



## GOVERNANCE COMMITTEE

WEDNESDAY, 13 NOVEMBER 2024

10.30 AM (OR AT THE CONCLUSION OF CABINET, WHICHEVER IS THE LATER) COUNCIL CHAMBER, COUNTY HALL, LEWES

MEMBERSHIP - Councillor Keith Glazier (Chair)  
Councillors Nick Bennett, Bob Bowdler, Chris Collier, Johnny Denis and David Tutt

### A G E N D A

1. Minutes of the meeting held on 26 September 2024 *(Pages 3 - 4)*
2. Apologies for absence
3. Disclosures of interests  
Disclosures by all members present of personal interests in matters on the agenda, the nature of any interest and whether the member regards the interest as prejudicial under the terms of the Code of Conduct.
4. Urgent items  
Notification of items which the Chair considers to be urgent and proposes to take at the appropriate part of the agenda. Any members who wish to raise urgent items are asked, wherever possible, to notify the Chair before the start of the meeting. In so doing, they must state the special circumstances which they consider justify the matter being considered urgent.
5. LMG Managers Pay 2024 - 2025 *(Pages 5 - 12)*  
Report by the Chief Operating Officer.
6. Parental Leave Policy for Members *(Pages 13 - 20)*  
Report by the Deputy Chief Executive.
7. Consultation response on remote attendance and proxy voting at local authority meetings *(Pages 21 - 46)*  
Report by the Deputy Chief Executive.
8. Annual Member Training report *(Pages 47 - 50)*  
Report by the Deputy Chief Executive.
9. Protocol for the Exercise of Monitoring Officer Duties *(Pages 51 - 66)*  
Report of the Deputy Chief Executive.
10. Any other items previously notified under agenda item 4

PHILIP BAKER  
Deputy Chief Executive  
County Hall, St Anne's Crescent  
LEWES BN7 1UE

5 November 2024

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## GOVERNANCE COMMITTEE

MINUTES of a meeting of the Governance Committee held at Council Chamber, County Hall, Lewes on 26 September 2024.

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PRESENT Councillors Keith Glazier (Chair), Nick Bennett, Bob Bowdler, Chris Collier, David Tutt and Anne Cross

ALSO PRESENT Councillors Godfrey Daniel, Wendy Maples, Christine Robinson and Bob Standley

### 18. MINUTES OF THE MEETING HELD ON 16 JULY 2024

18.1 RESOLVED – that the minutes of the previous meeting of the Committee held on 16 July 2024 be confirmed and signed as a correct record.

### 19. APOLOGIES FOR ABSENCE

19.1 Apologies for absence were received from Councillor Denis. It was noted that Councillor Cross was substituting for him.

### 20. REPORTS

20.1 Copies of the reports referred to below are included in the minute book.

### 21. APPOINTMENTS TO OUTSIDE BODIES

21.1 The Committee considered a report by the Deputy Chief Executive regarding the appointment of a councillor to the South East Employers Committee.

21.2 The Committee RESOLVED to appoint Councillor Lunn as the Council representatives on the South East Employers Committee until the date of the annual council meeting in the next County Council full election year.

### 22. DBS CHECKS FOR MEMBERS

22.1 The Committee considered a report by the Deputy Chief Executive regarding the arrangements the County Council has in place in relation to criminal record checks for Councillors.

22.2 The Committee RESOLVED to recommend the County Council to:

1) Agree that an Enhanced Disclosure and Barring service check be undertaken for Members performing the roles listed below:

a) Nominated substitutes for the Corporate Parenting Panel (as set out in paragraph 3.2 of the report) and;

b) Members of the Discretionary Transport Appeal Panel (as set out in paragraph 3.4 of the report).

2) Agree that all Members are requested to undertake a basic criminal record check after the County Council elections in May 2025; and

3) That the Council's DBS Policy Statement is updated to include reference to the changes proposed in Recommendations 1 and 2 as set out in Appendix 2 of the report.

23. AMENDMENT TO THE CONSTITUTION

23.1 The Committee considered a report by the Chief Executive regarding amendments to the Constitution.

23.2 The Committee RESOLVED to recommend the County Council to agree to the proposed amendments in the report and the appendices to the report.

24. CUSTOMER EXPERIENCE ANNUAL REPORT 2023/24

24.1 The Committee considered a report by the Director of Communities, Economy and Transport regarding the Customer Service Annual Report.

24.2 The Committee RESOLVED to:

1) Note the progress of the Customer Service Experience Board in the implementation of a series of measures to improve customer experience.

2) Support the Customer Experience Board's focus in 2024/25 in utilising the Customer Contact Dashboard to improve service delivery and to aim to provide savings and manage demand by channel shift;

3) Support the Customer Experience Board's focus to adopt the Local Government & Social Care Ombudsman's new Complaint Handling Code;

4) Note the number and nature of complaints made to the Council in 2023/24; and

5) Note the contents of the Local Government & Social Care Ombudsman's annual letter to the Chief Executive.

25. ASSISTANT DIRECTOR POST IN THE CHILDREN'S SERVICES DEPARTMENT (TO FOLLOW)

25.1 The Committee considered a report by the Chief Executive regarding the appointment to a new Assistant Director post within Children's Services.

25.2 The Committee RESOLVED (by 3 votes to 2) to agree to the appointment to a new post of Assistant Director, Commissioning and Transformation, Children's Services.

*[Councillor David Tutt abstained from the vote].*

**Report to:** Governance Committee

**Date of meeting:** 13 November 2024

**By:** Chief Operating Officer

**Title:** LMG Managers Pay 2024/25

**Purpose:** To appraise the Governance Committee on the considerations in relation to the LMG pay offer for 2024/25 and to seek agreement to make an offer.

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## **RECOMMENDATION:**

**The Governance Committee is recommended to agree the pay offer to LMG Managers for the financial year 2024/25 to mirror the national (NJC) award, as set out in paragraphs 2.5 and 2.6.**

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## **1. Background**

1.1. LMG Managers' pay is locally negotiated with Unison and reported to the Governance Committee on an annual basis to approve the pay offer and any subsequent settlement. This report seeks agreement to the offer, and following local negotiations with Unison, who are recognised for the purposes of pay bargaining on behalf of LMG Managers, the Committee will receive a further report setting out the outcome of the negotiations and a recommended pay award.

1.2. The national (NJC) pay award is relevant to these local negotiations as the decision made regarding the local pay offer needs to take into account the impact on the wider workforce and organisation as a whole. In addition, there is an overlap between LMG1 and the top of the Single Status pay range (SS13) which applies to specialist professional posts, such as Senior Practitioners/Senior Social Workers in Adult Social Care and Children's Services. It is therefore important to ensure that these two grades remain comparable and that the relativities do not widen too far.

1.3. Set against this background, the local pay award for LMG Managers has therefore historically mirrored the national award.

## **2. Supporting information**

2.1 The annual Consumer Prices Index (CPI) inflation measures changes in the price level of consumer goods and services purchased by households. On 21 March 2017, the CPI was replaced by a new measure: the Consumer Prices Index, including owner occupier's housing costs (CPIH). This extends the CPI to include a measure of the costs associated with owning, maintaining and living in one's own home (owner occupiers' housing costs OOH), along with council tax. This is the most comprehensive measure of inflation. The CPIH rate rose by 2.6% in the 12 months to September 2024, down from 3.1% in August. On a monthly basis, CPIH rose by 0.1% in September 2024, down from 0.5% in September 2023 (ONS October 24).

2.2 Annual growth in employees' average regular earnings (excluding bonuses) was 4.9%; growth was last lower than this in April to June 2022, when it was 4.7%. Annual growth in total earnings (including bonuses) was 3.8%; this total growth rate is affected by the NHS and civil service one-off payments made in June, July and August 2023.

2.3 Annual growth in real terms, adjusted for inflation using the Consumer Prices Index including owner occupiers' housing costs (CPIH), was 1.9% for regular pay and 0.9% for total pay. Annual average regular earnings growth for the public sector was 5.2%, down on the previous three-month period when it was 5.7%; for the private sector this was 4.8%, with growth

last lower than this in December 2021 to February 2022 (4.6%) (ONS October 24).

2.4 The wastage figure for voluntary leavers among LMG Managers (e.g. resignations) for the half year period April to September 2024 was 2.4%. For comparison purposes, for the half year April to September 2023 it was 2.05%.

#### Pay Negotiations 2024/25

2.5 The national NJC local government services reached a one year pay deal on 22 October 2024 covering the period 1 April 2024 to 31 March 2025. The deal provides for:

- an increase of £1,290 (pro rata for part-time employees) to be paid as a consolidated, permanent addition on all NJC pay points 2 to 43 inclusive, effective from 1 April 2024;
- an increase of 2.5% on all pay points above the maximum of the pay spine but graded below deputy chief officer, effective from 1 April 2024; and,
- an increase of 2.5% on all allowances, with effect from 1 April 2024.

2.6 In considering how this would translate into our local LMG pay arrangements, in order to ensure that relativities within the pay structure do not widen and the national pay award is mirrored, the offer to LMG Managers would be:

- an increase of £1,290 on LMG1 pay points 5 to 8 and LMG2 pay points 9 and 10
- an increase of 2.5% on LMG2 pay points 11 and 12, and all pay points on grades LMG3 to LMG8

Attached at Appendix 1 is a copy of the LMG pay scales showing the impact of this.

#### Benchmarking

2.7 The very different organisational structures and job roles that exist across different Councils make benchmarking challenging as it is difficult to be confident that we are comparing on a 'like for like' basis. Alongside this, given the overlap between the top of the local East Sussex Single Status grades and bottom of the LMG grades, the national pay award needs to be mirrored for grades LMG1 and LMG2 in any event in order to maintain appropriate differentials.

2.8 In order to provide the Committee with an understanding of the local market position, high level benchmarking data is attached at Appendix 2. This shows the position of key LMG grades in comparison to our closest neighbours. As can be seen from this, 'Team Managers' and 'Assistant Directors' broadly fall within the median range, whereas 'Operations Managers' and 'Heads of Service' are below the median range.

2.9 It is recognised that there is rightly a level of scrutiny on pay for managers. It is, however, equally important that the Council is able to attract and retain the high calibre staff it needs. This is especially the case given the current competitive recruitment environment and challenges for a number of our key posts, alongside the demands on managers in the context of the significant financial challenges facing the Council. Whilst acknowledging that pay is only one element of the overall employment package, it is, nonetheless, an important one. Alongside this, it is also important to note the critical role played by our LMG Managers in ensuring the continued delivery of our essential services to the residents of East Sussex.

