors (including the Mayor of London) and elected leaders or could encompass all those with a special responsibility allowance (including members of the London Assembly) – the Government would welcome views on which councillors and elected local office holders should be eligible if this option were to be pursued.

### Option 3

No change. Access to the Taxpayer-Funded Local Government Pension Scheme remains for all councillors and elected local office holders on the same basis as at present.

7. The consultation paper poses the following questions:-

### Question 1

Taking account of the issues raised in this consultation document and any other considerations, what option do you prefer and why?

### Question 2

Do you have any alternative proposals on councillors and other elected office holders access to the Scheme?

## Contribution Rates

8. If elected members are to continue to have access to the Scheme, the Government believes that the current flat rate local authority contribution of 6% should be changed to be brought in line with the rest of the Scheme. Current proposals would allow for the following contribution rate:-

<u>Pensionable Allowance Range</u>	<u>Contribution Rate</u>
Up to £21,000	6%
£21,001 to £34,000	6.5%
£34,001 to £43,000	6.8%
£43,001 to £60,000	8.5%
£60,001 to £85,000	9.9%
£85,001 to £100,000	10.5%
£100,001 to £150,000	11.4%
£150,001 or more	12.5%

9. The Government is seeking answers to the following question:-

Question 3

If councillors continue to have access, do you agree with the proposed change in contribution rate? If not, what contribution rate would you recommend?

10. It is suggested that an appropriate response to this particular question is that in the future any pension scheme arrangements for elected members should be absorbed with the new 2014 main Local Government Pension Scheme with the contribution bandings which apply to that Scheme. At the moment, councillor pensions are covered by a separate annexe to the Scheme.

Comment

11. The Councillors' Commission which was established inter alia to seek ways of encouraging able qualified and representative people to put themselves forward for election as councillors, reported in 2007 making the following comments:-

"The main advantage of the scheme for councillors is that it offers a predictable benefit guaranteed by the Council. It needs no set up costs and only marginal administrative costs, as the Scheme is already in place for Local Government employees."

"Granting access to the Scheme is intended to remove one more barrier to service as a councillor. Councillors of working age may lose pension rights in respect of their employment, either by working part-time or by loss of promotion prospects. Access to the Scheme can make good this loss. It is argued that service as a councillor ought not to impose any further financial

-4-

disadvantage. If a substantial part of their working time is devoted to council duties at the expenses of their job or promotion prospects, then it seems reasonable that they should be able to treat their allowances as pensionable.

Because of the age profile of councillors, many councillors decline membership of the Scheme; they already have their own provision for

pensions. Those who envisage a short term of membership might not believe it worthwhile. The relative inflexibility of the Local Government Pension Scheme may also be a problem. It might be more attractive to enable councillors to have access to an employer's or private pension scheme without loss of the Council's contribution.

The Commission received evidence supporting automatic access to the Local Government Pension Scheme, as is the position in Scotland. In Wales, the National Assembly has allowed all councils to decide whether to allow councillors access to the Scheme. In its submission to the commission, the Local Government Information Unit argued that pension schemes should be obligatory. Given that many councillors already receive a pension this does not seem sensible. Councillors should be able to opt out of entry to a pension scheme. However, there is certainly a case for all councillors to have access to a pension scheme if they wish to join one, having regard to the desirability of widening the representativeness of membership of councils.

Given the intention to make service as a councillor attractive to a wider selection of people, it does seem unnecessarily restrictive to confine councillors to the Local Government Pension Scheme. It should be possible for them to opt out of the Local Government Scheme, should they so wish, and make additional contributions into their employers' schemes or to contribute to their own private pension plan without losing the benefit of the employers' contribution".

12. This is in marked contrast to the Government's proposals which also seem to lack consistency with its action on the auto-enrolment of people generally into pension schemes.
13. It is open to all interested parties to make representations on this matter. Indeed the Leader of the Conservative Group has already done so on behalf of that Group, in the following terms:-
  - strongly objecting to the misleading way in which the consultation paper has presented the position;
  - expressing concern that the paper fails to recognise the increasingly complex and demanding landscape in which councillors have to operate, pointing to a more rather than less professional approach being required to fulfil the role of a councillor;
  - criticising the Government for continuing to undervalue Local Government and those who serve at grass roots level;
  - expressing support for Option 3, namely that the current system should not be changed.



