
Cabinet Member for Policing and Equalities
Council

16 March 2023
21 March 2023

Name of Cabinet Member:
Cabinet Member for Policing and Equalities – Councillor A S Khan

Director Approving Submission of the report:
Chief Legal Officer

Ward(s) affected:
None

Title: Proposed Changes to the Constitution

Is this a key decision?
No

Executive Summary:

The Constitutional Advisory Panel at its meeting on 22 February 2023 considered a number of proposed changes to the Constitution. These were:

- (a) Amendments to the membership of the Health and Wellbeing Board
- (b) Amendments to the Member / Officer Protocol
- (c) Amendments to the delegations in respect of Severance Sums

The Advisory Panel agreed all the proposed revisions with no exceptions or additions.

Recommendations:

The Cabinet Member is requested to recommend to Council the approval of recommendations (1) to (3) with immediate effect:

- (1) Amendments to Constitution in respect of the Health and Wellbeing Board to:
 - (a) update the Membership of the Board as outlined in Table 1 in this report and;

- (b) enable the Health and Wellbeing Board to approve the removal of members as well appoint additional persons as appropriate.
- (2) Amendments to the Officer/Member Protocol as detailed in paragraph 2.18 of this report to assist Members when they are dealing with matters that relate to their own personal interests, to raise concerns over these with the Council; and
- (3) Amendments to the delegations in the Constitution in respect of Severance Sums as detailed in paragraph 2.22 of this report in line with the Department for Levelling Up, Housing and Communities' Statutory Guidance, published in May 2022.

Council is recommended to approve the Recommendations (1) to (3) above with immediate effect and authorise the Chief Legal Officer to make any necessary amendments to the Constitution.

List of Appendices included:

None

Other useful background papers can be found at the following web addresses:

- Department for Levelling Up, Housing and Communities: *Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England*, published 12 May 2022:
<https://www.gov.uk/government/publications/special-severance-payments/statutory-guidance-on-the-making-and-disclosure-of-special-severance-payments-by-local-authorities-in-england>

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

The proposals were considered by the Constitutional Advisory Panel at its meeting on 22 February 2023 (except where specified)

Will this report go to Council?

Yes – 21 March 2023

Report title: Proposed Changes to the Constitution

1. Context (or background)

- 1.1 The Council's Constitution sets out how the Council carries out its business and makes decisions. It is a living document and needs to be updated from time to time to ensure that it reflects changes in practices within the Council.
- 1.2 The Constitutional Advisory Panel at its meeting on 22 February 2023 considered a number of proposed changes to the Constitution. These were:
- (a) Amendments to the membership of the Health and Wellbeing Board
 - (b) Amendments to the Member / Officer Protocol
 - (c) Recommendations in respect of the Audit Committee and Functions of Council in respect of Severance Payments
- 1.3 Further details of the main changes proposed are set out in Section 2 of this Report.

2. Options considered and recommended proposals

(a) Amendments to the Membership of the Health and Wellbeing Board

- 2.1 The membership of the Health and Wellbeing Board (HWBB) was reviewed by the Board on 23 January 2023 following the establishment of the Integrated Care Board. The HWBB recommended the following to the Constitutional Advisory Panel:
- 1) That the Membership of the Board be updated as outlined in Table 1
 - 2) That the Constitution be amended to enable the Health and Wellbeing Board to approve the removal of members as well appoint additional persons as appropriate.
- 2.2 The Membership of the HWBB requires reviewing due to the establishment of the Integrated Care Board. This amalgamates the two Coventry and Warwickshire Clinical Commissioning Group seats with the one for Coventry and Warwickshire Integrated Care System.
- 2.3 There are two seats - Voluntary Action Coventry (VAC) and Coventry and Rugby GP Federation which do not have nominated Members. VAC stepped down from their seat in October 2021 and there is no other organisation which represents the wider voluntary and community sector. The Coventry and Rugby GP Federation has become the Coventry and Rugby GP Alliance. Representatives of the Coventry and Rugby GP Alliance have not attended a meeting since February 2017.
- 2.4 To enable voluntary and community sector representation at the meetings, appropriate organisations, based on the agenda items, will be invited to each HWBB meeting.