2.10 Given this background and other public sector pay settlements, it would seem appropriate to offer a pay award to LMG Managers that mirrors the national NJC pay award.

#### Financial Implications

2.11 The estimated impact of mirroring the NJC Pay award to the LMG pay bill is approximately £1.141m per annum including on-costs. This is fully provided for in the MTFP.

### **3 Recommendations**

3.1 The Governance Committee is recommended to agree the pay offer to LMG Managers for the financial year 2024/25 to mirror the national NJC award as set out in paragraphs 2.5 and 2.6 above.

**ROS PARKER**  
**Chief Operating Officer**

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**Local Managerial Grades (LMG)  
salary scale**



| <i>Grade</i> | <i>Scale point</i> | <i>01/04/2023</i> | <i>Proposed<br/>01/04/2024</i> |
|--------------|--------------------|-------------------|--------------------------------|
| LMG 1        | 5                  | £44,258           | £45,548                        |
|              | 6                  | £45,470           | £46,760                        |
|              | 7                  | £46,717           | £48,007                        |
|              | 8                  | £48,007           | £49,297                        |
| LMG 2        | 9                  | £49,333           | £50,623                        |
|              | 10                 | £50,700           | £51,990                        |
|              | 11                 | £52,109           | £53,412                        |
|              | 12                 | £53,637           | £54,978                        |
| LMG 3        | 13                 | £55,187           | £56,567                        |
|              | 14                 | £56,785           | £58,205                        |
|              | 15                 | £58,436           | £59,897                        |
|              | 16                 | £60,123           | £61,626                        |
| LMG 4        | 17                 | £61,875           | £63,422                        |
|              | 18                 | £63,671           | £65,263                        |
|              | 19                 | £65,521           | £67,159                        |
|              | 20                 | £67,430           | £69,116                        |
| LMG 5        | 21                 | £69,401           | £71,136                        |
|              | 22                 | £71,412           | £73,197                        |
|              | 23                 | £73,509           | £75,347                        |
|              | 24                 | £75,654           | £77,545                        |
| LMG 6        | 25                 | £77,871           | £79,818                        |
|              | 26                 | £80,144           | £82,148                        |
|              | 27                 | £82,489           | £84,551                        |
|              | 28                 | £84,899           | £87,021                        |
| LMG 7        | 29                 | £87,390           | £89,575                        |
|              | 30                 | £89,956           | £92,205                        |
|              | 31                 | £92,605           | £94,920                        |
|              | 32                 | £95,318           | £97,701                        |
| LMG 8        | 33                 | £98,117           | £100,570                       |
|              | 34                 | £101,007          | £103,532                       |
|              | 35                 | £103,981          | £106,581                       |
|              | 36                 | £107,046          | £109,722                       |

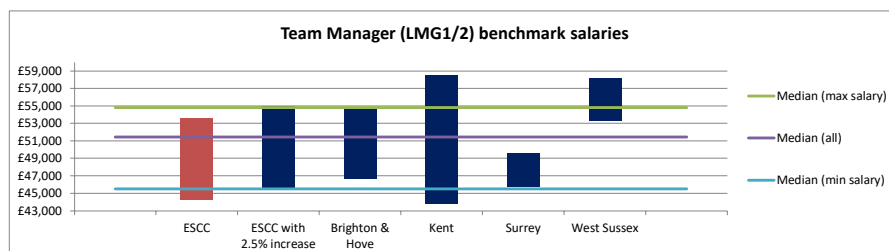
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## Comparison against neighbouring authorities - 2024/25 pay rates

Appendix 2

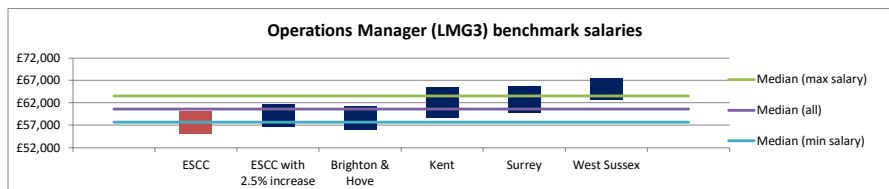
### Team Manager (LMG 1/2)

|                         | Min Salary | Max Salary |
|-------------------------|------------|------------|
| ESCC                    | £ 44,258   | £ 53,637   |
| ESCC with 2.5% increase | £ 45,364   | £ 54,978   |
| Brighton & Hove         | £ 46,731   | £ 54,651   |
| Kent                    | £ 43,810   | £ 58,491   |
| Surrey                  | £ 45,680   | £ 49,588   |
| West Sussex             | £ 53,350   | £ 58,178   |



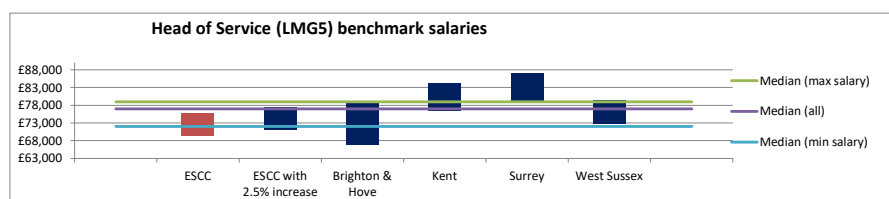
### Operations Manager (LMG 3)

|                         | Min Salary | Max Salary |
|-------------------------|------------|------------|
| ESCC                    | £ 55,187   | £ 60,123   |
| ESCC with 2.5% increase | £ 56,567   | £ 61,626   |
| Brighton & Hove         | £ 55,964   | £ 61,166   |
| Kent                    | £ 58,784   | £ 65,480   |
| Surrey                  | £ 59,868   | £ 65,755   |
| West Sussex             | £ 62,676   | £ 67,394   |



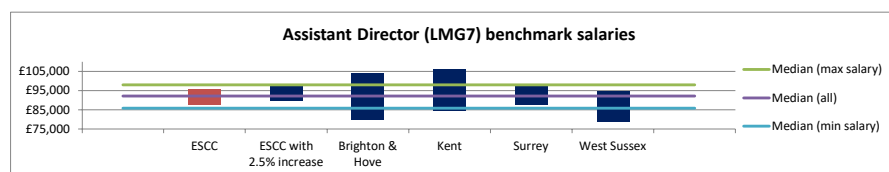
### Head of Service (LMG 5)

|                         | Min Salary | Max Salary |
|-------------------------|------------|------------|
| ESCC                    | £ 69,401   | £ 75,654   |
| ESCC with 2.5% increase | £ 71,136   | £ 77,545   |
| Brighton & Hove         | £ 66,811   | £ 78,451   |
| Kent                    | £ 76,428   | £ 84,116   |
| Surrey                  | £ 79,260   | £ 87,153   |
| West Sussex             | £ 72,970   | £ 79,477   |



### Assistant Director (LMG 7)

|                         | Min Salary | Max Salary |
|-------------------------|------------|------------|
| ESCC                    | £ 87,390   | £ 95,318   |
| ESCC with 2.5% increase | £ 89,575   | £ 97,701   |
| Brighton & Hove         | £ 79,894   | £ 103,848  |
| Kent                    | £ 84,537   | £ 106,125  |
| Surrey                  | £ 87,561   | £ 98,431   |
| West Sussex             | £ 78,713   | £ 94,704   |



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| <b>Report to:</b>       | <b>Governance Committee</b>   |
| <b>Date of meeting:</b> | <b>13 November 2024</b>   |
| <b>By:</b>              | <b>Deputy Chief Executive</b>   |
| <b>Title:</b>           | <b>Amendment to the Member Parental Leave Policy</b>  |
| <b>Purpose:</b>         | <b>The Governance Committee is asked to consider recommending the proposed amendments to the parental leave policy for councillors to County Council.</b> |

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## **RECOMMENDATION:**

**The Governance Committee is recommended to recommend the County Council to agree:**

- 1) The proposed amendments to the Member Parental Leave Policy as set out in Appendix 1 and;**
  - 2) that the Constitution be amended accordingly.**
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## **1 Background**

1.1 In October 2021 East Sussex County Council agreed the adoption of a Member Parental Leave Policy. The policy aims to ensure that so far as is possible Members are able to take appropriate leave at the time of birth or adoption and that reasonable and adequate arrangements are in place to provide cover for any special responsibilities during any period of leave taken.

1.2 The policy also provides clarity to individuals considering standing for election on what to expect in the event of the birth or adoption of a child during their term of office. It is also intended to help make the role as accessible as possible to all sections of the community and supports the diversity of candidates and those elected.

1.3 The policy is underpinned by recognition that the position of elected councillors is different to that of employees. Councillors are entitled to continue to hold elected office and to receive their basic allowance whilst on parental leave. However, this is subject to meeting certain minimum criteria, for example, the legal duty to attend a meeting of the Council within a six-month period would still apply. The policy provides further clarity on expected leave periods, and arrangements in relation to special, and local member, responsibilities.

## **2 Supporting information**

2.1 The policy adopted by the County Council is based on a model policy produced by the Local Government Association (LGA). The LGA recently conducted a review of the model policy, and this has resulted in the inclusion in the policy of provisions relating to still births and parental bereavement leave. As the County Council's current policy does not include reference to these provisions, the Governance Committee is asked to consider the proposed additions to the policy contained in Appendix 1 to this report and which are set out below:

- If a still birth occurs after 24 weeks of pregnancy, full maternity and paternity benefits and leave as set out in this policy will apply. If still birth occurs before 24 weeks of pregnancy, discretion will be given for a shorter period of absence.

- In line with the eligibility for paid employees under the Parental Bereavement (Leave) Regulations 2020, members are entitled to two weeks bereavement leave if they lose a child under the age of 18, with continued entitlement to allowance as set out for parental leave in parts 2 and 3 of the policy.

2.2 It is also proposed that an additional amendment is made to the policy, which sets out the process for obtaining agreement for specific leave periods. Such as, in cases of prematurity of 29 days or more, or if a still birth occurs before 24 weeks of pregnancy. The Governance Committee are asked to consider the proposed addition contained in paragraph 6 of the policy (attached at appendix 1), and set out below:

- In cases where additional leave may be taken by agreement, the leave should be agreed between the councillor requesting leave and their group leader and Chief Executive (or Chief Executive if an Independent Councillor).
- The councillor or the group leader (where the Councillor is a member of a group the group leader) should notify the Chief Executive of cover arrangements. The councillor should keep the group leader and Chief Executive informed of their intentions, giving normally at least one month's notice of their intended return date, including whether the period of absence should be extended to cover a longer period of time than first anticipated.
- Permitted leave will be reflected in attendance records as 'absent with reason'.

