

Merton Council

Standards and General Purposes Committee

27 April 2023

Supplementary agenda: Papers for items 9, 11 and 12

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Committee: Standards and General Purposes Committee

Date: 27 April 2023

Subject: Procedure for awarding Honorary Alderperson Status

Lead officer: Louise Round, Monitoring Officer

Lead member: Councillor Michael Brunt, Chair, Standards and General Purposes Committee

Contact officer: Amy Dumitrescu, Democracy Services Manager

Recommendations:

A. That members consider the options for the procedure for awarding Honorary Alderperson status set out in paragraph 3 below and either:

- 1) Agree which option should be adopted in future; or
- 2) Agree to establish a cross party working group to consider the options and to report back to this committee at its next meeting.

B) To consider as detailed in Paragraph 2.12 whether former Leaders should be automatically awarded Freedom of the Borough in addition to Honorary Alderperson status (if also entitled to this) and if so, whether this should apply retrospectively to those former Leaders who have not already been awarded that status.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1. At a Committee training session on 13 October 2022, members of the Standards and General Purposes Committee requested that a report be brought to Committee for discussion on reviewing the procedure for awarding Honorary Alderman/woman status to retiring Councillors.

2 DETAILS

- 2.1. Section 249 of the Local Government Act 1972 allows Council to, by a resolution passed by no less than two-thirds of the members voting, confer the title of Honorary Alderman or Alderwoman status on persons who have, in the opinion of the Council, rendered eminent services to the Council as past members of that Council but who are not then members of the Council.
- 2.2. The Act requires that this vote be taken at a special Meeting of Council convened for that purpose.
- 2.3. Current working practice at Merton is that all Councillors who either retire or lose their seat at any election who have accumulated at least 15 years cumulative service for the Council are automatically awarded Honorary Alderman/woman status. Those awarded are provided with a certificate and will have their names sign-written onto the boards within the Council Chamber.
- 2.4. An honorary alderman or alderwoman may attend and take part in such civic ceremonies as the Council may from time to time decide, but shall not, as such have the right to attend meetings of the Council or a committee of the

Council (including joint committees) or to receive any such allowance or other payments.

- 2.5. This process is separate from the process for awarding Honorary Freeman or Freewoman status.
- 2.6. Merton have awarded Honorary Alderman/woman status to 22 councillors over the last decade as follows:
 - 5 September 2022 – 12 former councillors
 - 12 July 2018 – 5 former Councillors
 - 23 November 2016 – 1 former councillor
 - 4 June 2014 – 4 former councillors
- 2.7. There are 10 currently serving councillors who could be eligible for Honorary Alderman/woman status at the next election in 2026 if the current process continued.
- 2.8. Whilst there is no legal definition of “eminent services to the Council”, Merton have adopted the working practice of awarding those with at least 15 years cumulative service. A number of other Councils have also adopted this approach.
- 2.9. No formal nomination process is required to receive this status. Following an election the Democracy Services Manager collates the names of those eligible and a Special Council meeting is arranged post-election to vote on and award the status to those individuals.
- 2.10. The status cannot be awarded to serving councillors, however those awarded with the status can be re-elected at a future election to the Council, at which point they would cease to use the Alderman/woman title whilst serving as a Councillor.
- 2.11. Freedom of the Borough for Former Leaders
- 2.12. It is noted that a number of former Leaders of the Council, most recently former Leaders Mark Allison and David Williams MBE JP have been awarded Freedom of the Borough when they were no longer on the Council. It could be proposed as part of the process that former leaders are automatically nominated for Freedom of the Borough, without the need for their nomination to go through the normal process, options for which are set out below. This does not prevent them also receiving Honorary Alderman/woman status. The Committee is asked to consider whether this should be included within the protocol and whether specific criteria should be attached to this. As stated in the legal comments below, although it would be possible to automatically refer an ex leader to a council meeting for a vote, the council cannot set a policy which would fetter the discretion of any future council meeting when asked to vote on a nomination.