### Views of Leicestershire County Council's Independent Remuneration Panel

14. The Government's Consultation Paper has been drawn to the attention of the Council's Independent Remuneration Panel and the Panel invited to express its opinion. Members of the Panel responded that they remained united in their belief that it is entirely fair and reasonable for members' allowances to be treated as pensionable. The Panel asked that the County Council be advised accordingly.

### Recommendations

15. The Committee is recommended to determine how the County Council should respond to the consultation paper.

### Background Papers

16. Consultation Paper. Taxpayer-Funded Pensions for Councillors and other Elected Local Office Holders (see Appendix A attached).

Councillors Commission Report on Members' Remuneration, Models, Issues, Incentives and Barriers, December 2007 (Department of Communities and Local Government).

### Officers to Contact

David Pitt, Head of Democratic Services and Administration  
Tel: 0116 305 6034 Email: [david.pitt@leics.gov.uk](mailto:david.pitt@leics.gov.uk)

Chris Haywood, Pensions Manager  
Tel: 0116 305 6945 Email: [chris.haywood@leics.gov.uk](mailto:chris.haywood@leics.gov.uk)

This page is intentionally left blank



Department for  
Communities and  
Local Government

# Taxpayer-funded pensions for councillors and other elected local office holders

Consultation

© Crown copyright, 2013

*Copyright in the typographical arrangement rests with the Crown.*

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, [www.nationalarchives.gov.uk/doc/open-government-licence/](http://www.nationalarchives.gov.uk/doc/open-government-licence/) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

This document/publication is also available on our website at [www.gov.uk/dclg](http://www.gov.uk/dclg)

If you have any enquiries regarding this document/publication, email [contactus@communities.gov.uk](mailto:contactus@communities.gov.uk) or write to us at:

Department for Communities and Local Government  
Eland House  
Bressenden Place  
London  
SW1E 5DU  
Telephone: 030 3444 0000

April 2013

ISBN: 978-1-4098-3839-5

# Contents

The consultation process and how to respond	4
Introduction	8
Setting the context	9
Proposals for consultation	12

# The consultation process and how to respond

## Scope of the consultation

<b>Topic of this consultation:</b>	Access by councillors and other elected local office holders to the taxpayer-funded Local Government Pension Scheme 2014 and contribution rates.
<b>Scope of this consultation:</b>	This consultation seeks responses from interested parties, including local taxpayers, councillors and other elected local office holders and their representative bodies, on access by councillors and other elected local office holders to the taxpayer-funded Local Government Pension Scheme to come into force in April 2014. It also covers the contribution rates that should apply to any such persons who remain active members of the Scheme.
<b>Geographical scope:</b>	England only.

## Basic information

<b>To:</b>	This consultation is aimed at local taxpayers, councillors and other elected local office holders in England and their representative bodies and all Local Government Pension Scheme interested parties.
<b>Body responsible for the consultation:</b>	The Department for Communities and Local Government is responsible for policy and the consultation exercise.
<b>Duration:</b>	12 weeks.
<b>Interested parties:</b>	<p>We are seeking views from the following parties and individuals, with an interest in the Local Government Pension Scheme:</p> <p style="padding-left: 40px;">All local taxpayers</p> <p style="padding-left: 40px;">The Chief Executives of:</p> <ul style="list-style-type: none"> <li>County Councils (England)</li> <li>District Councils (England)</li> <li>Metropolitan Borough Councils (England)</li> <li>Unitary Councils (England)</li> <li>County and County Borough Councils in Wales</li> <li>London Borough Councils</li> <li>South Yorkshire Pension Authority</li> <li>Tameside Metropolitan Borough Council</li> <li>Wirral Metropolitan Borough Council</li> </ul>

	<p>Bradford Metropolitan City Council  South Tyneside Metropolitan Borough Council  Wolverhampton Metropolitan Borough Council  London Pension Fund Authority</p> <p>Town Clerk, City of London Corporation  Clerk, South Yorkshire Passenger Transport Authority  Clerk, West Midlands Passenger Transport Authority  Police and Crime Commissioners in England and Wales  Association of Police and Crime Commissioners  Local Government Association  Employers' Organisation  Local Government Pensions Committee</p> <p>The Mayor of London  The Greater London Authority</p> <p>Individual councillors  Councillor representative bodies including:      Conservative Councillors' Association      Association of Liberal Democrat Councillors      Labour councillors' groups      Local Government Association political groups      National Association of Councillors</p> <p>Association of Local Authority Chief Executives  Society of Local Authority Chief Executives  Chartered Institute of Public Finance and Accountancy  Association of Local Authority Medical Advisors</p> <p>Association of Consulting Actuaries  Association of District Treasurers  Society of County Treasurers  Society of Metropolitan Treasurers  Society of London Treasurers</p> <p>National Association of Pension Funds  National Association of Local Councils</p> <p>Trades Union Congress  GMB  UCATT  UNISON  Unite</p> <p>Equality and Human Rights Commission</p>
--	---