2.3 The Member Reference Group was asked to consider and comment on the proposed amendments at their meeting of 22 October 2024. Their feedback has been incorporated into the final version which is attached at appendix 1. The following further amendments were suggested:

- Further clarification on the commencement of maternity leave, to specify whether the leave begins from the due date, or date of birth; and
- Provisions for leave following a miscarriage.

2.4 The policy has therefore been amended to reflect this feedback. The Governance Committee is asked to consider the changes contained in paragraphs 1.1, 1.12, and 1.13 of the policy (attached at appendix 1), and set out below:

- Members giving birth are entitled to up to 6 months maternity leave following or starting around the time of birth, with the option to extend up to 52 weeks by agreement if required.
- If a miscarriage occurs during the first 23 weeks of pregnancy, discretion will be given for a shorter period of absence.
- The Council's counselling and employee assistance service is available 24 hours a day (0333 212 8382). This is a fully confidential service and can provide counselling in the event of a still birth, miscarriage or termination. The Miscarriage Association also provide a range of advice and support at [www.miscarriageassociation.org.uk](http://www.miscarriageassociation.org.uk)

### **3 Conclusion and Reason for Recommendation**

3.1 Updating the parental leave policy to include reference to still births, miscarriages, and parental bereavement will provide further clarity to Members, candidates for election and those considering standing for election on what to expect in the event of the death of a child during a councillor's term of office. This will also bring the County Council in line with the model policy

produced by the Local Government Association. The addition of paragraph 6 to the Policy will also provide greater clarity on the process for requesting specific leave periods.

3.2 The Governance Committee is asked to recommend to County Council to agree the proposed amendments to the parental leave policy as set out in Appendix 1 and that the Constitution is updated accordingly.

**PHILIP BAKER**  
**Deputy Chief Executive**

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### Member Parental Leave Policy

The objective of this policy is to ensure that insofar as possible Members are able to take appropriate leave at the time of birth or adoption and that reasonable and adequate arrangements are in place to provide cover for any special responsibilities during any period of leave taken.

#### 1. Leave Periods

**1.1** Members giving birth are entitled to up to 6 months maternity leave ~~from the due date~~ following or starting around the time of birth, with the option to extend up to 52 weeks by agreement if required.

**1.2** In addition, where the birth is premature, the Member is entitled to take leave during the period between the date of the birth and the due date in addition to the 6 months' period. In such cases any leave taken to cover prematurity of 28 days or less shall be deducted from any extension beyond the initial 6 months.

**1.3** In exceptional circumstances, and only in cases of prematurity of 29 days or more, additional leave may be taken by agreement, and such exceptional leave shall not be deducted from the total 52 week entitlement.

**1.4** Members shall be entitled to take a minimum of 2 weeks paternity leave if they are the biological father or nominated carer of their partner/spouse following the birth of their child(ren).

**1.5** A Member who has made Shared Parental Leave arrangements through their employment is requested to advise the Council of these at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from Council.

**1.6** Where both parents are Members leave may be shared up to a maximum of 24 weeks for the first six months and 26 weeks for any leave agreed thereafter, up to a maximum of 50 weeks. Special and exceptional arrangements may be made in cases of prematurity.

**1.7** A Member who adopts a child through an approved adoption agency shall be entitled to take up to six months adoption leave from the date of placement, with the option to extend up to 52 weeks by agreement if required.

**1.8** Any Member who takes maternity, shared parental or adoption leave retains their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six month period.

**1.9** Any Member intending to take maternity, paternity, shared parental or adoption leave will be responsible for ensuring that they comply with the relevant notice requirements of the Council, both in terms of the point at which the leave starts and the point at which they return.

**1.10** Any Member taking leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep officers and

colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

**1.11** If a still birth occurs after 24 weeks of pregnancy, full maternity and paternity benefits and leave as set out in this policy will apply. If still birth occurs before 24 weeks of pregnancy, discretion will be given for a shorter period of absence.

**1.12** If a miscarriage occurs during the first 23 weeks of pregnancy, discretion will be given for a shorter period of absence.

**1.13** The Council's counselling and employee assistance service is available 24 hours a day (0333 212 8382). This is a fully confidential service and can provide counselling in the event of a still birth, miscarriage or termination. The Miscarriage Association also provide a range of advice and support at [www.miscarriageassociation.org.uk](http://www.miscarriageassociation.org.uk)

**1.14** Parental bereavement leave: in line with the eligibility for paid employees under the Parental Bereavement (Leave) Regulations 2020, members are entitled to two weeks bereavement leave if they lose a child under the age of 18, with continued entitlement to allowance as set out for parental leave in parts 2 and 3 below.

## **2. Basic Allowance**

**2.1** All Members shall continue to receive their Basic Allowance in full whilst on maternity, paternity or adoption leave.

## **3. Special Responsibility Allowances**

**3.1** Members entitled to a Special Responsibility Allowance (SRA) shall continue to receive their allowance in full in the case of maternity, paternity, shared parental or adoption leave.

**3.2** Where a replacement is appointed to cover the period of absence that person shall receive an SRA on a pro rata basis for the period of the temporary appointment.

**3.3** The payment of SRAs, whether to the primary SRA holder or a replacement, during a period of maternity, paternity, shared parental or adoption leave shall continue for a period of six months, or until the date of the next Annual Meeting of the Council, or until the date when the Member taking leave is up for election (whichever is soonest). At such a point, the position will be reviewed, and will be subject to a possible extension for a further six month period.

**3.4** Should a Member appointed to replace the Member on maternity, paternity, shared parental or adoption leave already hold a remunerated position, the ordinary rules relating to payment of more than one SRA shall apply.

**3.5** Unless the Member taking leave is removed from their post at an Annual General Meeting of the Council whilst on leave, or unless the party to which they belong loses control of the Council during their leave period, they shall return at the end of their

leave period to the same post, or to an alternative post with equivalent status and remuneration which they held before the leave began.

#### **4. Resigning from Office and Elections**

**4.1** If a Member decides not to return at the end of their maternity, paternity, shared parental or adoption leave they must notify the Council at the earliest possible opportunity. All allowances will cease from the effective resignation date.

**4.2** If an election is held during the Member's maternity, paternity, shared parental or adoption leave and they are not re-elected, or decide not to stand for re-election, their basic allowance and SRA if appropriate will cease from the Monday after the election date when they would technically leave office.

#### **5. Local Member responsibilities**

**5.1** Any Member intending to take maternity, paternity, shared parental or adoption leave should ensure that they make arrangements for an alternative Member point of contact to be available to local residents in their division for the purposes of casework and other local Member enquiries.

#### **6. Notification of leave and of return**

**6.1** In cases where additional leave may be taken by agreement, the leave should be agreed between the councillor requesting leave and their group leader and Chief Executive (or Chief Executive if an Independent Councillor).

**6.2** The group leader or councillor should notify the Chief Executive of cover arrangements. The councillor should keep the group leader and Chief Executive informed of their intentions, giving normally at least one month's notice of their intended return date, including whether the period of absence should be extended to cover a longer period of time than first anticipated.

**6.3** Permitted leave will be reflected in attendance records as 'absent with reason'.

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| <b>Report to:</b>       | <b>Governance Committee</b>  |
| <b>Date of meeting:</b> | <b>13 November 2024</b>  |
| <b>By:</b>              | <b>Deputy Chief Executive</b>  |
| <b>Title:</b>           | <b>Consultation response on remote attendance and proxy voting at local authority meetings.</b>  |
| <b>Purpose:</b>         | <b>To consider the Council's response to the Government consultation to enable remote attendance and proxy voting at local authority meetings.</b> |

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## **RECOMMENDATION:**

**The Committee is recommended to agree the Council's response to the Government consultation on enabling remote attendance and proxy voting at local authority meetings.**

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## **1 Background Information**

1.1 The Government is consulting on introducing powers for local authority members to apply for a dispensation to attend formal council meetings remotely. This is in recognition that there are circumstances in which it may not always be possible for members to attend council meetings in person.

1.2 The consultation is also seeking views on the potential implementation of proxy voting provisions, which would allow councillors to designate another member of the Council to vote on their behalf when they are unable to attend a meeting in person or remotely.

1.3 The consultation is seeking the views of local authorities, as well as individual members of the public, and prospective and current local authority members. The consultation opened on 24 October, and is open for 8 weeks, closing on 19 December.

1.4 A copy of the consultation document is attached at appendix 1.

## **2 Supporting Information**

2.1 In response to the COVID-19 pandemic in 2020, the Government introduced temporary national regulations enabling Council meetings to be conducted virtually, safeguarding public health while ensuring local governance could continue. Under these regulations, the Council conducted its meetings remotely via Microsoft Teams until the regulations were repealed in May 2021.

2.2 In October 2020, the Council formally approved a Notice of Motion, urging the County Council to request that the Government grant local authorities the autonomy to determine their own policies regarding virtual meetings beyond May 2021:

*Since lockdown remote working has been shown to be a very effective way for the Council to conduct its business. Without specific permission from the Government to continue in this way we shall have to revert to face to face meetings after the next County Council elections.*

*This Council resolves to ask Central Government to change the rules to enable Local Authorities to make their own decisions as to whether to hold virtual and/or physical meetings from May 2021.*

This motion reflected the Council's recognition of the value that virtual meetings brought to its members and the community.

2.3 During the Pandemic the Council quickly adapted to the virtual format, demonstrating flexibility and resilience, learning new technologies and adopting modified procedures required for effective remote

participation. Holding meetings remotely led to several significant benefits, including reduced travel time, lower costs, and decreased carbon emissions due to the minimised need for travel. Additionally, virtual meetings offered Council members greater flexibility in managing their schedules, allowing them to balance council responsibilities with other commitments more effectively.

2.4 Since the repeal of the temporary regulations, the Council has sought to adopt a model which maximises the use of remote or hybrid meetings where legally permissible. This approach offers flexibility, allowing councillors who may face travel constraints or have other commitments to engage fully without needing to be physically present. By combining in-person and remote attendance, the hybrid model seeks to retain the benefits of virtual participation—such as reduced travel time and increased accessibility—while fostering an environment that encourages direct collaboration and interaction among key decision-makers. Notwithstanding this there is a legal requirement for members who wish to participate in meetings of Full Council and its Committees to physically attend.

2.5 A proxy vote is a vote cast by one person, on behalf of another, and is used when a person is unable to attend a meeting to cast their vote. Proxy voting could support members who encounter personal circumstances that temporarily prevent them from participating in meetings, even when remote attendance options are available. In such cases, introducing provisions for proxy voting could offer flexibility, particularly for those facing health issues, family emergencies, or other unexpected challenges. This system would allow these members, on a time-limited basis, to fulfil their democratic responsibilities indirectly by appointing a trusted colleague to vote on their behalf. Through proxy voting, affected members could continue to engage with their local authority's decision-making processes, ensuring that their perspectives and the interests of their constituents are represented, even during times when direct participation isn't feasible.

