

PROCEDURES COMMITTEE

5 July 2017

Present:-

Councillors R Radford (Chairman), S Aves, J Clatworthy, B Greenslade (vice Connett), R Hannaford and S Hughes

Members attending in accordance with Standing Order 25

Councillors Y Atkinson and E Brennan

Apologies:-

Councillors A Connett, J Hart and N Way

* **1** **Minutes**

RESOLVED that the minutes of the meeting held on 6 April 2017 be signed as a correct record.

* **2** **Items requiring urgent attention**

There was no item raised as a matter of urgency.

* **3** **Members Allowances Scheme**

[NB: All Members of the Council had been granted a dispensation to allow them to speak and vote in any debate at any meeting of the County Council, its Cabinet or any Committee, Sub-Committee, Joint Committee or Working Party relating to any allowance, travelling expenses, payment or indemnity for Members or Co-opted Members of the Council].

(Councillors Atkinson and Brennan attended in accordance with Standing Order 25(2) and spoke to this item).

The Committee noted that in accordance with Standing Order 23(2), Councillor Brennan had asked that the Committee consider reviewing the Council's Scheme of allowances currently payable (as previously recommended by the Independent Remuneration Panel) in respect of *'the expenses of arranging for the care of children or dependants ... and as to the amount of such allowance'* to reflect more accurately common usage, the charging practice of providers of child care, nursery or before/after school clubs and not thereby discriminate against any Member(s).

Councillor Brennan had posited that the existing policy was unrealistic in that it did not take into account how childcare settings operated and discriminated against people who required childcare and nursery provision, especially working parents and most commonly women, nor did it reflect the charging policy of the majority of, if not all, providers.

The Committee was reminded that all Councils were required to make a scheme of allowances in line with the Local Government & Housing Act 1989 and the Local Government Act 2000. The detailed requirements relating thereto were set out in of The Local Authorities (Members' Allowances) (England) Regulations 2003 (SI 1021/2003) which provided that Councils may make, inter alia, a payment of 'dependants carers' allowance'.

The legislation provided that a Council must establish an Independent Panel and must have regard to its recommendations before making or amending its scheme of allowances. A Panel might make recommendations to the Council:

- (i) as to the amount of basic allowance which should be payable to Members,
- (ii) the duties in respect of which such Members should receive a special responsibility allowance and the amount of such an allowance, and
- (iii) as to whether the scheme of allowances should include allowances in respect of the expenses of arranging for care of children or dependants of such councillors and as to the amount of such allowances.

The Regulations also made it clear that in claiming expenses (whether for travelling, subsistence or 'caring') a Member might only claim for expenses that were necessarily incurred in the attendance at or travelling to a meeting, committee or other body or of any other duty approved by the Council relating to the discharge of the Council's functions and not for an extended period.

The Council could not alter the legal basis of how payments might be made for specific duties. However, how any 'dependant carers' allowance' was constructed within a Scheme was, as indicated above, a matter for the Council to determine having regard to the IRP's views.

Currently, the Council's Scheme provided that a Member might claim up to £7.78 per hour (equivalent to the Council's Salary Scale Column Point 6) for each dependant, when a carer had been engaged to enable a member to carry out an approved duty. The position for nursery provision was more flexible where 'reasonable costs' might be reimbursed and in reality that meant Members could claim the 'fixed cost' of a session or sessions (am or pm or both) which cover, in whole or in part, the period of any specific approved duty (including travelling time to and from the place of the duty).

It was the case that a Council might – having had regard to any views of the Independent Remuneration Panel – vary or amend the current rates or methodology of payment that may be made under the scheme or impose specific bands reflecting the length or timing of periods for which claims might be made or introduce an overall cap, to more accurately reflect the charges/charging policy of providers.

The Members Allowances Scheme was, inter alia, aimed at enabling people from all spectrums of society to be reimbursed for their time and costs associated with being a Member but had to provide, as was required by law, the same allowance for all members (apart from SRAs) and was not therefore discriminatory per se. Whether the size of the allowance provided for in the Council's scheme was felt to be sufficient was another issue.

Generally, Councils' were of the view that there were no direct equalities implications arising from an Allowances Scheme. While there might be Members from protected groups, an allowances scheme applied to all Members equally and there was no impact in relation to the particular protected characteristics; the scheme provided for a 'dependant' carers allowance to be paid to all eligible Members which was again intended to assist in removing barriers to persons standing for election who might have relatives that may be in need of dependent care, in line with the spirit of equality legislation.