## Background

<b>Getting to this stage:</b>	This consultation is part of the planned process of wider reform of the Local Government Pension Scheme that began with the commitment given in the Coalition government's programme to review the long term affordability and sustainability of public service pension schemes.
<b>Previous engagement:</b>	On 19 December 2012, the Local Government Minister, Brandon Lewis, made a Written Ministerial Statement to Parliament, setting out government proposals to remove access by councillors to the taxpayer-funded Local Government Pension Scheme in England from April 2014 and made the commitment to consult on these proposals.

## How to respond

1. You should respond to this consultation by **5 July 2013**.
2. You can respond by email to [CouncillorPensions@communities.gsi.gov.uk](mailto:CouncillorPensions@communities.gsi.gov.uk)

When responding, please ensure you have the words "Councillor Pensions" in the email subject line.

Alternately you can write to:

Councillor Pensions  
 Department for Communities and Local Government  
 Zone 5/F5 Eland House  
 Bressenden Place  
 LONDON  
 SW1E 5DU

3. When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please give a summary of the people and organisations it represents and, where relevant, who else you have consulted in reaching your conclusions.

## Additional copies

4. This consultation paper is available on the Department for Communities and Local Government website at: <https://www.gov.uk/dclg>



## Confidentiality and data protection

6. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

7. If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on the department. **There is a particular need for openness and transparency on payments to elected representatives, and councillor allowances and expenses are already made public by law. Consequently, in this consultation, councils and councillors should not assume that representations marked 'confidential' will remain so.**

8. The Department of Communities and Local Government will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

## Help with queries

10. Questions about the policy issues raised in the document can be sent to the address given at paragraph 2 above.

11. A copy of the Consultation Principles Guidance is at <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>. Are you satisfied that this consultation has followed these principles? If not or you have any other observations about how we can improve the process please email: [consultationcoordinator@communities.gsi.gov.uk](mailto:consultationcoordinator@communities.gsi.gov.uk)

or write to:

DCLG Consultation Co-ordinator, Zone 4/J1, Eland House, Bressenden Place  
London SW1E 5DU.

# Introduction

- 1.1 This document commences a period of statutory consultation on access by councillors and other elected local office holders in England to the taxpayer-funded, Local Government Pension Scheme which will come into effect from 1 April 2014. It also covers the contribution rates that should apply to any such persons that remain active members of the Scheme. Your comments are invited on all parts of the consultation document, but in particular Chapter 3 – Proposals for consultation.
- 1.2 Your comments should be sent to: Councillor Pensions, Department for Communities and Local Government, Zone 5/F5, Eland House, Bressenden Place, London SW1E 5DU. Electronic responses can be sent to [CouncillorPensions@communities.gsi.gov.uk](mailto:CouncillorPensions@communities.gsi.gov.uk).
- 1.3 **The closing date for responses is 5 July 2013.**

## Background

- 1.4 This consultation is part of the planned process of wider reform of the Local Government Pension Scheme that began with the commitment given in the Coalition government's programme to review the long term affordability and sustainability of taxpayer-funded pension schemes.
- 1.5 On 19 December 2012, the Local Government Minister, Brandon Lewis, made a Written Ministerial Statement to Parliament, setting out government proposals to limit access by councillors to the taxpayer-funded Scheme in England from April 2014<sup>1</sup>. This statutory consultation fulfils the commitment to consult on these issues.
- 1.6 Ministers stated that councillors are not full-time politicians or salaried town hall staff. Since that announcement, Ministers believe there has been broad-based public backing for the government's original proposal. The public seem generally surprised that councillors are receiving taxpayer-funded pensions at all.
- 1.7 Following the Written Ministerial Statement, the government has reflected further on the need to take a consistent approach to councillors and other elected local office holders, notably elected mayors and members of the London Assembly. This consultation therefore proposes an option under which there would be no access to the taxpayer-funded Local Government Pension Scheme for these groups either.