2.6 Whilst voting by proxy can be convenient, there are some risks associated with it. For example, discussions and debates play a key role in decision making, and there is a risk that an absent member who votes by proxy misses new perspectives raised during the meeting, which could impact on how they would vote if they were present for the debate. Additionally, proxy voting could reduce engagement and participation if Members are able to vote in absence.

### **3. Conclusion and Reasons for Recommendations**

3.1 The Committee is recommended to consider and comment on the draft consultation response attached at appendix 2. The proposals set out in the consultation increase the flexibility afforded to the Council and its members in terms of meeting attendance and proxy voting. As set out above the Council has previously set out its support for granting local authorities' powers to allow remote attendance at formal meetings. This approach acknowledges the benefits outlined in this report, including improved accessibility, and reduced travel related costs. The draft consultation response reflects this view.

3.2 The Council has previously acknowledged that offering greater flexibility in meeting attendance and participation could make the role of a councillor more attractive to prospective candidates considering standing in the 2025 local elections. Adapting to more flexible, inclusive approaches, such as hybrid and remote meetings, may encourage greater participation from individuals with diverse backgrounds, professional commitments, or personal responsibilities, who may otherwise not have considered a role in Local Government.

**PHILIP BAKER**  
**Deputy Chief Executive**

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Ministry of Housing,  
Communities &  
Local Government

Open consultation

# Enabling remote attendance and proxy voting at local authority meetings

Published 24 October 2024

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|                           |
|---------------------------|
| <b>Applies to England</b> |
|---------------------------|

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# Scope of this consultation

## Topic of this consultation

This short consultation seeks views on the detail and practical implications of allowing remote and hybrid attendance and proxy voting at local authority meetings in England.

## Scope of this consultation

Government is consulting on introducing powers for local authority members to apply to the relevant authority for a dispensation to attend formal council meetings remotely and vote by proxy in certain circumstances.

If any changes to legislation are made as a result of this consultation would apply to England only local authorities meaning:

- a county council
- a unitary authority
- a London borough council
- a district council
- the Common Council of the City of London
- the Greater London Authority
- the Council of the Isles of Scilly
- a parish council
- a joint board continued in being by virtue of section 263(1) of the 1972 Act
- a parish meeting constituted under section 13 of the Local Government Act 1972
- Transport for London, Para.5 of Schedule 10 of the GLA 1999 allows the GLA to regulate its own procedures and committees
- an authority established under section 10 of the Local Government Act 1985
- a joint authority established under Part 4 of the Local Government Act 1985
- a joint committee constituted to be a local planning authority under section 29 of the Planning and Compulsory Purchase Act 2004
- a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009

- a combined county authority established under section 9 of the Levelling Up and Regeneration Act 2023
- a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies, or created by an order under section 4A of that Act
- a National Park authority as referenced at section 184 of the LGA 1972 and/or established under section 63 of the Environment Act 1995
- the Broads Authority established by section 1 of the Norfolk and Suffolk Broads Act 1988
- a conservation board established under section 86 of the Countryside and Rights of Way Act 2000
- a police and crime panel established under section 28 of the Police Reform and Social Responsibility Act 2011

## **Geographical scope**

The questions in this consultation apply to all relevant local authorities in England as defined above.

They do **not** apply to authorities in Wales, Scotland or Northern Ireland.

## **Impact assessment**

If any policy changes are made following this consultation they will be subject to appropriate assessment. No impact assessment has been conducted at this time.

## **Basic information**

This is an open consultation. We particularly seek the views of individual members of the public; prospective and current local authority members/representatives; all relevant local authorities defined above; and those bodies that represent the interests of local members/representatives at all levels.

## Body/bodies responsible for the consultation

The Local Government Capability and Improvement Division in the Ministry of Housing, Communities and Local Government is responsible for conducting this consultation.

## Duration

This consultation will last for 8 weeks from 24 October 2024.

## Enquiries

For any enquiries about the consultation please contact:  
[remoteattendanceconsultation@communities.gov.uk](mailto:remoteattendanceconsultation@communities.gov.uk)

## How to respond

You can only respond to this consultation through our online consultation platform, Citizen Space. [Respond via Citizen Space](https://consult.communities.gov.uk/local-government-standards-and-conduct/remote-attendance-and-proxy-voting) (<https://consult.communities.gov.uk/local-government-standards-and-conduct/remote-attendance-and-proxy-voting>).

## Ministerial foreword

The government has set out its intention to reset the relationship between central and local government as partners in delivering better outcomes for the communities we collectively represent. Key to this is supporting the sector to modernise democratic engagement, raise standards and widen the range of candidates standing for council by removing unnecessary barriers.

The attendance of elected members at local authority meetings is a core part of the democratic process at the local level and is integral to members carrying out their functions effectively. In addition to the value of members coming together to debate and discuss the issues which impact the lives of the people they represent; it is also important that local residents have the

opportunity to engage directly with the people they have elected to take key decisions on their behalf.

At the same time, the government recognises that there are circumstances in which it may not always be possible for members to attend council meetings in person. It is with this in mind that the government intends to amend the law to introduce provisions for remote attendance at local authority meetings.

The intent is that this increased flexibility will strike the balance between the principle that significant in-person engagement remains vitally important, and a recognition that there will sometimes be a need to accommodate members' requirements to attend council meetings remotely. We hope it will encourage a wider diversity of people willing and able to stand and actively participate in local democracy by creating improved conditions where meetings are accessible and inclusive.

In addition, we are seeking views on the possible introduction of proxy voting for those occasions when an elected member, due to personal circumstances, may be unable to attend even remotely, for example during maternity, paternity or adoption leave.

In line with the government's commitment to working with local government to establish partnerships built on mutual respect, genuine collaboration, and meaningful engagement, this short consultation seeks your views on the detail and practical implications of this proposition to inform our ongoing policy development.

## Who we would like to hear from

Responses are invited from local authority elected members, all types and tiers of authorities, and local authority sector representative organisations. We are also particularly keen to hear from those members of the public who have point of view based on their interest in accessing local democracy in their area or standing as a candidate for local government at any tier to represent their local community at some future point.

### Question 1

Please tick all that apply - are you responding to this consultation as:

a) an elected member – if so please indicate which local authority type(s) you serve on

- Town or Parish Council

- District or Borough Council
- Unitary Authority
- County Council
- Combined Authority / Combined County Authority
- Fire and Rescue Authority
- Police and Crime Panel
- Other local authority type - please state

b) a council body – if so please indicate which local authority type

- Town or Parish Council
- District or Borough Council
- Unitary Authority
- County Council
- Combined Authority / Combined County Authority
- Fire and Rescue Authority
- Police and Crime Panel
- Other local authority type - please state

c) a member of the public

d) a local government sector body – please state

## The proposal for remote attendance

The government intends to legislate to give local authorities the flexibility to allow elected members to attend formal council meetings remotely. We believe that this modernising measure of providing broad flexibility to enable remote attendance will have the dual positive impacts of diversifying the representation of those willing and able to stand for elected office and enhance the resilience of local authorities in the face of local or national emergencies.

The intent is that this legislative change would give local authorities the flexibility to allow members to attend remotely.

### Question 2

Do you agree with the broad principle of granting local authorities powers to allow remote attendance at formal meetings?

Yes/No

If you answered No to the above question please go directly to question 4.

### **Question 3**

If you answered Yes to the above question, do you think that there should be specific limitations on remote attendance?

Please tick all the options below that correspond with your view and use the free text box for any other comments.

a) Any formal meeting allowing remote attendance should have at least two thirds of members in physical attendance.

b) Members should only be able to attend council meetings remotely in exceptional circumstances, such as those who are medically or physically unable to attend, or for reasons of local or national emergencies.

c) There should be no limitations placed upon councils with regard to setting arrangements for remote attendance of council meetings, up to and including full remote attendance.

d) [Free text box]

### **Question 4**

If you are an elected member can you anticipate that you personally may seek to attend some of your council meetings remotely?

- yes
- no
- I am not an elected member

### **Question 4a**

If you answered No please use the free text below

[Free text box]

### **Question 4b**

If you answered Yes, could you indicate below which of the following options best describes your likely pattern of attending meetings remotely

- very occasionally
- from time to time

- regularly but not always
- all the time

### **Question 5**

If you are responding to this consultation on behalf of a council as a whole, what proportion of the council's current elected members are likely to seek to attend council meetings remotely over the course of a year?

- less than 10%
- more than 10% but less than 50%
- more than 50% but less than 90%
- most of them 90% to 100%

### **Question 6**

The government recognises that there may be cases in which it is necessary for councils to hold meetings fully remotely. Do you think there should be limitations placed on the number of fully remote meetings councils should be able to hold?

- a) Councils should be able to allow full remote attendance at up to half of council meetings within a twelve-month calendar period.
- b) Councils should only have the flexibility to change a meeting from in-person to online, or vice versa, due to unforeseen and exceptional circumstances.
- c) Councils should not have the flexibility to conduct fully remote meetings to ensure there is always an in-person presence.
- d) [Free text box]

### **Question 7**

Do you think there are there any necessary procedural measures that would help to ensure a remote or hybrid attendance policy is workable and efficient?

Please tick all the options that correspond with your view and use the free text box for any other comments.

- a) Councils should be required to publish a list of attendees joining the meeting remotely and give notice if a meeting is being held with full remote attendance.

b) Councils should be required to ensure that standard constitutional arrangements are followed for hybrid and fully remote meetings.

c) Councils should be required to make arrangements to ensure restricted items (where a council decision is taken in private to protect confidentiality) are managed appropriately and to require remotely attending members to join from a private location.

d) Other [Free text box]

### Question 8

Do you think legislative change to allow councillors to attend local authority meetings remotely should or should not be considered for the following reasons?

Tick all the statements below that apply to your point of view.

#### Should be considered because

#### Should not be considered because

It is a positive modernising measure.

Councillors should be physically present at all formal meetings.

It would likely increase the diversity of people willing and able to stand for election in their local area, making councils more representative of the communities they serve.

It could lead to a significant number of councillors habitually attending remotely and ultimately reduce the effectiveness of councils.

Councils would be more resilient in the event of local or national emergencies which prevent in-person attendance.

It would be more difficult for councillors to build personal working relationships with colleagues, and engage with members of the public in attendance at meetings.