- 2.5 The Cabinet Member for Adult Services currently sits on HWBB as a nominee of the Leader for the “One Additional Councillor” place. It is recommended this seat be amended from “one additional Councillor nominated by the Leader” to the Cabinet Member for Adult Services.
- 2.6 This change aligns with the set up for Public Health and Children’s Services whereby the Directors are statutory appointments and the Cabinet Members for Public Health and Sport and Children and Young People are allocated a HWBB seat, as the Director of Adult Services is also a statutory appointment.
- 2.7 Reprofiting this seat from a nominee of the Leader to Cabinet Member for Adult Services maintains the ratio of Elected Members on the HWBB.
- 2.8 A full list of Members and suggested recommendation is outlined below in **Table 1**.
- 2.9 The quorum is one half of the total number of members plus one member and updating the membership will help to ensure that the meetings are quorate. This must include at least one of the following; an Elected Member, Integrated Care Board representative and Local Authority Director.
- 2.10 The Constitution allows Members to nominate a substitute to attend the meeting providing notice of one hour prior to the meeting start time is given. This also assists in achieving a quorum.
- 2.11 The Constitution allows the HWBB to appoint additional persons as appropriate to the Board. It is recommended that the Constitution be amended to give the Board the ability to amend the non-statutory or non-Elected Member appointments (detailed below). This will allow the Board to be responsive to organisational changes.
- 2.12 **Recommendations for amendments**
- 2.12.1 The current membership is below in the first two columns with recommendations for the amendments from the Advisory Panel to the Cabinet Member to recommend to Council in the right-hand column:

Table 1

	Position / Organisation	How Appointed	Recommendation
(a)	Leader of the Council*:	Nominated by Leader	Retain
(b)	Cabinet Member (Public Health and Sport):	Nominated by Leader	Retain
(c)	Cabinet Member (Children and Young People):	Nominated by Leader	Retain

(d)	One additional councillor nominated by the Leader:	Nominated by Leader	Update to: Cabinet Member (Adult Social Care)
(e)	Conservative Group representative:	Nominated by Leader	Retain
(g)	Director of Adult Services**	Statutory appointment	Retain
(h)	Director of Children's Services**	Statutory appointment	Retain
(i)	Director of Public Health and Wellbeing**	Statutory appointment	Retain
(j)	Coventry City Council Chief Partnerships Officer	1 Representative	Retain
(k)	Coventry Healthwatch**	2 representatives	Retain
(l)	Coventry and Warwickshire Clinical Commissioning Group:	2 representatives	Update to: Coventry and Warwickshire Integrated Care Board
(m)	NHS England:	1 representative	Retain
(n)	Voluntary Action Coventry:	1 representative	Remove Following VACs resignation, there is no one organisation that represents the sector. Appropriate representatives from the voluntary and community sector will be invited to Health and Wellbeing Board meetings.
(o)	Coventry University:	Vice-Chancellor (or representative)	Retain
(p)	Warwick University:	Vice-Chancellor (or representative)	Retain
(q)	West Midlands Police:	1 representative	Retain
(r)	West Midlands Fire Service:	Operations Commander Coventry	Retain

(s)	Coventry and Warwickshire Partnership Trust:	1 representative	Retain
(t)	University Hospitals Coventry and Warwickshire:	Chief Executive or representative	Retain
(u)	Coventry and Rugby GP Federation:	Chief Executive or representative	Remove
(v)	Coventry and Warwickshire Integrated Care System:	1 representative	Remove now the ICB is a formal member as at (k).

*- at least one Councillor of the Local Authority must sit on the Board

**Statutory appointments

The proposed change in relation to amending the membership here at paragraph 2.2 of the Terms of Reference is as follows:

2.2 In addition to the appointments referred to in 2.1 above, the Board may amend the non-statutory and non Elected Member appointments to the Board as it thinks appropriate.

(b) Amendments to the Member / Officer Protocol

- 2.13 On 15 December 2022, the Ethics Committee reviewed proposed revisions to the Member / Officer Protocol as a result of its observations at the Standards Hearing on 8 July 2022 in respect of Elected Members, when they are dealing with matters that relate to their own personal interests that need to be raised with the Council and recommend to the Constitutional Advisory Panel that additional wording be inserted to *Part 4D – Member / Officer Protocol*, to afford greater clarity to Members
- 2.14 The Member / Officer Protocol was approved in 2016. The Protocol is beneficial as it sets out for both Members and Officers what is expected of them in their respective roles and what they can expect from each other. While experienced Councillors and Officers may understand and appreciate the different roles that they have, newly elected members and recently appointed employees may find it helpful to have these roles explained in some detail. Understanding what is, and is not, expected of each other can assist in maintaining and improving excellent member/officer working relationships.
- 2.15 The Protocol was drafted to reflect current practices within the Council and best practice in other local authorities.
- 2.16 The Protocol also offers guidance on some of the issues which most commonly arise in relation to Member / Officer relationships. It is partly a statement of

current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty. In particular, it covers the behaviour that is expected between Members and Officers. The Protocol gives guidance only but it may be taken into account if there is a complaint about a Member or an Officer.