It was nonetheless suggested that any future review by the IRP should have regard to the updated Impact Assessment recently undertaken (circulated to Members) relating to carers/dependants allowances and should look not only at equality issues but also the suitability of current provision and level of payments referred to above. Moreover, as any further review by the IRP would necessarily look at the current scheme across the board, Members might also wish to take the opportunity then, in the Autumn, to look again at the

uprating of allowances (which had remained largely unchanged for the last 8 years) in line with any suggestions made by the IRP, as a means of attracting and retaining eligible persons of all ages to serve as Councillors in the future.

The County Solicitor re-affirmed that any change to the scheme must, in any event, be agreed by the full Council and advised that the Auditor had commented previously that the Council should determine its scheme of allowances before setting the budget for the year in question.

It was **MOVED** by Councillor Radford, **SECONDED** by Councillor Clatworthy, and, nem com,

RESOLVED

(a) that the Committee consider the specific request relating to dependant carers allowance alongside both the revised updated Impact Assessment and the outcome of the annual review of the current Scheme of Allowances by the Independent Remuneration Panel in the Autumn, as it is required to do, which would look at the effectiveness and appropriateness of all aspects of the Scheme including the range of approved duties for which allowances may be payable;

(b) that the Independent Remuneration Panel be specifically asked to have regard to the aforementioned comments and the Impact Assessment referred to in its deliberations to inform any recommendations it may have for the Council with regard to the Council's current Scheme of Allowances.

[NB: The Impact Assessment referred to above may be viewed at: <https://new.devon.gov.uk/impact/members-carersallowance2017/> .

* 4

Council Procedure Rules: Nomenclature

(Councillors Atkinson and Brennan attended in accordance with Standing Order 25(2) and spoke to this item).

In accordance with Standing Order 23(2), Councillor Brennan had asked that the Committee consider amending the Council's Constitution, Rules of Procedure (Standing Orders) and Working Practices to substitute an alternative, gender neutral, term in place of 'Chairman' – which was felt to be unacceptable in society today - for the person presiding at a meeting.

The Committee was invited to balance the status quo and any proposal for change against the Council's own '*Acceptable Language Guide*', common usage and parlance, personal preference and any statutory provisions/applications and make an appropriate revision to the Council's Constitution and Working Practices.

A number of Members expressed the view that the Council should instead – as now – continue to adopt a flexible approach and recognise that the person presiding might wish to express a preference for how he/she/they would wish to be addressed rather than formally amending the Council's Constitution and Working Practices; noting for example, that the aforementioned contained around 200 references/mentions of the term 'Chairman' and there would be many more in other Council publications and on its website.

The matter having been debated and the options and/or alternatives and other relevant factors referred to above having been considered:

It was **MOVED** by Councillor Greenslade, **SECONDED** by Councillor Hughes, and, nem com,

RESOLVED that the suggestion that the Council's Constitution should be amended, as referred to above, by the deletion of the term *Chairman* and the substitution thereof of the term *Chair* be considered further at the next meeting of this Committee, together with the benefit of any advice from the Council's Equality Reference Group.

* **5** **Constitutional Matters: Delegations**

The County Solicitor reported on the procedural necessities to enable the Council to apply for probate for a deceased resident of a County Council Residential Home, where the County Council was a creditor.

It was **MOVED** by Councillor Hannaford, **SECONDED** by Councillor Clatworthy, and

RESOLVED that the County Solicitor (or any Officer nominated by her/him) be authorised to act, on behalf of the County Council, as its nominee for the purpose of taking out letters of administration of the estate of any person (e.g. applying for probate) of whom the County Council is a creditor.

* **6** **Future Meetings**

It was **MOVED** by Councillor Hughes, **SECONDED** by Councillor Hannaford, and

RESOLVED that the meeting scheduled for 20 September 2017 be re-arranged for 13 September 2017 on the rising of the Cabinet or at 2.00pm whichever was the later.

* **7** **Deputy Monitoring Officer**

It was **MOVED** by Councillor Clatworthy, **SECONDED** by Councillor Hughes, and

RESOLVED that Mr S Clarey be designated Deputy Monitoring Officer, with effect from 1 October 2017, upon the retirement of the current Deputy, Mr R Hooper,

***DENOTES DELEGATED MATTER WITH POWER TO ACT**

The Meeting started at 2.15 pm and finished at 3.13 pm