Free text box – please state any other reasons

Free text box – please state any other reasons

### Question 9

In your view, would allowing councillors to attend formal local authority meetings remotely according to their needs particularly benefit or disadvantage individuals with protected characteristics, for example those with disabilities or caring responsibilities?



Please tick an option below:

- it would benefit members
- it would disadvantage members
- neither

Please use the text box below to make any further comment on this question.

[Free text box]

## Proxy voting

Proxy voting is a form of voting whereby a member of a decision-making body may delegate their voting power to another representative to enable a vote in their absence.

It is possible some members may find that, due to their personal circumstances, they are temporarily unable to participate in meetings even if remote attendance provisions are in place. Provisions for proxy voting could provide additional flexibility to those who really need it on a time-limited basis, allowing affected members to indirectly exercise their democratic duty, participate in their local authority's governance, and ensure that their views are taken into consideration. In the context of local authorities, the representative would have to be another elected member of the local authority.

### Question 10

In addition to provisions allowing for remote attendance, do you consider that it would be helpful to introduce proxy voting?

- yes
- no
- unsure

### Question 11

If yes, for which of the following reasons which may prohibit a member's participation in council meetings do you consider it would be appropriate?

Please select all that apply:

- physical or medical conditions
- caring responsibilities
- parental leave or other responsibilities
- other [Free text box]

### **Question 12**

Are there circumstances in which you feel proxy voting would not be appropriate?

[Free text box]

### **Question 13**

If you think proxy voting is appropriate, are there any limitations you think should be placed upon it?

[Free text box]

## **About this consultation**

This consultation has been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the UK General Data Protection Regulation, and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. 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, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included at Annex A.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](https://www.gov.uk/government/organisations/ministry-of-housing-communities-local-government/about/complaints-procedure) (<https://www.gov.uk/government/organisations/ministry-of-housing-communities-local-government/about/complaints-procedure>).

## **Annex A: Personal data**

The following is to explain your rights and give you the information you are entitled to under the Data Protection Act 2018. Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

### **1. The identity of the data controller and contact details of our Data Protection Officer**

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at [dataprotection@communities.gov.uk](mailto:dataprotection@communities.gov.uk)

### **2. Why we are collecting your personal data**

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for

statistical purposes. We may also use it to contact you about related matters.

### **3. Our legal basis for processing your personal data**

The Data Protection Act 2018 states that, as a government department, MHCLG may process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

### **4. With whom we will be sharing your personal data**

We use a third-party platform, Citizen Space, to collect consultation responses. In the first instance, your personal data will be stored on their secure UK-based servers.

### **5. For how long we will keep your personal data, or criteria used to determine the retention period.**

Your personal data will be held for 2 years from the closure of the consultation.

### **6. Your rights, e.g. access, rectification, erasure**

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a) to see what data we have about you
- b) to ask us to stop using your data, but keep it on record
- c) to ask to have all or some of your data deleted or corrected
- d) to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/> (<https://ico.org.uk/>), or telephone 0303 123 1113.

## **7. Your personal data will not be sent overseas**

## **8. Your personal data will not be used for any automated decision making**

## **9. Your personal data will be stored on a secure government IT system**

Your data will be transferred to our secure government IT system as soon as possible after the consultation has closed, and it will be stored there for the standard 2 years of retention before it is deleted.



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**1. In what capacity are you responding to this consultation?**

- ☐ An elected member of a council body
- ☒ A council body
- ☐ A member of the public
- ☐ A local government sector body

**Please indicate the local authority type:**

- ☐ Town or Parish Council
- ☐ District or Borough Council
- ☐ Unitary Authority
- ☒ County Council
- ☐ Combined Authority / Combined County Authority
- ☐ Fire and Rescue Authority
- ☐ Police and Crime Panel
- ☐ Other local authority type

If other, please specify

# The proposal for remote attendance

The government intends to legislate to give local authorities the flexibility to allow elected members to attend formal council meetings remotely. We believe that this modernising measure of providing broad flexibility to enable remote attendance will have the dual positive impacts of diversifying the representation of those willing and able to stand for elected office and enhance the resilience of local authorities in the face of local or national emergencies.

The intent is that this legislative change would give local authorities the flexibility to allow members to attend remotely.

## 2. Do you agree with the broad principle of granting local authorities powers to allow remote attendance at formal meetings?

- ☒ Yes
- ☐ No

If you answered 'No' to question 2, select 'Continue' and go directly to question 4.

## 3. If you answered 'Yes' to question 2, do you think that there should be specific limitations on remote attendance?

Please tick all the options below that correspond with your view and use the free text box for any other comments.

- ☐ Any formal meeting allowing remote attendance should have at least two thirds of members in physical attendance
- ☐ Members should only be able to attend council meetings remotely in exceptional circumstances, such as those who are medically or physically unable to attend, or for reasons of local or national emergencies
- ☒ There should be no limitations placed upon councils with regard to setting arrangements for remote attendance of council meetings, up to and including full remote attendance

Add any further comments



# The proposal for remote attendance

**4. If you are an elected member, can you anticipate that you personally may seek to attend some of your council meetings remotely?**

- ☐ Yes
- ☐ No
- ☒ I am not an elected member

**4a. If you answered 'No' to question 4, please explain your answer below:**

Explain your answer

**4b. If you answered 'Yes' to question 4, please indicate below which of the following options best describes your likely pattern of attending meetings remotely:**

- ☐ Very occasionally
- ☐ From time to time
- ☐ Regularly but not always
- ☐ All the time

## The proposal for remote attendance

**5. If you are responding to this consultation on behalf of a council as a whole, what proportion of the council's current elected members are likely to seek to attend council meetings remotely over the course of a year?**

- ☐ Less than 10%
- ☐ More than 10% but less than 50%
- ☒ More than 50% but less than 90%
- ☐ Most of them 90% to 100%

**6. The government recognises that there may be cases in which it is necessary for councils to hold meetings fully remotely. Do you think there should be limitations placed on the number of fully remote meetings councils should be able to hold?**

- ☒ Councils should be able to allow full remote attendance at up to half of council meetings within a 12-month calendar period
- ☐ Councils should only have the flexibility to change a meeting from in-person to online, or vice versa, due to unforeseen and exceptional circumstances
- ☐ Councils should not have the flexibility to conduct fully remote meetings to ensure there is always an in-person presence

Add any other comments that you have

**7. Do you think there are there any necessary procedural measures that would help to ensure a remote or hybrid attendance policy is workable and efficient?**

Tick all the options that correspond with your view and use the free text box for any other comments.

- ☒ Councils should be required to publish a list of attendees joining the meeting remotely and give notice if a meeting is being held with full remote attendance
- ☒ Councils should be required to ensure that standard constitutional arrangements are followed for hybrid and fully remote meetings
- ☒ Councils should be required to make arrangements to ensure restricted items (where a council decision is taken in private to protect confidentiality) are managed appropriately and to require remotely attending members to join from a private location

Add any other comments that you have

## The proposal for remote attendance

**8. Do you think legislative change to allow councillors to attend local authority meetings remotely should or should not be considered for the following reasons?**

Tick all the statements below that apply to your point of view.

**Should be considered because:**

- ☒ It is a positive modernising measure
- ☒ It would likely increase the diversity of people willing and able to stand for election in their local area, making councils more representative of the communities they serve
- ☒ Councils would be more resilient in the event of local or national emergencies which prevent in-person attendance

Add any other reasons that it should be considered

**Should not be considered because:**

- ☐ Councillors should be physically present at all formal meetings
- ☐ It could lead to a significant number of councillors habitually attending remotely and ultimately reduce the effectiveness of councils
- ☐ It would be more difficult for councillors to build personal working relationships with colleagues, and engage with members of the public in attendance at meetings

Add any other reasons that it should be considered

**9. In your view, would allowing councillors to attend formal local authority meetings remotely according to their needs particularly benefit or disadvantage individuals with protected characteristics? For example, those with disabilities or caring responsibilities.**

- ☒ It would benefit members
- ☐ It would disadvantage members
- ☐ Neither

Add any further comments you have on this question

## Proxy voting

Proxy voting is a form of voting whereby a member of a decision-making body may delegate their voting power to another representative to enable a vote in their absence.

It is possible some members may find that, due to their personal circumstances, they are temporarily unable to participate in meetings even if remote attendance provisions are in place. Provisions for proxy voting could provide additional flexibility to those who really need it on a time-limited basis, allowing affected members to indirectly exercise their democratic duty, participate in their local authority's governance, and ensure that their views are taken into consideration. In the context of local authorities, the representative would have to be another elected member of the local authority.

**10. In addition to provisions allowing for remote attendance, do you consider that it would be helpful to introduce proxy voting?**

- ☐ Yes
- ☐ No
- ☒ Unsure

**11. If yes, for which of the following reasons which may prohibit a member's participation in council meetings do you consider it would be appropriate?**

Please select all that apply:

- ☐ Physical or medical conditions
- ☐ Caring responsibilities
- ☐ Parental leave or other responsibilities

Add any other reasons

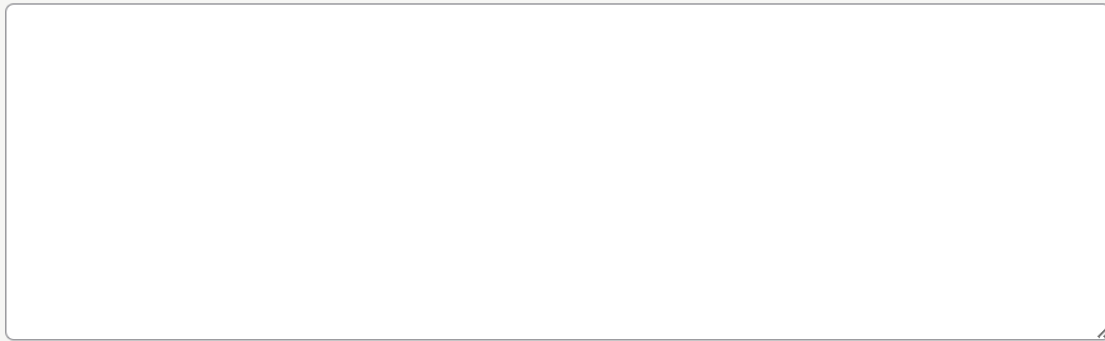
**12. Are there circumstances in which you feel proxy voting would not be appropriate?**

Add your comments

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**13. If you think proxy voting is appropriate, are there any limitations you think should be placed upon it?**

Add your comments

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**Committee:** Governance Committee

**Date:** 13 November 2024

**Title:** Member Training and Development Update

**By:** Deputy Chief Executive

**Purpose of report:** To provide an update on the training and development activities offered to Members.

---

## **RECOMMENDATION:**

**The Governance Committee is recommended to consider the programme of training and development activities offered to Members.**

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### **1. Background**

1.1. Helping to ensure that Members have the skills and information needed to undertake their roles is a key element of corporate governance. Member Services is responsible for devising and maintaining a programme of Member training and development activities in response to Member needs and requests.

