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| Subject: | Constitution Review | | Status: | For Publication | |
| Report to: | Governance Working Group Council | | Date: | 22 nd January 2015 25 th February 2015 | |
| Report of: | Monitoring Officer | | Portfolio Holder: | Customers, Legal and Licensing | |
| Key Decision: | No - reserved for Council | Forward Plan <input checked="" type="checkbox"/> | General Exception <input type="checkbox"/> | Special Urgency <input type="checkbox"/> | |
| Equality Impact Assessment: | | Required: | No | Attached: | No |
| Biodiversity Impact Assessment | | Required: | No | Attached: | No |
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| 1. | RECOMMENDATIONS |
| 1.1 | That Council agrees to amend Part 6 of the Council's Constitution on page 256 and 260 as detailed in Appendix A. |

2. PURPOSE OF REPORT

- 2.1 To consider changes to the Constitution as detailed in Appendix A in response to the internal audit findings and also the recommendations from the Corporate Overview and Scrutiny Committee.

3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly on the following of the Council's corporate priorities:
- Responsive Value for Money Services: This priority is about the Council working collaboratively, being a provider, procurer and a commissioner of services that are efficient and that meet the needs of local people.

4. RISK ASSESSMENT IMPLICATIONS

- 4.1 All the issues raised and the recommendation in this report involve risk considerations as set out below:
- Failure to maintain and follow an up-to-date Constitution risks legal proceedings being taken against the Council, and risks members of the community being dissatisfied with the action of the Council.

5. BACKGROUND AND OPTIONS

Constitution Changes Part 6 – pages 256 and 260

Internal Audit Findings

- 5.1 At present, car insurance for elected members is only checked if a travel claim is received for approved Council business (for travel outside the borough). The insurance is checked to ensure it covers the period of the claim and that the policy meets the requirement of business use.
- 5.2 Following the internal audit it was brought to the Council's attention that the current procedure states that: *Members using their vehicles for council business must be insured for business purposes. This must be stated on their insurance certificate and the certificate*

must be shown to the Committee and Member Services Manager. This must be done each time insurance is renewed or car details changed. The Committee and Member Services Manager will keep a copy as insurance details are periodically subject to audit inspection.

- 5.3 The wording of this section implies that all councillors are required to submit proof of insurance covering business use regardless of whether they intend to make a travel claim.
- 5.4 It is proposed to amend the wording of this section to make it clear that it is elected members responsibility to ensure they have appropriate car insurance cover in place, and that there is only a requirement to provide a copy of the insurance if a mileage claim is submitted.

Corporate Overview and Scrutiny recommendations

- 5.5 At the Corporate Overview and Scrutiny Committee on 22nd September 2014 a query was raised regarding Maternity/Paternity support for elected members. In response to this query an update was provided to the meeting on 17th November 2014.
- 5.6 As a result of this update, the committee recommended that the information be added as a statement to the Members' Allowances Scheme.
- 5.7 In addition to the above, access to the Local Government Pension Scheme for elected members was withdrawn last year, and section 12 page 256 is no longer relevant.
- 5.8 Therefore it is proposed to replace section 12 with the Maternity/Paternity statement as recommended by the Corporate Overview and Scrutiny Committee.

COMMENTS FROM STATUTORY OFFICERS:

6. SECTION 151 OFFICER

- 6.1 There are no material financial implications arising from the report.

7. MONITORING OFFICER

- 7.1 All legal implications are commented upon in the body of the report.

8. POLICY IMPLICATIONS AND CONSULTATION CARRIED OUT

- 8.1 Consultation with Statutory Officers, Legal Officers, Committee and Member Services, Corporate Overview and Scrutiny Committee, Governance Working Group and the Independent Remuneration Panel.
- 8.2 Following consultation, the Independent Remuneration Panel recommended the inclusion of the amended wording as detailed in Appendix A.
- 8.3 On 17th November 2014 the Corporate Overview and Scrutiny Committee recommended the inclusion of the proposed statement on Maternity/Paternity.
- 8.4 On 22nd January 2015 the Governance Working Group recommended Council to amend Part 6 of the Council's Constitution on page 256 and 260 as detailed in Appendix A.

9. CONCLUSION

- 9.1 The Council is required by law to implement a Constitution and it is in the interests of the Council to regularly review and update the document.

Background Papers

| Background Papers | |
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| Document | Place of Inspection |
| The Constitution of the Council | www.rossendale.gov.uk/constitution |

~~12. Access to the Local Government Pension Scheme~~

~~Under this scheme members are entitled to access the Local Government Pension Fund based on their basic and any special responsibility allowances they receive.~~

12. Policy Statement on Members Maternity / Paternity

In line with its Equality Policy, Rossendale Borough Council supports its employees and elected members in relation to pregnancy, maternity and paternity. We will ensure that we are compliant with relevant legislative requirements and will support via reasonable adjustments as far as is possible. The detail of employee support is explained via the processes set out in the Employee Maternity, Paternity and Fostering Policy.

Elected members are not entitled to statutory maternity pay as they are not employees of the Council, but political representatives elected by the local electorate for a 4 year period. As elected members, they are entitled to an allowance to recompense them for any duties they undertake as a councillor. This allowance is reviewed on a regular basis by the Independent Remuneration Panel.

Election Law R.3 2010, and the Local Government Act 1972 s85 states that:

“If a member of a local authority fails through a period of six consecutive months from the date of her/his last attendance to attend any meeting of the authority, she/he [automatically] ceases to be a member of the authority. If, however, her/his failure is due to some reason approved by the authority before the expiry of the period, then such cessation does not take place.”

Rossendale Borough Council’s Constitution states that for non-attendance at a meeting within a six month period, the matter will be reported to full Council by the Chief Executive along with any reasons for their absence. An early warning system is in place to identify non-attendance before the 6 month period ends.

It is recognised by the Council that all decisions will be taken giving due regard of the Equality Act 2010.

2.3 Vehicle Insurance and Other Requirements for Business Use

2.3.1 Members using their vehicles for council business must be insured for business purposes. This must be stated on their insurance certificate, and it is entirely the member’s responsibility for ensuring that the adequate level of insurance cover is in place. and the certificate must be shown to the Committee and Member Services Manager. This must be done each time insurance is renewed or car details changed. The Committee and Member Services Manager will keep a copy as insurance details are periodically subject to audit inspection.

2.3.2 Members not insured for business use must not use their car for council duties, including ward working, even if they do not intend to claim the mileage.

2.3.3 Members should be mindful that if they are stopped by the police whilst on council business and have inadequate insurance cover for business use they may be prosecuted.

2.3.4 Members submitting mileage travel claims must provide evidence (to the Committee and Member Services Manager) of their insurance showing they are covered for business purposes. This must be done each time insurance is renewed or car details changed. The Committee and Member Services Manager will keep a copy as insurance details are periodically subject to audit inspection.

2.3.5 Insurance certificates must be available for inspection when required by either the Director of Business or the Audit Department.

~~2.3.3 The car mileage allowance paid to members contains an element for running costs so no further contributions will be made to members where their insurance company demands an additional premium for business use cover.~~

~~2.3.4 Members not insured for business use must not use their car for council duties, including ward working, even if they do not intend to claim the mileage. In an emergency where there are no properly insured drivers, public transport or a taxi should be considered (subject to approval by the Committee and Member Services Manager).~~

~~2.3.5 Members should be mindful that if they are stopped by the police whilst on council business and have inadequate insurance cover for business use they may be prosecuted and subject to a referral to the council's Monitoring Officer.~~