



*Meeting:* **Constitution Committee**

*Date/Time:* **Friday, 16 September 2016 at 1.30 pm**

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

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

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

### **Membership**

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

### **AGENDA**

<u>Item</u>	<u>Report by</u>
1. Appointment of Chairman.  <i>Mr N.J. Rushton was nominated as Chairman elect at the Council meeting on 18 May 2016.</i>	
2. Election of Deputy Chairman.	
3. Minutes of the meeting held on 8 January 2016.	(Pages 3 - 4)
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. Review and Revision of the Constitution.	Chief Executive (Pages 5 - 12)



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| 9. Appointment of Independent Persons.                                   | Chief Executive<br>and Director of<br>Corporate<br>Resources | (Pages 13 - 16) |
| 10. Any other items which the Chairman has<br>decided to take as urgent. |  |                 |



Minutes of a meeting of the Constitution Committee held at County Hall, Glenfield on Friday, 8 January 2016.

PRESENT

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

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

Mr. J. B. Rhodes CC  
Mr. R. Sharp CC

40. Minutes.

The minutes of the meeting held on 29 September 2015 were taken as read, confirmed and signed.

41. Question Time.

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

42. 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).

43. Urgent items.

The Chairman advised that he had agreed to consider an urgent item raised by Mr Sharp CC on requested Position Statements at meetings of the full County Council (minute 46 refers).

44. 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 declarations were made.

45. Electoral Review of Leicestershire County Council.

The Committee considered a report of the Chief Executive, the purpose of which was to set out the draft recommendations of the Local Government Boundary Commission for England (LGBCE) in relation to new electoral arrangements for Leicestershire County Council, and seek agreement to a County Council response to those recommendations. A copy of the report marked 'Agenda Item 6' is filed with these minutes.

Some members of the Committee were of the view that there was more than a small number of Councillors who had concerns about aspects of the LGBCE draft

recommendations and therefore whilst the recommendation at paragraph 39 of the Chief Executive's report should be approved, the word 'small' should be omitted from point (b).

RESOLVED:

That the LGBCE be advised that:-

- a) The County Council accepts the draft recommendations and wishes to make no comment or objections thereto;
- b) The County Council is aware that a number of members have concerns regarding the detail about some of the redrawn boundaries and that those members will be making representation to the LGBCE directly.

46. Urgent item - Requested Position Statements at meetings of the full County Council.

The Committee considered this matter, the Chairman having decided that it was of an urgent nature due to concerns with the operation of the current system at a recent meeting of the County Council.

With the agreement of the Chairman, Mr. R. Sharp CC addressed the Committee, stating that it was of value for members of the opposition to be able to request Position Statements at County Council meetings particularly with regard to topical issues. He noted that there were concerns with the way the system had operated at County Council meetings, however, he was of the view that it would be more constructive to improve the existing procedures for requested Position Statements rather than abolish the system altogether.

RESOLVED:

- (a) That Mr. R. Sharp CC be asked to produce draft wording to propose a formalisation of the procedure for requested Position Statements at meetings of the full County Council, and that the draft wording be circulated to the political groups for their consideration;
- (b) That the issue of requested Position Statements at meetings of the full County Council be considered at a future meeting of the Constitution Committee.

2.00 - 2.10 pm  
08 January 2016

CHAIRMAN



## **CONSTITUTION COMMITTEE – 16 SEPTEMBER 2016**

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

### **REVIEW AND REVISION OF THE CONSTITUTION**

#### **Purpose**

1. The purpose of this report is to recommend changes to the Constitution as part of this year's annual review.

#### **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 the Financial Procedure Rules and Contract Procedure Rules, the recommendations of the Corporate Governance Committee.
3. In the case of everything except the Meeting Procedure Rules the final decision on changes can be made at a single meeting of the County Council. However, in the case of the Meeting Procedure Rules any motion to add, to vary or revoke Standing Orders must, having been proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.
4. The Constitution has been reviewed on an annual basis every year since it came into effect in June 2001. This report sets out the results of the latest review. Proposed changes to the Contract Procedure Rules and Financial Procedure Rules arising from the review will be considered by the Corporate Governance Committee and reported to the County Council at its meeting in December.
5. The majority of the changes are corrections following changes in departmental staffing structures or have been proposed to provide greater clarity to an existing provision, rather than to change a provision. The Committee's attention is drawn to the following:-