1.2. As part of this programme a comprehensive induction programme was delivered for newly elected and returning Members following the County Council elections in May 2021. After the completion of the initial induction phase, an ongoing programme of training and information sessions commenced with new events being added regularly. The Governance Committee received a report at their meeting of 7 November 2023 meeting which set out the training which had been provided to Members following the induction. Alongside this the service signposts to Members, via the intranet and the Members Room, the comprehensive programme run by external organisations such as the Local Government Association and South-East Employers. The programme has provided Members with access to both internal and external training to support the development of key skills as well as the provision of further topic-specific sessions.

1.3. The programme is developed having regard to current and forthcoming policy issues and with input from Members. Members' views are gathered via surveys circulated to all Members, feedback from the Member Reference Group who regularly review the training programme and requests made by Members on an individual basis or through their Committees.

### **2. Supporting Information**

2.1 Courses and information sessions delivered to Members cover a wide range of topics. For example, courses have been delivered on support with practical matters such as getting the most out of Microsoft Outlook, topic specific briefings (such as Economic Development), and committee focused courses (such as Town and Village Green Panels). A summary of the training sessions delivered as part of the ongoing induction along with the current version of the training programme is provided at Appendix 1. The training for this period includes sessions on an Introduction to Asset Based Community Development and Public Health and Housing.

2.2 The majority of training courses continue to be delivered remotely via Microsoft Teams. A recording of the session together with the slides used in the session are made available on the Councillors' Area of the intranet. This enables Members who were not able to attend the session

to still benefit from the course and also other Members who did attend, to refresh their memory and review the slides when convenient.

2.5 The most recent survey of Member training needs was conducted in June 2024. This resulted in five responses which asked for training on a number of topics. This included, for example adapting to climate change in East Sussex, and the role of the 3<sup>rd</sup> sector in East Sussex. At its meeting in October 2024 the Member Reference Group discussed the survey outcomes and provided feedback on the survey process itself and recommended that training should now focus on the induction period. This feedback will be used by the Member Services team to inform how the election induction survey is conducted. The feedback from this survey will be shared with the Member Reference Group and will help inform the development of the induction for Members after the election in May to further enhance the training opportunities available to Members.

### **3. Conclusion and recommendations**

3.1 The Council has a comprehensive programme of training and information activities offered to Members. The Governance Committee is recommended to consider and comment on the training opportunities offered to Members including where the Committee considers there are any gaps or unmet needs.

#### **PHILIP BAKER**

Deputy Chief Executive

Contact Officer: Stuart McKeown

Tel. 01273 481583

Local Member: All

#### Background Documents

None



# Member Training and Development

| Date                    | Session   | Attendance |
|-------------------------|---|------------|
| 8/11/2023               | Race Equality in East Sussex: Current picture and emerging challenges | 7          |
| 14/11/2023 & 17/11/2023 | ESCC Local Transport Plan 4 Draft Strategy Briefing Session           | 24         |
| 24/11/2023              | Treasury Management   | 12         |
| 21/02/2024              | Highways East Sussex  | 26         |
| 13/03/2024              | Town and Village Green Panels   | 9          |
| 23/04/2024              | Economic Development  | 13         |
| 29/04/2024              | Vaccination and Immunisation in East Sussex                           | 9          |
| 20/05/2024              | Migration Schemes   | 7          |
| 22/05/2024              | Road Safety in East Sussex  | 16         |
| 30/05/2024              | Audit Committee induction for Cllr                                    | 1          |
| 13/06/2024              | Climate Change update and Q&A   | 7          |
| 20/06/2024              | Education East Sussex   | 7          |
| 11/09/2024              | Getting the most of our Microsoft workshop                            | 1          |
| 12/09/2024              | East Sussex in Figures  | 15         |
| 18/09/2024              | Climate Change and Health   | 9          |
| 19/09/2024              | Cost of living and financial inclusion                                | 17         |
| 01/10/2024              | Council as a Corporate Parent   | 13         |

## Member Training Programme: November - December 2024

| Date, Time and Venue                  | Activity / content   | Target audience | Lead Officer(s)                                   |
|---------------------------------------|--|-----------------|---|
| Wednesday 6 November<br>2:00 - 3:00pm | <b>An Introduction to Asset Based Community Development</b><br>This session will include an exploration of what Asset Based Community Development is and how it improves the health of our population, an overview of some of the key work already done and that which is underway, as well as the plans for the future. This will be an interactive session with space for engagement, involvement, and discussion. | All Members     | Joanne Bernhaut<br>Terry Hume<br>Darrell Gale     |
| Tuesday 26 November<br>2:30 - 4:30pm  | <b>Public Health and Housing</b><br>To provide an overview of collaborative work between Public Health and housing through the East Sussex Housing Partnership to develop a new place-based.   | All Members     | Joanne Bernhaut<br>Michael Courts<br>Darrell Gale |
| Available upon request                | <b>Social media training</b><br>Bespoke 1-1/small group social media training sessions can be arranged with the ESCC Communications Team.<br>Please contact Warwick Smith ( <a href="mailto:Warwick.Smith@eastsussex.gov.uk">Warwick.Smith@eastsussex.gov.uk</a> ) to discuss your requirements.   | All Members     | Warwick Smith                                     |

Please contact Hannah Matthews if you have any queries:

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|                         |   |
|-------------------------|---|
| <b>Report to:</b>       | <b>Governance Committee</b>   |
| <b>Date of meeting:</b> | <b>13 November 2024</b>   |
| <b>By:</b>              | <b>Deputy Chief Executive</b>   |
| <b>Title:</b>           | <b>Protocol for the Exercise of Monitoring Officer Duties</b>   |
| <b>Purpose:</b>         | <b>To consider and comment on the proposed Protocol for Reports the use of reports under S5. Local Government and Housing Act 1989.</b> |

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## **RECOMMENDATION:**

**The Governance Committee is recommended to agree the proposed Protocol set out in Appendix 1.**

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### **1. Background**

1.1 The requirement for councils to appoint a Monitoring Officer and the principal responsibilities of the officer are set out in s5. Local Government and Housing Act 1989.

1.2 The Monitoring Officer is responsible for overseeing the propriety and lawfulness of the Council and for taking action, or ensuring action is taken, to prevent or correct proposals or decisions which may be unlawful, which may contravene the constitutional requirements of the Council or amount to maladministration.

1.3 The Monitoring Officer has a duty to report to the Council and the Cabinet in any case where they are of the opinion that any proposal, decision or omission is or is likely to be illegal or to constitute maladministration.

1.4 During the last few years there has been an increased focus on the roles of the three statutory officers (Monitoring Officer, Chief Finance Officer and Head of Paid Service) in ensuring propriety and lawfulness of councils in challenging times. This led to the preparation of a code of practice, published in July 2024, by the three relevant professional bodies CIPFA, SOLACE and LLG (Lawyers in Local Government). The code of practice emphasises the importance of the three statutory officers working closely together on matters of good governance and compliance. Whilst such arrangements are in place at the County Council, they are not written down.

### **2. The Protocol**

2.1 The protocol attached at Appendix 1 of the report seeks to explain how the three statutory officers work together to ensure the Council's business is carried out in a lawful and compliant way, with specific reference to the duty held by the Monitoring Officer. There is nothing in the protocol which proposes any change to these arrangements. It will be helpful for officers and members for the Council to adopt a clear written account of the arrangements.

2.2 The Protocol has been reviewed by James Goudie KC who has advised that in his view it is lawful and proportionate. It sets out the arrangements that are required for the effective operation of the role including that the Monitoring Officer:

- Is legally qualified and is responsible for the in-house legal service.
- Is a member of the senior leadership team.
- Has direct access to and or regular scheduled meetings with the Chief Finance Officer and Chief executive/Head of Paid Service.
- Has direct access to the Council's political leaders.
- Has lead responsibility for the effective governance and constitutional arrangements of the Council.
- Operates within a corporate culture of compliance, propriety and transparency.

- Has direct input into or access to all significant policy proposals, decisions and commitments by the Council before they are finalised.

These are in place and are consistent with the requirements identified Code of Practice on Good Governance for Local Authority Statutory Officers (produced by SOLACE, CIPFA and Lawyers in Local Government).

2.3 The Protocol sets out the process for where the Monitoring Officer, having consulted with the Chief Finance Officer and Chief Executive, considers it necessary to report a matter to Full Council or the Executive and the efforts that have been made to resolve issues before reaching this stage.

2.4 It is not proposed that a report is issued in the case of every instance of unlawfulness. To do so would often be disproportionate to the issues being considered and would diminish the significance of issuing a report. It is also the case that the Council has in place a range of alternative mechanisms and measures for ensuring that issues are reported and brought to the attention of Members. The Protocol sets out the principles and approach that will be taken by the Monitoring Officer in deciding whether or not to issue a report and the factors which will be given consideration. These include:

- Whether senior officers and relevant Members have been or will be made aware in other ways.
- Whether the action or omission is technical, administrative or purely procedural.
- Whether the matter carries little or no monetary value and involves no harm or loss to any person.
- Whether the matter is evidence of a more fundamental failure of governance or policy.
- Whether the matters have no impact upon residents, service users, suppliers or any other third party.
- Whether the issue could be a regular occurrence and evidence of a more fundamental failing.

2.5 The Council has in place a range of alternative arrangements by which the objective of ensuring there is democratic oversight by Members and operational assurance is met and this may be achieved through a number of mechanisms other than the use of s5 reporting.

Examples include:

- Summaries of decisions of the Local Government Ombudsman (LGO) where there has been a finding of fault reported to Cabinet and Council through the Council's established performance monitoring and reporting framework.
- The LGO's annual report which is reported to the Governance Committee and/or Standards Committee as well as performance data regarding compliance with timescales for the provision of information under statutory obligations.
- Where the LGO issues a report, it is to be made available to all Members and be reported to the relevant Lead Member.
- The outcomes of statutory inspections, such as those from Ofsted, CQC and HMI are made available to all Members and reported to Cabinet and relevant Scrutiny Committees.
- Reports on the outcome of internal complaint investigations, internal audit reports or other investigations undertaken internal or externally and which include findings of failings or non-compliance being reported to relevant senior management and elected member forums, including those meeting in public.
- The Council's Annual Governance Statement will set out the governance framework for the Council and any ongoing governance issues including those which may amount to non-compliance with requirements.