2.17 The Protocol clarifies the different but complementary roles of Officers and Members and sets what each can expect from the other. In addition it contains more detailed guidance on matters such as:

- Complaints
- Member enquiries
- Information and advice
- Member briefings
- Support services
- Monitoring and periodic review of the Protocol is the responsibility of the Monitoring Officer

2.18 Recommendations for amendments

2.18.1 The Ethics Committee at the Standards Hearing on 8 July 2022 noted that it is challenging for Elected Members, when they are dealing with matters that relate to their own personal interests, to raise concerns over these with the Council.

2.18.2 The Advisory Panel recommended that the Cabinet Member recommend to Council that additional wording is added to the Protocol at paragraph 3.2(j), under the heading of “Expectations” as follows (drafted in red), with the remaining sub paragraphs becoming (k) and (l) (as indicated in red):

3. Expectations

3.1 What Members can expect from Officers:...

3.2 What Officers can expect from Members:...

- (i) **Members should not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly.**
- (j) **Members may occasionally find that they have a personal interest in a matter that needs to be raised with Officers. Members should be clear about their personal interest and use appropriate and formal language when contacting Officers in this instance. Close personal familiarity between individual Members and Officers can damage the relationship of mutual respect and prove embarrassing to Members and Officers. Members and Officers are encouraged to contact the Monitoring Officer for advice if they are concerned about this;**

- (k) Members should not make detrimental remarks about individual Officers during meetings, in public or to the media; and**
- (l) Members should at all times comply with the Member Code of Conduct.**

(c) Severance Sums

- 2.19 The Department for Levelling Up, Housing and Communities (DCLUH) has issued statutory guidance (the SSP Guidance) under the Local Government Act 1999 (the 1999 Act) on Special Severance Payments (SSPs). SSPs are payments made to employees, officeholders, workers, contractors, and others outside of statutory, contractual or other requirements when leaving employment in public service. Employers may sometimes consider making such a payment in situations where the individual concerned resigns, is dismissed, or agrees a termination of contract. Which types of payments are SSPs will vary according to an employee's particular circumstances.
- 2.20 The Government expects that any SSPs should be approved according to the following process:
- payments of £100,000 and above must be approved by a vote of full council.
 - payments of £20,000 and above, but below £100,000, must be personally approved and signed off by the Head of Paid Service, with a clear record of the Leader's approval and that of any others who have signed off the payment
 - payments below £20,000 must be approved according to the local authority's scheme of delegation.
- 2.21 Where the proposed payment is to the Head of Paid Service, to avoid a conflict of interest it is expected that the payment should be approved by a panel including at least two Independent Persons.
- 2.22 It is proposed that these additional delegations are included within the Constitution with the payments below £20,000 being delegated to the Chief People Officer.
- 2.23 **Options**
- 2.23.1 **Option 1:** do nothing. This is not recommended as the Constitutional Updates identified above allow for compliance with the law, more efficient use of the Council's resources and reflect changes.
- 2.23.2 **Option 2:** approve the Constitutional Updates for the reasons as detailed at Option 1.

Recommendations:

The Cabinet Member is requested to recommend to Council the approval of the following Recommendations with immediate effect.

- (1) Amendments to Constitution in respect of the Health and Wellbeing Board to:
 - (a) update the Membership of the Board as outlined in Table 1 in this report and;
 - (b) enable the Health and Wellbeing Board to approve the removal of members as well appoint additional persons as appropriate.
- (2) Amendments to the Officer/Member Protocol as detailed in paragraph 2.18 to assist Members when they are dealing with matters that relate to their own personal interests, to raise concerns over these with the Council; and
- (3) Amendments to the delegations in the Constitution in respect of Severance Sums as detailed in paragraph 2.22 in line with the Department for Levelling Up, Housing and Communities' Statutory Guidance, published in May 2022.

Council is recommended to approve the Recommendations numbered (1) to (3) above with immediate effect and authorise the Chief Legal Officer to make any necessary amendments to the Constitution arising from recommendations (1) to (3).

3. Results of consultation undertaken

The proposed amendments have been considered by the Constitutional Advisory Panel who recommended their approval.

4. Timetable for implementing this decision

4.1 Any actions arising from this report will be implemented immediately.

5. Comments from Interim Chief Executive (Section 151 Officer) and Chief Legal Officer

5.1 Financial implications

There are no specific financial implications arising from the recommendations within this report.

5.2 Legal implications

There are no specific legal implications arising from this report. The issues referred to in this report will assist the Council in complying with its obligations under section 27 of the Localism Act 2011.

6 Other implications

None

6.1 How will this contribute to the Council Plan (www.coventry.gov.uk/councilplan/)?

Not applicable.

6.2 How is risk being managed?

There is no direct risk to the organisation as a result of the contents of this report.

6.3 What is the impact on the organisation?

No direct impact at this stage.

6.4 Equalities / EIA

There are no public sector equality duties which are of relevance at this stage.

6.5 Implications for (or impact on) climate change and the environment

None.

6.6 Implications for partner organisations?

None at this stage.

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