### Officer Employment Procedure Rules

6. These have been amended to reflect changes in legislation and guidance relating to the procedure for dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer. Members may recall that the new regulations removed the requirement to appoint a Designated Independent Person (DIP) and instead required the Council to set up a Panel which comprised no less than two independent persons to advise the Council on any proposal to dismiss such officers. Since then guidance has been received that the Panel established to consider dismissal of these officers should only comprise independent members. The need for the full County Council to approve the dismissal has also been made explicit.

### Members' Allowances Scheme

7. The provision relating to Councillor's pensions has been amended to reflect that, since 31 March 2014 new councillors have not had access to the Local Government Pension Scheme and that, from May 2017, all pension arrangements will cease.

### Recommendation

8. That the County Council be recommended to approve the proposed changes to the Constitution as set out in Appendix 1 to this report.

### Background Papers

The Constitution of Leicestershire County Council.

### Circulation under Local Issues Alert Procedure

None.

### Officers to Contact

Lauren Haslam  
County Solicitor  
Tel: 0116 305 6240  
Email: lauren.haslam@leics.gov.uk

Rosemary Palmer  
Democratic Services Manager  
Tel: 0116 305 6098  
Email: rosemary.palmer@leics.gov.uk

### Equal Opportunities and Human Rights Implications

None.

**PROPOSED AMENDMENTS TO THE CONSTITUTION  
OF LEICESTERSHIRE COUNTY COUNCIL  
SEPTEMBER 2016**

<b><u>ITEM</u></b>	<b><u>PROPOSED AMENDMENT</u></b>	<b><u>EXPLANATION</u></b>
<b><u>PART 2 - ARTICLES</u></b>  Schedule 2	Add the following to the list of Plans determined by the Executive:-  “Q Local Flood Risk Management Strategy”  Renumber the remaining Plans accordingly	To reflect current practice
Schedule 3 Table A	Amend the scope of the Children and Families Overview and Scrutiny Committee to read as follows:-  “1. The executive functions of the County Council in respect of Children and Family Services.  2. To monitor the performance and activities of any partnerships that are associated with the executive functions outlined in 1. above”	To reflect changes in the partnership structure of the County Council.
Schedule 3 Table C	Amend number 8 in the functions and areas of responsibility of the Chief Executive to read as follows:-  “8. Provision of professional advice in connection with and managing the effective provision of services in respect of:- (a) Strategic Planning. (b) Communities and Economic Strategies, and related partnerships. (c) Emergency Management.”	To reflect changes in the departmental structure.

<u>ITEM</u>	<u>PROPOSED AMENDMENT</u>	<u>EXPLANATION</u>
	<p>Amend the post of 'County Solicitor' to read 'Director of Law and Governance'.</p> <p>Amend number 1 in the functions and areas of responsibility of the Director of Children and Family Services to read as follows:-</p> <p>"1. Provision of professional advice in connection with and managing the effective provision of children and family services, youth justice and safer communities."</p>	To reflect changes to the name of the department.
Schedule 3 Table D	<p>Amend the post designated as Chief Financial Officer to read 'Director of Finance'.</p> <p>Amend the post designated as Scrutiny Officer to read 'Head of Law.</p>	To reflect changes in job title.
<p><b><u>PART 3 - RESPONSIBILITY FOR FUNCTIONS</u></b></p> <p>Section A: Responsibility for "Local Choice" functions</p>	Amend note (c) to refer to item 11 below.	Item 13 has previously been deleted.
Section D: General Scheme of Delegation to Heads of Department	<p>Amend paragraph (c) of the note to read as follows:-</p> <p>"(c) That in respect of the proper officer functions and other delegated powers and functions allocated to the Chief Executive and Director of Law and Governance, the following officers be authorised to act in their absence:-</p> <p>Director of Law and Governance (in own right and on behalf of Chief Executive)</p>	To reflect staffing and job title changes