3 OPTIONS

- 3.1. Officers have suggested a number of potential options below for the appointment of honorary Alderman or women. The Committee can decide to proceed with one of the following options, or can discuss and agree an alternative.

Option 1:

To retain the current procedure with no changes.

Option 2:

To require all those Councillors eligible under the current process (that is those with at least 15 years service as at the date when they cease to be a councillor) to undergo a nomination/agreement process whereby a working group or the Standards and General Purposes Committee consider the list of those eligible and agree whether they should be awarded the status.

Information from any historical upheld complaints received against Councillors would be considered as part of this process.

Option 3:

To require all those Councillors eligible under the current process to undergo a nomination agreement process within their groups, including considering information received from the group whips and any information on complaints received against Councillors during their service. The group whips or group leaders would then put the nominations forward for consideration either by the Standards and general purposes Committee or direct to full Council.

Option 4:

That any Councillor (including those with less than 15 cumulative years' service) who is retiring/who loses their seat at an election can be nominated for Honorary Alderman/woman status, provided there is a case made for this and that this is agreed by either the Standards and General Purposes Committee or a working group thereof. It is suggested that the Committee agree what the criteria should be under this option.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1.

5 TIMETABLE

5.1. The new process once agreed by Standards and General Purposes Committee would be considered by Council in July 2023 and then implemented immediately.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. The only criteria for conferring either alderperson status or freedom of the borough are those set out in section 249 of the Local Government Act 1972 namely that the conferee is not a serving councillor and that they are either a person of distinction or someone who has "rendered eminent services" to the place or area. Therefore, it is a matter for the council to set the criteria by which someone is judged to fall into that description, provided those criteria are in themselves reasonable and fairly applied.

7.2. Although it would be possible to dispense with a formal sifting process for ex leaders of the council who are no longer serving councillors and to create a

presumption that they will have the freedom of the borough conferred upon them, it would not be lawful to set a policy that bound full council to agree such status. As stated above a resolution to grant such status must be agreed by two thirds of councillors present and voting at a specially convened meeting and they must be free to exercise their discretion at such a meeting.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. None for the purposes of this report

9 CRIME AND DISORDER IMPLICATIONS

9.1. None for the purposes of this report

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. None for the purposes of this report

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- None

12 BACKGROUND PAPERS

12.1. None

Committee: Standards and General Purposes Committee

Date: 27 April 2023

Subject: Remuneration of Councillors

Lead Director: Louise Round, Interim Executive Director Innovation and Change

Lead member: Councillor Billy Christie, Cabinet Member for Finance and Corporate Services

Contact officers: Andrew Robertson, Head of Democracy and Electoral Services and Amy Dumitrescu, Democracy Services Manager

Recommendations:

- A. That the Committee considers the Independent Remuneration Panel's report on the Remuneration of Councillors ("the Report") with a view to deciding whether to recommend any changes to the current members' allowances scheme ("the Scheme");
 - B. That the Committee considers whether to set up a working group to consider the recommendations of that report in more detail and to report findings back to Committee to allow it to make recommendations to Council
 - C. The Committee consider whether to recommend that Council implement the uplift to Members Allowances
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The current scheme for paying allowances to members was approved by Council on 24 September 2003 and it was made under powers conferred by the Local Authorities (Member's Allowances) (England Regulations, 2003 ("The Regulations")). That Scheme has been readopted in subsequent financial years as required by the Regulations.
- 1.2 The Scheme and current rates can be found at Part 6 of Merton's Constitution and provides for a number of Special Responsibility Allowances (SRAs) to be payable to those Councillors appointed by Council to particular positions in addition to the basic allowance paid to all councillors. The Scheme is considered and approved annually by Council alongside the Pay Policy Statement.
- 1.4 The existing Scheme for 2022/23 was approved by Council on 1 March 2023.
- 1.5 London Council's Independent Remuneration Panel published a report on Councillor remuneration in January 2022. That report is attached as appendix A and recommends amending the scheme to include an uplift to Members allowances and the Committee is therefore asked to consider this report and the Council's response to it.