### **3 Conclusion and Reasons for Recommendation**

3.1 The Governance Committee is recommended to agree the proposed Protocol. The Protocol highlights the duties of the Monitoring Officer, how transparency is maintained and how Members

are assisted in maintaining democratic oversight and operational assurance. The Protocol sets out the proposed approach that will be taken in relation to s5 reports in terms of when they will be made and the process that will be followed which is it considered to be proportionate and will maintain the significance of such an action.

**PHILIP BAKER**  
**Deputy Chief Executive**

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## **PROTOCOL FOR THE USE OF REPORTS UNDER S.5 LOCAL GOVERNMENT & HOUSING ACT 1989**

### **Background - Responsibility of the Monitoring Officer**

The Monitoring Officer is responsible for overseeing the propriety and lawfulness of the Council and for taking action or ensuring action is taken to prevent or correct proposals or decisions which may be unlawful, which may contravene the constitutional requirements of the Council or amount to maladministration.

The Monitoring Officer's ability to discharge this role will be affected by the officer's position within the senior structure of the Council's management, the general culture of the Council and the extent to which the officer has access to information so as to have awareness of the Council's actions and ways of arriving at decisions.

The ability to discharge the role without additional assistance is helped when the Monitoring Officer is legally qualified and has experience of the legal and constitutional framework within which the Council operates.

The purpose of this protocol is to provide a reference for decision-making by the Monitoring Officer for use of the power available to the officer under s.5 of the 1989 Act in connection with potentially unlawful proposals or actions by the Council.

### **Arrangements for best practice internal arrangements**

In order to better discharge their responsibilities the Monitoring Officer should operate in a Council where the arrangements mean the officer:

- is legally qualified and is responsible for the in house legal service
- is a member of the senior leadership team
- has direct access to and or regular scheduled meetings with the Chief Finance Officer and Chief executive/Head of Paid Service
- has direct access to the Council's political leaders
- has lead responsibility for the effective governance and constitutional arrangements of the Council
- operates within a corporate culture of compliance, propriety and transparency
- has direct input into or access to all significant policy proposals, decisions and commitments by the Council before they are finalised

### **Legislation – summary of duty to prepare reports on unlawfulness**

The requirement for councils to appoint a Monitoring Officer and the principal responsibilities of the officer are set out in s.5 Local Government and Housing Act 1989. The relevant provisions are set out in the appendix.

This protocol deals with the exercise of the duty contained in ss 5(2) and 5A(2). These provide for the officer to prepare a report to the full Council or (5A) to the Council's executive when the matter concerns the actions of the executive. The decision to prepare a report arises when it appears to the officer that a proposal act or omission of the Council (including by any individual or committee) has given, is likely to give or would give rise to a contravention of any enactment or rule of law or give rise to maladministration.

**The procedure for the use of s.5 and s.5A when it appears to the officer that a proposal act or omission of the Council (including by any individual or committee) is likely to give or would give rise to a contravention of any enactment or rule of law.**

Should the MO consider a proposal, act or omission to meet the criteria set out in s.5 the officer should actively consider options to manage the risks associated with the matter, including giving advice, securing specialist advice and speaking to the officers responsible for the matter. The MO should clearly set out the basis of the concerns held and offer advice on how risks of unlawfulness or impropriety can be or should be avoided and the action required to do so.

Escalation in the event that advice is not heeded or actions not implemented should be considered as follows:

- The MO discusses the issue with the Chief Finance Officer and the most senior officer of the relevant service
- The MO discusses the issue with the Chief Executive
- The three statutory officers discuss the matter together and agree actions to address the problems to their collective satisfaction
- Where the MO is not satisfied the MO should make this clear to both the CFO and the CE.
- The MO, after advising the CE and CFO, may contact the leader of the Council and, if relevant, the appropriate executive member of the Council to advise them of the basis for the concerns and any action planned.

The writing of a s.5 report should be treated as a measure for use when other actions and measures have been used but not to satisfactory effect. The above engagement does not replace or constitute the discharge of a duty to consult on the proposal to issue a s.5 report. This should be done formally and recorded.

### **Considerations where the proposal act or omission is by a committee**

Where the Council is operating a leader and executive model the issue is only likely to arise where:

- A Planning or Regulatory Committee is exercising a non-executive function.
- An Audit Committee has decision-making powers.
- A Scrutiny Committee is exercising powers under the Health and Social Care Act 2001.
- A scrutiny or non-executive committee is acting beyond its powers or constitutional remit or otherwise acting irrationally so as to propose or take a course of action which may be unlawful.

In all such cases the Monitoring Officer should give advice direct to the lead officer responsible for the relevant area of business and to the members of the Committee and ensure they have the opportunity to change their intended course of action. If need be the officer may call for additional technical or independent advice to assist



the decision of the Committee and may ask the Committee to postpone any decision to allow for such advice to be provided and considered.

In the event that the Committee proceeds to act in a way the officer considers unlawful the guidance set out below should be followed, including and up to the consideration of a report by the full Council, which shall, in so far as legally permissible, have the power to reverse or overrule the action or omission of the Committee.

The implementation of a proposal or decision to which a report under this section relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report is concluded.

### **Decision to prepare a report under s.5**

The officer must carry out the role personally although, in absence, the role may be discharged by the nominated deputy. The deputy may therefore not only issue the report but take the decision to issue it in accordance with this protocol. The MO should not delegate the task to the deputy if the MO is available to act.

The officer must consult both the Council's head of paid service and the chief finance officer. This consultation and any response should be recorded. This should relate to:

- the need for such a report
- the purpose of the report and any outcome sought
- other options available to address the concerns raised
- the scope and content of the report.
- The procedural consequences of issuing a report.

The Chief Finance Officer should give consideration to the need, in accordance with that officer's statutory responsibilities, to issue a report related to the same subject matter or related areas of concern.

The report must set out the proposal or omission and explain how it is considered to breach an enactment (primary legislation) of a rule of law.

The report, if under s.5 rather than s.5A, should be supplied to every member of the Council.

### **Consequential steps**

Once issued the report will serve to cause the suspension of the decision or proposal which is the subject of the report. The MO should ensure that this suspension takes effect.

In the case of a report to the executive (cabinet or Lead member) under s.5A there must be a response to the report from the executive within 21 days of the report's

receipt. The MO should consider and confirm arrangements to enable the relevant executive members to receive and consider advice to inform their response.

Whilst there is no requirement for the full Council to provide a formal response to the officer's report under s.5 it may be that the Council considers and votes on a proposition by way of response to the report as a way of concluding any debate, but there is no requirement for the Council to come to any conclusion. It may simply receive or note the report. The MO should be available to advise the Chairman of the Council and the Chief Executive of the appropriateness of the report being formally considered or debated by the Council and how advice to the Council may be provided.

## **Publication**

It should be assumed that the report will be available for publication and should be placed on the Council's website. The report is available to all elected members and may become the subject of a Council debate and transparency and openness will enable the matter to be aired fully.

There may be instances where the subject matter of the report is commercially sensitive and would qualify as exempt under the Freedom of Information Act. This would also trigger the exemption from open debate at the Council meeting or meeting of the executive under the Council's access to information rules.

The officer should apply the public interest test when deciding whether such exemption should be applied to the report.

The officer may wish to consider taking independent or external advice on the issue of publicity and the validity of any Fol exemption.

## **The procedure for the use of s.5 and s.5A when it appears to the officer that a proposal act or omission of the Council (including by any individual or committee) has given rise to a contravention of any enactment or rule of law**

As a statutory body the Council is governed by numerous statutory requirements relating to a diverse and broad range of functions. Whilst the Council aims to comply with all the legal requirements it is unrealistic to expect that to be the case at all times.

There will be occasions when, for example, statutory timescales are missed. Such breaches will usually be technical or administrative in nature and have limited impact. Examples of this may include responses to Freedom of Information requests or subject access requests. While these may, on a strict analysis, constitute a contravention of an enactment or rule of law it is not proposed that such instances should trigger the requirement for a s5 report in the absence of evidence of a systemic issue highlighted by a statutory regulator or through other internal or external investigation.

There will also be occasions on which an investigation by the Local Government and Social Care Ombudsman makes a finding of unlawfulness or maladministration.

Such findings should be made available to relevant officers and elected members with responsibility for the affected area of service. Unless the Ombudsman has issued a formal report it will rarely, if ever, be necessary for this to trigger the need for a report in accordance with this protocol.

### **Alternative arrangements**

The objective behind the requirement to report to Members of the authority is to ensure relevant or all Members are aware of the actions of the Council and to ensure democratic oversight and operational assurance. This may be achieved through a number of mechanisms other than the use of s5 reporting, making the issuing of a s.5 report unnecessary. Examples include:

- Summaries of decisions of the Local Government Ombudsman where there has been a finding of fault reported to Cabinet and Council through the Council's established performance monitoring and reporting framework
- The LGO's annual report reported to the Governance Committee and/or Standards Committee as well as performance data regarding compliance with timescales for the provision of information under statutory obligations.
- Where the LGO issues a report, this to be made available to all Members and be reported to the relevant Lead Member and Committee(s) (or Council if sufficiently significant).
- The outcomes of statutory inspections, such as those from Ofsted, CQC and HMI are made available to all Members and reported to Cabinet and relevant Scrutiny Committees.
- Reports on the outcome of internal complaint investigations, internal audit reports or other investigations undertaken internal or externally and which include findings of failings or non-compliance being reported to relevant senior management and elected member forums, including those meeting in public.
- The Council's Annual Governance Statement will set out the governance framework for the Council and any ongoing governance issues including those which may amount to non-compliance with requirements.
- Reports arising from specific court or tribunal proceedings involving the Council are reported to the relevant senior officers (and elected members if of particular significance) including the plans for necessary or advised corrective action.

### **Principles guiding the approach**

The provisions in s.5 will, in general, be used where there is a lacuna in the Council's governance reporting framework and where the issue is sufficiently significant, in the opinion of the Monitoring Officer to require a s5 report.

The Officer will have regard to the effect and impact of the of the breach or contravention.

The Officer will consider what other courses of action are available to address the issue and to both advise elected members. The officer should maintain an open and

frank dialogue with the Chief Finance Officer and Head of Paid Service to ensure areas of concern are fully understood and that the opportunity is taken at an early stage to decide what if any action would be helpful to allay concerns or address identified issues.