---

<sup>1</sup> <http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm121219/wmstext/121219m0001.htm>

## Setting the context

- 1.8 Following an original announcement on 12 September 2001, councillors were given access in 2003 to a special section of the Local Government Pension Scheme, where permitted by the local authority's remuneration panel. Councillors who are members of the taxpayer-funded Scheme receive both retirement and death benefits for a flat contribution rate of 6% of their basic and special responsibility allowances. In addition, an employer contribution is paid by the local authority: which is taxpayer-funding. Typical council contributions for future service and past service deficits range between 15% and 30% with an average of around 22%.
- 1.9 The provision allowing for councillors' pensions in England is contained in Section 18(3A) of the Local Government and Housing Act 1989 and the Local Authority (Members' Allowances) (England) Regulations 2003 made under the powers contained in that section; separate provisions exist for Welsh councillors. Schedule 8 to the Local Government Pension Scheme Regulations 1997 retained by transitional provisions introduced as part of scheme reforms in 2008, contains the detailed provisions as to the calculation and payment of benefits.
- 1.10 Benefits of the councillors' Scheme include a pension for life calculated as 1/80<sup>th</sup> of their career average pay for each year they are a member of the Scheme (increased annually with the appropriate cost of living index); a tax-free lump sum of 3x their annual pension and life cover lump sum of 2x career average pay. Other benefits include ill health early retirement and survivor benefits for eligible family members.
- 1.11 Councillors are eligible for their allowances to be pensionable if the local independent remuneration panel made a recommendation to that effect and that the relevant council accepted that recommendation. Where that is secured, councillors can then opt into the Scheme provided they are no more than 75 years of age.
- 1.12 The Councillors' Commission published a report in 2007<sup>2</sup> noting that 912 councillors in England had joined the pension Scheme by 2004. A Taxpayers' Alliance survey in February 2009<sup>3</sup>, across the whole United Kingdom, found that 3,527 councillors had pensions as of 2007-08; a further survey in January 2012<sup>4</sup> found that figure had increased to 4,548 councillors by 2010-11.
- 1.13 The position in Wales is subject to separate arrangements. While the Local Government Pension Scheme is not a devolved matter, the

<sup>2</sup><http://webarchive.nationalarchives.gov.uk/20080910134927/http://www.communities.gov.uk/documents/localgovernment/pdf/583990.pdf>

<sup>3</sup><http://www.taxpayersalliance.com/CSU2-pensions.pdf>

<sup>4</sup><http://www.taxpayersalliance.com/pensioncontributions2012.pdf>

pensionability of councillors' allowances is devolved to Welsh Ministers. Therefore Wales is not covered by this consultation.

- 1.14 Apart from councillors, there are other elected office holders who are currently entitled to participate in the Scheme, including, the Mayor of London; members of the London Assembly and police and crime commissioners, each of whom have access to the Scheme separate from the provisions for councillors.
- 1.15 The Mayor of London and members of the London Assembly were given access to the Local Government Pension Scheme when the Greater London Authority was established in 2000. Under section 26 of the Greater London Authority Act 1999, the Authority has the power to make provision for the payment of pensions to the Mayor and Assembly members and the government has allowed it to do so by means of the Local Government Pension Scheme.
- 1.16 While it is for the Greater London Authority to determine whether pensions should be provided for the Mayor and Assembly Members, the government can determine whether they should have access to the Scheme.
- 1.17 Police and crime commissioners were allowed access to the Local Government Pension Scheme in November 2012, as part of an agreed package of remuneration. Given that the commissioners have only recently taken up their new posts, the government does not propose to consult on removing their access to the Scheme at this immediate point in time.

## Auto-enrolment

- 1.18 The government does not consider that councillors are employed by local authorities or that they are workers or part-time workers. On this basis, it believes that councillors are not subject to the requirement for auto-enrolment under the Pensions Act 2008.

## The case for change

- 1.19 As part of wider public service pension reform, the government has been considering whether councillors and other directly elected local office holders should continue to have access to the taxpayer-funded Local Government Pension Scheme.
- 1.20 Councillors are volunteers, elected to their local council to represent their local community. Councillors are not paid a salary or wages, but they are entitled to allowances and expenses to cover their out-of-pocket costs of carrying out their public duties.
- 1.21 However, the government has become concerned that allowances have slowly become a form of salary, a situation exacerbated by state-funded pensions. This could have a negative effect on local democracy

and the independence of councillors to represent their communities if it blurred the distinction with paid employees.