2. DETAILS

- 2.1 The recently published Report (Appendix A) represents a comprehensive review of the current position on members' allowances across London and notes that the role of councillors is becoming increasingly complex as is the

landscape in which they operate and notes the importance of continuing to encourage people to put themselves forward as councillors and seeking, so far as possible, to ensure that financial loss does not prevent this. However, the report also recognises that the question of councillors' remuneration against the backdrop of a very difficult financial climate presents a real dilemma.

- 2.2 Officers have carried out a benchmarking exercise using data from London Councils (Appendix B) to show where Merton's current allowances (Appendix C) differ from those recommended by the IRP, from the London average and from our nearest neighbours. This may need some updating and not all roles map easily against each other, especially for those councils operating committee systems but the data gives a broad picture of the current position. Members will note that there is a considerable gap between the amounts recommended in the Report and those currently paid by Merton.
- 2.3 As well as looking at the rates paid, Committee may wish to consider the number of special responsibility allowances paid as on the whole Merton has fewer of these than its neighbours.
- 2.4 The current Scheme provides for an annual uplift in Members Allowances in line with national Local Government pay increases. However in previous years it has been agreed that that automatic uplift should not apply. Accordingly, Members Allowances rates have not increased in Merton since 2008/9. At its meeting on 1 March, full Council will be asked to agree that the same approach be taken for 23/24 pending the outcome of the review proposed in this report, which is not to say that it could not be applied, backdated to 1 April 2023 should that be the view of this Committee, endorsed by full Council. In this respect it is worth noting that the IRP advice is that the practical effect of the 22/23 pay award would, if implemented, be to increase both the basic and special responsibility allowances by 4%.
- 2.5 The rate at which allowances are paid is clearly a sensitive issue and the Committee may take the view that it would be appropriate to set up a cross party working group to examine the issue, As the working group would not be a formal sub-committee, it would be bound by strict proportionality rules. A suggested remit for the working group is set out below:
 - a) to consider in detail the contents of the Report;
 - b) to ask officers to provide further benchmarking information as appropriate;
 - c) to make recommendations to Committee on any changes to the rates of basic and/or special responsibility allowances;
 - d) to make recommendations to Committee on the question of whether to increase the number of roles for which a special responsibility allowance is payable;
 - e) to consider whether to maintain the current provision for an annual uplift in rates pegged to the staff pay award and, if so, whether that uplift should apply for 23/24 regardless of any other recommended changes to the Scheme; and

f) to consider whether to recommend any public consultation on any proposed changes, noting that there is no legal requirement to do so.

3. ALTERNATIVE OPTIONS

The Committee could agree to recommend that the Council not change its Member Allowances scheme

4. CONSULTATION UNDERTAKEN OR PROPOSED

There is no statutory requirement to consult externally on any proposed changes to the Scheme although the working group may wish to consider the extent to which public consultation is practicable and desirable.

5. TIMETABLE

When the IRP reported in January 2022, they indicated that they would produce a fresh report in 2023; enquires have been made of London Councils to ascertain when this is due. Depending on the outcome of those enquires, it may be necessary to shift the timetable to ensure any recommendations are made on the basis of the information most recently available. Subject to that, it would be hoped that the working group could conclude its work in the Summer with a view to reporting to Council in the Autumn. If necessary, a special SGP could be convened to enable this.

6. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

The total cost of an increase of 4% is approximately £30,000 and can be met from existing budgets, which also accommodate a proposed saving of 20K. However, should a more comprehensive increase be recommended, this would require growth to be agreed.

7. LEGAL AND STATUTORY IMPLICATIONS

7.1 The Local Authorities (Members' Allowance) (England) Regulations 2003 (the Regulations) require a relevant authority to make a scheme providing for the payment of a basic allowance to each member of that authority.