### **Approach to judging significance**

The statutory provisions do not include any requirement for the unlawfulness to amount to anything of significance or importance nor to relate to a matter or solution over which the Council has direct control. The officer should however consider whether issuing a report under s.5 is advisable or helpful in all the presenting circumstances. This may not be the case for every instance of unlawfulness or in situations which may be seen as minor or inconsequential.. The officer would need to ensure however that arrangements are in place to ensure that unlawful acts are noted and brought to the attention of relevant officers and executive members and remedial or mitigating actions identified and followed through, using procedures such as those set out above under 'alternative arrangements'.

The use of s.5 should, provided the above arrangements are in place, be considered and necessary, having regard to a range of factors:

- Whether senior officers and relevant Members have been or will be made aware in other ways.
- Whether the action or omission is technical, administrative or purely procedural
- Whether the matter carries little or no monetary value and involves no harm or loss to any person
- Whether the matter is evidence of a more fundamental failure of governance or policy
- Whether the matters has no impact upon residents, service users, suppliers or any other third party
- Whether the issue could be a regular occurrence and evidence of a more fundamental failing

The Monitoring Officer should always be mindful in particular of the consequences of not issuing a report under s.5 in relation to the opportunity to correct or prevent a significant failing or error or potential harm to the standing and reputation of the Council or in ensuring member awareness and transparency.

### **Content of the report**

The report should set out in straightforward terms

- the proposed action or omission
- how it has been arrived at or identified
- who is responsible for it and
- in what way it amounts to unlawfulness or maladministration
- what risks attach to the proposal act or omission if carried through

- Any potential legal action or similar challenge, penalty or financial remedies which may be applied
- Any referral to an external regulator or similar body and the powers available to that body
- Likely reputational damage for the Council or individual decision-makers, and any other consequences which can reasonably be envisaged.

Whilst the Act does not require or assume an ability of the Council or the executive to correct avoid or reverse the action or omission which is the subject of the report the report should explain what mitigation or corrective action may be available to address the issues of concern the report covers. If corrective action is available the report should make this clear and provide options or available courses of action for the executive or Council to consider.

Where the proposed decision or omission relates to a likelihood of maladministration the consideration of the use of a s.5 report may only arise after the relevant investigation and report by the office of the Local Government and Social Care Ombudsman. This will relate to a report directly linked to the subject matter causing concern. The officer will need to consider whether action taken by the Council in response to or on the recommendation of the Ombudsman's report sufficiently addresses the concerns which would otherwise need to be set out in a report under s.5.

## **Dealing with matters following the issuing of a report.**

### **Preparing for a debate at Council**

The officer will need to consider the timing of a debate at Council and what information will need to be provided and by whom in advance to inform and support such a debate.

### **Responding to member enquiries**

The Officer may obtain responses from the other statutory or senior officers and should take these into account in deciding on any further action.

### **Giving advice**

Consider whether another officer or an independent source of legal advice may be needed to give advice to members, to the executive or to be provided as a supplementary document in connection with any debate.

### **Managing the suspension of a decision or proposal**

The proposal or planned decision should, if legally permissible, be suspended or held back from implementation pending the response of the Executive or the outcome of any debate at full Council or consideration by elected members.

Consideration will need to be given to the legal effect of the suspension and whether commitments to or expectations of third parties need to be managed.

## **Preparing for a debate at Council or Cabinet (or relevant Cabinet Member(s))**

The debate may take place at a scheduled meeting or may be dealt with at a special meeting of the Council. The Chairman may receive requests from members to call a special, extraordinary or urgent meeting of the Council and may need access to legal advice on whether to grant such a request.

The officer's report will be the primary document considered as part of the debate but the officer should consider what additional material to provide in order to support the debate. This may include advice notes from the officer colleagues. It may include an additional briefing note prepared by the officer to provide a fuller context to the report.

The Council's normal rules of debate will apply.

The Officer may be invited to speak to the meeting of members in order to explain the reasons for the report or to respond to questions or requests for clarification.

Any member may wish to propose a motion or proposition to form the basis of the debate or to form the subject of a vote by the Council. Other members may seek to propose amendments to a motion or proposition or present counter proposals. These should be managed by the Chairman of the Council in accordance with the Council's Standing Orders.

The officer will need to consider whether a different legal officer should provide advice to the Chairman in order to manage the business of the debate.

### **Assisting any response from Cabinet**

The Executive will prepare a response. The officer should consider what advice the Executive may require in the preparation and distribution of the report.

### **Follow up and further action**

The Monitoring Officer will need to make plans for taking action in the interests of the Council should the proposal action or omission be confirmed by the Council or relevant decision-maker. This could, for example, include notifying the Council's insurers or external auditors.

If the decision of the Council is to continue the suspension of the proposal or to cancel or require the cancellation of the proposal or to take action to remedy the omission the officer should ensure this decision is followed through and implemented without delay.

The officer should prepare a report in consultation with the Chief Finance Officer and head of paid service to record the actions following the s.5 report and how they have been carried out.

End

Prepared (v.1) June 2024

## APPENDIX – LEGISLATION

### 5.— Designation and reports of monitoring officer.

- (1) It shall be the duty of every relevant authority—
- (a) to designate one of their officers (to be known as “*the monitoring officer*”) as the officer responsible for performing the duties imposed by this section and, where relevant, [section 5A](#) below; and
  - (b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow those duties and, where relevant, the duties under [section 5A](#) below to be performed;
- (2) Subject to subsection (2B), it shall be the duty of a relevant authority's monitoring officer, if it at any time appears to him that any proposal, decision or omission by the authority, by any committee, or sub-committee of the authority, by any person holding any office or employment under the authority or by any joint committee on which the authority are represented constitutes, has given rise to or is likely to or would give rise to—
- (a) a contravention by the authority, by any committee, or sub-committee of the authority, by any person holding any office or employment under the authority or by any such joint committee of any enactment or rule of law; or
  - (aa) any such maladministration or failure as is mentioned in [Part 3](#) of the Local Government Act 1974 (Local Commissioners),
- to prepare a report to the authority with respect to that proposal, decision or omission.
- (2A) No duty shall arise by virtue of subsection (2)(b) above unless a Local Commissioner (within the meaning of the Local Government Act 1974) has conducted an investigation under [Part III](#) of that Act in relation to the proposal, decision or omission concerned.
- (2B) Where a relevant authority are operating executive arrangements, the monitoring officer of the relevant authority shall not make a report under subsection (2) in respect of any proposal, decision or omission unless it is a proposal, decision or omission made otherwise than by or on behalf of the relevant authority's executive.
- (3) It shall be the duty of a relevant authority's monitoring officer
- (a) in preparing a report under this section to consult so far as practicable with—
    - (i) in the case of a relevant authority which is the council of a county, the person who is for the time being the authority's chief executive and with their chief finance officer;
- ...
- (b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be sent
    - (a) ...
    - (b) in any other case, to each member of the authority and...

- (5) It shall be the duty of a relevant authority
- (a) to consider any report under this section by a monitoring officer or his deputy
- (ii) at a meeting held not more than twenty-one days after copies of the report are first sent to members of the authority; and
- (b) without prejudice to any duty imposed by virtue of [section 115](#) of the [Local Government Finance Act 1988](#) (duties in respect of conduct involving contraventions of financial obligations) or otherwise, to ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report;
- and nothing in [section 101](#) of the [Local Government Act 1972](#) shall apply to the duty imposed by virtue of paragraph (a) above.
- (6) For the purposes of paragraph (b) of subsection (5) above the implementation of a proposal or decision to which a report under this section relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under paragraph (a) of that subsection is concluded.
- (7) The duties of a relevant authority's monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.
- (7A) Subsection (7) above shall have effect subject to [section 82A](#) of the Local Government Act 2000 (monitoring officers: delegation of functions under [Part 3](#) of that Act).
- (8) In this section and in [section 5A](#)—  
“*business day*”, in relation to a relevant authority, means any day which is not a Saturday or Sunday, Christmas Day, Good Friday or any day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of Great Britain where the area of the authority is situated;
- (8A) Any reference in this section to the duties of a monitoring officer imposed by this section, or to the duties of a monitoring officer under this section, shall include a reference to the functions which are conferred on a monitoring officer by virtue of [Part III](#) of the Local Government Act 2000.

### **5A.— Reports of monitoring officer—local authorities operating executive arrangements**

- (1) Where a relevant authority are operating executive arrangements, the monitoring officer of that authority shall be responsible for performing the duties imposed by this section.
- (2) It shall be the duty of the monitoring officer of a relevant authority that is referred to in subsection (1) above, if at any time it appears to him that any proposal, decision or omission, in the course of the discharge of functions of the relevant authority, by or on behalf of the relevant authority's executive, constitutes, has given rise to or is likely to or would give rise to any of the events referred to in subsection (3), to prepare a report to the executive of the authority with respect to that proposal, decision or omission.
- (3) The events referred to for the purposes of subsection (2) are—



- (a) a contravention, by the relevant authority's executive or any person on behalf of the executive, of any enactment or rule of law; or
- (b) any such maladministration or failure as is mentioned in [Part III](#) of the Local Government Act 1974 (Local commissioners); ..
- (4) No duty shall arise by virtue of subsection (3)(b) above unless a Local Commissioner (within the meaning of the Local Government Act 1974) has conducted an investigation under [Part III](#) of that Act in relation to the proposal, decision or omission concerned.
- (5) It shall be the duty of an authority's monitoring officer—
- (a) in preparing a report under subsection (2) to consult so far as practicable with the person who is for the time being designated as the head of the authority's paid service under section 4 above and with their chief finance officer; and
- (b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be sent to each member of the authority and, where the authority has a mayor and council manager executive, the council manager.
- (6) It shall be the duty of the authority's executive—
- (a) to consider any report under this section by a monitoring officer or his deputy at a meeting held not more than twenty-one days after copies of the report are first sent to members of the executive; and
- (b) without prejudice to any duty imposed by virtue of [section 115B](#) of the [Local Government Finance Act 1988](#) (duties of executive as regards reports) or otherwise, to ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report.
- (7) For the purposes of paragraph (b) of subsection (6) above the implementation of a proposal or decision to which a report under this section, by a monitoring officer or his deputy, relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under paragraph (a) of that subsection is concluded.
- (8) As soon as practicable after the executive has concluded its consideration of the report of the monitoring officer or his deputy, the executive shall prepare a report which specifies—
- (a) what action (if any) the executive has taken in response to the report of the monitoring officer or his deputy;
- (b) what action (if any) the executive proposes to take in response to that report and when it proposes to take that action; and
- (c) the reasons for taking the action specified in the executive's report or, as the case may be, for taking no action.
- (9) As soon as practicable after the executive has prepared a report under subsection (8), the executive shall arrange for a copy of it to be sent to each member of the authority and the authority's monitoring officer.
- (10) The duties of an authority's monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section

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