- 1.22 The Mayor of London and members of the London Assembly are paid a salary. Nevertheless, the government is not convinced that membership of the taxpayer-funded Scheme is appropriate for any local elected office holder. The Greater London Authority is a tier of local government.
- 1.23 Carrying forward the provision into the new Scheme would perhaps be justified if no other form of supplementary pension provision was available. But closing off councillors' access to the new taxpayer-funded Scheme would not prevent them from making good any potential shortfall in their personal pension provision elsewhere.
- 1.24 We are not aware of any evidence that provides an assessment of whether offering access to the taxpayer-funded Scheme has resulted in any change in the number of people putting themselves forward for service as councillors or other elected office holders. Respondents to this consultation are welcome to make representations on this point.

# Proposals for consultation

- 1.25 The government does not, as a matter of principle, believe that councillors and other local elected office holders should have access to a taxpayer-funded pension scheme designed for employees. However, the government is aware that there are other opinions on this matter and that some support full-time 'professionalisation' of councillors.
- 1.26 Taking these and the other points into consideration, the government has identified three options for consultation whereby councillors and local elected office holders may, or may not, access the new Scheme from 2014. Police and crime commissioners would remain eligible for Scheme membership under each option.
- **Option 1:** No access to the new Local Government Pension Scheme from April 2014 through being directly elected to local office. Thus, councillors; elected mayors; the Mayor of London and members of the London Assembly would be excluded from active Scheme membership – **this is the government's preferred position;**
  - **Option 2:** Two-tier membership - continued access for 'front bench' councillors only. This option could include just elected mayors (including the Mayor of London) and elected leaders or could encompass all those with a special responsibility allowance (including members of the London Assembly) – the government would welcome views on which councillors and elected local office holders should be eligible if this option were to be pursued;
  - **Option 3:** No change. Access to the taxpayer-funded Local Government Pension Scheme remains for all councillors and elected local office holders on the same basis as at present.
- 1.27 Whichever option is pursued, those already in the Scheme would have their accrued rights up to April 2014 fully protected.
- 1.28 Furthermore, whatever the outcome, these proposals would not prevent councillors and other elected office holders contributing to a personal pension and be able to put aside part of their (taxable) allowances or salary and receive income tax relief should they wish to, subject to the prevailing tax rules.
- 1.29 **Question 1: Taking account of the issues raised in this consultation document and any other considerations, what option do you prefer and why?**
- 1.30 **Question 2: Do you have any alternative proposals on councillors and other elected office holders access to the Scheme?**

- 1.31 In addition, as part of this consultation, the government will consider whether withdrawal of continued access to the taxpayer-funded Scheme will cause hardship in any individual cases, and whether anything could or should be done to mitigate this. The government therefore requests any evidence to assist this consideration.

## Contribution rates

- 1.32 The government's preferred option is to end access to the Scheme for councillors. However, this consultation also considers the issue of contribution rates.
- 1.33 Currently all councillors that are members of the taxpayer-funded Scheme play a flat rate of 6%, regardless of the level of their allowances. If councillors continue to have access post April 2014 and if that rate continued, some councillors' contribution rates would be out of kilter with the rest of the Scheme, placing too high a burden on local taxpayers.
- 1.34 It is proposed therefore, that from April 2014, any councillors who remain members of the Scheme are moved away from a flat rate 6% contribution to a tiered tariff based on the level of allowances received.
- 1.35 The government proposes that councillor contributions be brought in line with the rest of the Local Government Pension Scheme with a floor limit of 6%. Current proposals for the new Scheme would allow for the following councillor contribution rate:

<i>Pensionable allowance range</i>	<i>Contribution rate</i>
Up to £21,000	6%
£21,001 to £34,000	6.5%
£34,001 to £43,000	6.8%
£43,001 to £60,000	8.5%
£60,001 to £85,000	9.9%
£85,001 to £100,000	10.5%
£100,001 to £150,000	11.4%
£150,001 or more	12.5%

- 1.36 **Question 3: If councillors continue to have access, do you agree with the proposed change in contribution rate? If not, what contribution rate would you recommend?**
- 1.37 Police and crime commissioners, the Mayor of London and members of the London Assembly (if they continue to have access) are already members of the main Scheme and will therefore automatically move to the new Scheme contribution rates (with normal employees) from April 2014.

This page is intentionally left blank