7.2 Regulation 10 of the Local Authorities (Members' Allowances) (England) Regulations 2003 ("the Regulations") requires re-adoption of the scheme on an annual basis. Before making or amending its allowances scheme, the Council is required, by Regulation 19, to have regard to the recommendations of an Independent Remuneration Panel.

8. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

None

9 CRIME AND DISORDER IMPLICATIONS

None

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

None

12. APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix A – London Council's Report Of Independent Remuneration [Panel](#)
- Appendix B – London Benchmarking data on Members [Allowances](#)
- Appendix C – Current [Members Allowances Scheme](#) and [Schedule of Rates](#)

13. BACKGROUND PAPERS

None

Committee: Standards and General Purposes Committee

Date: 27 April 2023

Subject: Amendments to the Constitution

Lead Director: Louise Round, Monitoring Officer

Lead member: Councillor Billy Christie, Cabinet Member for Finance and Corporate Services

Contact officer: Amy Dumitrescu, Democracy Services Manager

Recommendations:

- A. To recommend to Council that the following amendments to the Council's Constitution be authorised:
 - (i) The amendments to the Pensions Committee terms of reference as detailed in paragraph 2.1 below
 - (i) That all references to CHAS 2013 Ltd be removed from the Constitution as detailed at paragraph 2.4
 - B. To note that the Monitoring Officer will use her delegated authority under Article 15.2(b) of the Constitution to make consequential amendments to the Constitution to reflect the new Council structure agreed in September 2022.
 - C. To consider whether to recommend to full Council that changes be made to the Published Pay Policy and the Officer Employment Procedure Rules to clarify the approval process for making termination payments to officers and, if so, to decide which of the options set out in paragraph 2.8 to recommend.
 - D. Subject to C above, to authorise the Monitoring officer to submit amended versions of the terms of reference of the Appointment Committee, the Pay Policy and the Officer Employment Procedure Rules which reflect this Committee's recommendations for approval by Full Council.
 - E. To recommend to Council that the Officer Employment Procedure Rules be amended to remove the current requirement for the appointment of the Monitoring Officer to be agreed by full Council as this is not a legal requirement.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. To consider changes to the Constitution to update sections with current working practice and to amend any other sections as detailed within the report as required.

2 DETAILS

Pensions Committee

- 2.1. The Pensions Committee terms of reference do not currently require the annual Statement of Accounts and annual report for the Pensions Fund to be approved by the Pensions Committee. As a result, last year, External Audit refused to accept the Pensions Committee approval of the accounts. Therefore, it is recommended that the terms of reference are amended to

state an additional line “to review and approve the Pension fund’s annual statement of accounts and the annual report”.

New Council Structure

- 2.2. At its meeting on 21 September 2022, Council approved the recruitment of five Executive Director roles. Recruitment subsequently took place to fill these roles. The Constitution is therefore required to be amended to reflect the new roles, removing all reference to the previous titles and to amend all relevant delegations to refer to the new responsible Directors. Any reference to the previous Directorate names will also need to be amended. These amendments can be carried out by the Monitoring Officer using her delegated authority to make consequential changes to the Constitution under article 15(2)(b). References to specific directors appear in a number of places in the constitution, including the articles, financial regulations and contract standing orders and the Monitoring Officer will ensure such references are consistent throughout.

Delegations to Executive Directors

- 2.3. Because some council functions will move from their current locations under the new structure, it will be necessary also to amend the scheme of delegation to officers forming Part 3E of the Constitution using the Monitoring Officer’s delegated authority. It will also be necessary to amend the departmental schemes of management but those schemes are officer documents and do not require member level authority.

CHAS 2013 LTD

- 2.4. All references to CHAS will be removed from the Constitution following its sale to Veriforce.