<u>ITEM</u>	<u>PROPOSED AMENDMENT</u>	<u>EXPLANATION</u>
	Assistant Chief Executive Head of Democratic Services Head of Law.”	
Section E: Panels	Amend the role of the Fostering Panel to read as follows:-  “(k) Fostering Panel: to consider applications from people who wish to be registered as foster carers to ensure that they comply with the National Standards laid down for the fostering of young children and make recommendations to the Fostering Agency (i.e. Children and Family Services).”	To reflect changes to the name of the department
<b><u>PART 4B: ACCESS TO INFORMATION PROCEDURE RULES</u></b>  Rule 14: The Forward Plan	Amend (1) to read as follows:-  “(1) At least 28 <u>clear</u> days before decisions of the nature set out in paragraph (2) are to be taken by a decision making body exercising executive functions the Chief Executive will produce a Forward Plan setting out the details. The Forward Plan will be published on the County Council’s website and made available for inspection by members of the public.	To clarify that the requirement is for the Forward Plan to be produced 28 clear days before a meeting of the Cabinet (this excludes the day of postage and the day of the meeting).
<b><u>PART 4E – OVERVIEW AND SCRUTINY PROCEDURE RULES</u></b>  Rule 18: Matters within the remit of more than one overview and scrutiny committee	Change the reference to the three Scrutiny Commissioners to “the four Scrutiny Commissioners”	To reflect the current number of Scrutiny Commissioners



<b><u>ITEM</u></b>	<b><u>PROPOSED AMENDMENT</u></b>	<b><u>EXPLANATION</u></b>
<b><u>PART 6: MEMBERS' ALLOWANCES SCHEME</u></b>	<p>Amend paragraph 17 to read as follows:-</p> <p>“17. This provision is effective from 1 May 2003. However, since 31 March 2014 new councillors have not had access to the Local Government Pension Scheme. Those existing members already in the Scheme as at 31 March 2014 will continue to accrue rights until the end of the term of office which that member is serving on 1 April 2014, or age 75, whichever is the earlier. All pension arrangements will cease in May 2017.”</p>	<p>To reflect changes in Councillor pension arrangements</p>
<b><u>PART 10: PETITIONS SCHEME FOR LEICESTERSHIRE COUNTY COUNCIL</u></b>	<p>Change the contact telephone number to 0116 305 5483</p> <p>Amend the last bullet point of paragraph 7 to read as follows:-</p> <p>“be received by the Chief Executive’s Department eight clear days before the relevant meeting at which it is to be presented, if it is to be considered at that meeting”</p>	<p>To reflect staffing changes</p> <p>Aligning the guidance with Standing Orders for consistency.</p>

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## **CONSTITUTION COMMITTEE – 16<sup>th</sup> SEPTEMBER 2016**

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

#### **APPOINTMENT OF INDEPENDENT PERSONS**

##### **Purpose of the Report**

1. This report concerns the appointment of Independent Persons to support the Member Conduct Complaints Process as required under Section 7 of the Localism Act 2011, and to support the procedures for dealing with the dismissal of the Chief Executive, the Monitoring Officer and the Chief Financial Officer as required by the Local Authorities (Standing Order) England (Amendment) Regulations 2015.

##### **Background**

2. The Localism Act 2011 sets out provisions regarding the conduct of members. It is a requirement under this Act that the Council appoint at least one Independent Person, whose view must be sought and taken into account by the Authority before it makes a decision on any allegation and whose views may be sought about allegations.
3. At its meeting on 26 September 2012, the Council appointed three Independent Persons to form a Panel from which any one could be contacted to advise on particular allegations.
4. The Local Authorities (Standing Order) England (Amendment) Regulations 2015 set out a new procedure for dealing with the possible dismissal of the Chief Executive, the Monitoring Officer and the Chief Financial Officer and this was adopted by the County Council on 8 July 2015.
5. The revised procedures require a Panel consisting of at least two independent persons to consider any proposal to dismiss such a statutory officer and allow for those appointed to support the Member Conduct process to also act in this capacity. Recent guidance from the Joint Negotiating Committee for Chief Executives of Local Authorities, following consultation with the Department for Communities and Local Government, suggest that such a Panel can comprise of only independent persons. A separate report on the agenda for this meeting proposes changes to the County Council's Constitution to this effect.