Officer Employment Procedure Rules

- 2.5. Paragraph 9.4 of the Officer Employment Procedure Rules which comprise part 4H of the Constitution currently states that for chief officers, termination payments are subject to approval by the **Standards and General Purposes Committee** and that all severance packages over £100,000 shall be reported to Full Council for approval. This is at odds with the pay policy adopted by Full council which states:

*For Chief Officers, termination payments are reported to the Standards and General Purposes Committee for information on a regular basis. Payments which are in excess of a chief officer’s contractual or statutory entitlement shall require the approval of the **Appointments Committee**. In any event, all termination payments over £100,000 shall be reported to full Council for approval.*

- 2.6. The terms of reference of the Appointments Committee also include approving termination payments as follows:

To determine the terms and conditions on which officers hold office

(including the terms of dismissals), restructures, exits, statutory discretion relating to termination payments, reorganisations involving changes to staff responsibilities at Deputy Chief Officer and above.

- 2.7. It is important that the process for agreeing any terminations is clear and at the moment although an argument can be made that either the Standards and General Purposes or the Appointments Committee can be approached for approval, it would be prudent for the responsibility to sit with one body. It is the view of the Monitoring Officer that the Appointments Committee would be a more appropriate forum as the body charged with a number of staffing matters, including the appointment and dismissal of chief officers. It is worth noting that in any event, as the function is derived from the Council itself, a decision can lawfully be taken by the Full Council without prior consideration or approval by any committee although in practice it may usually be more appropriate for the matter to be considered in committee given the likely sensitive nature of any discussion relating to it, rather than the detail being debated by 57 councillors, albeit in confidential session.
- 2.8. Any process should comply the [statutory guidance](#) issued by the Secretary of State which indicates that termination packages of £100,000 and over should be subject to approval by full Council. For amounts below that level, the guidance suggest that this can be authorised by the Chief Executive; at present any payment outside of a chief officer's contractual and statutory entitlement arguably requires Appointment Committee approval regardless of the amount. Committee could choose to follow the guidance and allow payments bellow £100,000 to be authorised by the Chief Executive and only require those of £100,000 to have member approval. Alternatively, the threshold at which appointments Committee approval is required could be altered. The options are set out below and would apply to any officer, not just chief officers, the deciding factor being the value of the termination payment.

Option A – delegation to Chief Executive up to £50,000

- a) any termination payment outside of an officer's contractual and statutory entitlement the value of which is £50,000 or less shall require the approval of the Chief Executive although she may choose to delegate authority to approve such payments to the relevant Executive Director where they are £20,000 or less.
- b) any termination payment outside of an officer's contractual and statutory entitlement the value of which is greater than £50,000 but less than £100,000 shall require the approval of the Appointments Committee and does not need to be reported elsewhere;
- c) any termination payment outside of an officer's contractual and statutory entitlement, the value of which is £100,000 or more shall require the approval of the Appointments Committee *and* full Council, provided that if in

the view of the Chief Executive it is more appropriate for the decision to be taken solely by full Council without prior consideration or approval by the Appointments Committee, s/he may choose to put the matter straight to full Council. If the decision in question relates to the Chief Executive him or herself, then the Monitoring Officer shall have the authority to exercise the discretion to refer the matter straight to Council. **Option B- delegation to Chief Executive below £100,000**

a) any termination payment outside of an officer's contractual and statutory entitlement the value of which is less than £100,000 shall require the approval of the Chief Executive although she may choose to delegate authority to approve such payments to the relevant Executive Director where the value is £20,000 or less.

b) any termination payment outside of an officer's contractual and statutory entitlement, the value of which is £100,000 or more shall require the approval of the Appointments Committee *and* full Council, provided that if in the view of the Chief Executive it is more appropriate for the decision to be taken solely by full Council without prior consideration or approval by the Appointments Committee, s/he may choose to put the matter straight to full Council. If the decision in question relates to the Chief Executive him or herself, then the Monitoring Officer shall have the authority to exercise the discretion to refer the matter straight to Council.

Option C – Appointment Committee Approval for all Payments (status quo)

a) any termination payment outside of an officer's contractual and statutory entitlement in excess , the value of which is £100,000 or less shall require the approval of the Appointments Committee and does not need to be reported elsewhere

b) any termination payment outside of an officer's contractual and statutory entitlement, the value of which is £100,000 or more shall require the approval of the Appointments Committee *and* full Council, provided that if in the view of the Chief Executive it is more appropriate for the decision to be taken solely by full Council without prior consideration or approval by full Council, s/he may choose to put the matter straight to full Council. If the decision in question relates to the Chief Executive him or herself, then the Monitoring Officer shall have the authority to exercise the discretion to refer the matter straight to Council.

- 2.9. As part of its audit role, the Standards and general Purposes Committee shall be entitled to request a report on termination payments which have been paid from time to but there is no requirement for this Committee to approve such payments.

Monitoring Officer Role

- 2.10. Paragraph 3.2 of the Officer Employment Procedure Rules requires full Council approval for the appointment of the Monitoring Officer. This is not a legal requirement although it is for the Head of Paid Service (Chief Executive). The Constitution designates the Managing Director of the South London Legal Partnership (SLLP) as the Monitoring Officer by default. The appointment of the Managing Director is a thorough process, involving representatives of the 4 other councils making up the shared legal service as well as the Appointments Committee on which the Leader, relevant cabinet members and opposition group leaders are represented. Given the relatively infrequent nature of full council meetings and the need to be able to move swiftly once a recruitment process has been completed, it is arguably more appropriate for the final say on the appointment to rest with Appointments Committee, as it does for Executive Directors and the Section 151 Officer. It is therefore recommended that paragraph 3.2 be amended to remove that requirement.

3 ALTERNATIVE OPTIONS

- 3.1. The Council is advised to make these changes to ensure the Constitution is up to date and compliant with current legislation and best practice. The alternative option would be to do nothing, which is not recommended. Even if the Committee chooses not to make any changes to the thresholds at which member level approval is required for termination payments, the decision-making process should be clarified so that either the Appointments Committee or the Standards and General Purposes Committee is the body with responsibility for approval.
- 3.2. Specifically in relation to the appointment of the Monitoring Officer, the current incumbent will be leaving the Council at the end of July, and it is hoped to make the appointment of her successor following the process set out in paragraph 2.10 above, in the week beginning 29 May. As the next Council meeting after that is 12 July, as currently drafted, the offer of appointment would, have to wait until then. This would leave a longer than desirable gap with no permanent monitoring officer or head of the SLLP in place which is clearly not desirable. If the Committee were minded not to remove the standing requirement for the appointment to be agreed by Full Council, it is invited to ask Full Council to delegate the appointment of the Monitoring Officer to the Appointments Committee on this occasion, with the proviso that it is reported for noting to the next scheduled council meeting.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. None for the purposes of this report

5 TIMETABLE

- 5.1. The recommendations of the Standards and General Purposes Committee will be considered by Council at its' meeting on 17 May 2023.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. None for the purposes of this report

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The Constitution provides that proposed changes to the Council's constitution be reported to this Committee for approval prior to being considered at Council. (Article 15)
- 7.2. The Monitoring Officer has delegated authority to make minor administrative changes to the Constitution to reflect legislative changes or for the purposes of clarification.
- 7.3. The guidance issued by the Secretary of State on the authorisation process for special severance payments and the requirements for transparency relating to them is statutory guidance by virtue of section 40 of the Localism act 2022.
- 7.4. The process for appointing chief officers is in part governed by the Local Authorities Standing Orders England Regulations 2001). They do not require the appointment of the Monitoring Officer to be approved by a meeting of the full Council.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. None for the purposes of this report

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None for the purposes of this report

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. None for the purposes of this report

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

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12 BACKGROUND PAPERS

- 12.1. None

Department Approval	Name of Officer	Date of Comments
Legal		
Finance		

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