## **Applicants**

6. The Independent Persons appointed in 2012 were appointed for a period of four years. With their terms of service due to expire, a new recruitment process was undertaken. The position, which would fulfil both roles outlined above, was advertised and interviews were carried out by a Panel of Members drawn from the Corporate Governance Committee and the Employment Committee, supported by the Head of Law (the Deputy Monitoring Officer) and the Assistant Director of Corporate Services.

## **Proposed Appointments**

7. Whilst the Council previously appointed three independent persons, five applicants are recommended for appointment given the additional responsibilities, to allow greater flexibility and to avoid the possibility of a conflict of interest. All of those recommended are eligible, live in Leicestershire and are considered to be suitable candidates.
8. The Appointment Committee met on Tuesday 30<sup>th</sup> and Wednesday 31<sup>st</sup> August 2016 to interview the candidates and decided to recommend the following people for appointment:-

Mr Surinder Sharma  
 Mr Gordon Grimes  
 Mrs Jayne Kelly  
 Professor David Bonner  
 Mr Michael Pearson

Further details of the above candidates are set out in the Appendix to this report.

## **Resource implications**

9. Any payments made to the independent persons appointed will fall outside the Members Allowance Scheme which only applies to either elected or co-opted members of the Authority. An allowance is not proposed. However, it is considered appropriate that a set fee should be paid for any work undertaken by the independent persons on a daily rate basis and that this should be linked to the allowance paid to jurors. Costs will be met from existing Members Allowance budgets.

## **Recommendation**

10. That the Committee:
- (a) Recommends the County Council appoint Mr Surrinder Sharma, Mr Gordon Grimes, Mrs Jayne Kelly, Professor David Bonner and Mr Michael Pearson to serve as Independent Persons for a term of four years ending on 30 September, 2020;
  - (b) Support the proposals for payment to the independent persons on a daily rate basis in line with allowances paid for jury service.

**Background Papers**

Report to the County Council on 26<sup>th</sup> September 2012 – Report of the Appointments Panel – Independent Persons – Standards of Conduct

Report to the County Council on 8 July 2015 – Proposed Amendment to the Officer Employment Procedure Rules

**Circulation under the Local Issues Alert procedure**

None.

**Equality and Human Rights Implications**

None.

**Officers to contact**

Anthony Cross, Head of Law (Deputy Monitoring Officer)  
Tel: 0116 305 6169 E-mail: [anthony.cross@leics.gov.uk](mailto:anthony.cross@leics.gov.uk)

Gordon McFarlane, Assistant Director of Corporate Services  
Tel: 0116 305 6123 E-mail: [Gordon.mcfarlane@leics.gov.uk](mailto:Gordon.mcfarlane@leics.gov.uk)

**Mr Surinder Sharma**

Mr Sharma has been an Independent Person for the County Council since 2012. He has wide ranging experience gained from working in the public, private and voluntary sectors and has served as Chairman of the Leicester Racial Equality Council, a member of the Equal Opportunities Commission, a Magistrate and an elected member of a local authority.

**Mr Gordon Grimes**

Mr Grimes, a retired Senior Civil Servant, has recently been appointed as an Independent Person by Leicestershire Borough and District Councils and the Leicestershire Fire Authority. Mr Grimes has also been an Independent Person for the County Council since 2012.

**Mrs Jayne Kelly**

Mrs Kelly is a solicitor with over twenty five years experience of working in the public sector, once having been the Deputy Monitoring Officer at a local authority.

**Professor David Bonner**

David Bonner, a specialist in public law who was employed at the University of Leicester since 1974 has been an Independent Person for the County Council since 2012.

**Mr Michael Pearson**

Mr Pearson was an independent member of the Standards Committees of Leicestershire County Council and Charnwood Borough Council and has recently been appointed as an Independent Person by Leicestershire Borough and District Council and the Leicestershire Fire Authority. Now retired, he previously held a senior management position at Loughborough University.