

REPORT TO	DATE OF MEETING
COUNCIL	15 SEPTEMBER 2016
Re-circulated to GOVERNANCE COMMITTEE	21 SEPTEMBER 2016



SUBJECT	PORTFOLIO	AUTHOR	ITEM
ESTABLISHMENT OF AN APPOINTMENT AND EMPLOYMENT PANEL FOR STATUTORY OFFICERS	LEADER	S NUGENT	5

1. SUMMARY AND LINK TO CORPORATE PRIORITIES

This report sets out the reasons for the establishment of an Appointment and Employment Panel for Statutory Officers. The report reflects the Corporate Priority of an “Efficient, Effective and Exceptional Council”.

2. RECOMMENDATIONS

Council is asked to approve the establishment of an Appointments and Employment Panel for Statutory Officers. This will be a Standing Committee of the Council.

3. DETAILS AND REASONING

The Council does not have a Panel that is responsible for the selection and appointment of a Chief Executive (the Head of Paid Service) and the two other statutory officers (the Monitoring Officer and the S151 Officer). Nor does it have a Panel that is responsible for fulfilling the role of an Investigating and Disciplinary Committee in accordance with the Model Procedure set out in the Joint Negotiating Committee for Chief Executives Conditions of Service Handbook. The three officers concerned are all entitled to statutory protection by the Regulations that relate to their employment and any disciplinary issues that arise.

The proposal to establish the Panel is timely for two reasons; firstly the current Chief Executive has resigned and there is a need to fill the vacant position, and secondly, the JNC for Local Authority Chief Executives is about to issue with effect from September 2016 a revised Conditions of Service Handbook. The new Handbook takes account particularly of the new disciplinary procedures required, following the coming into force of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 that replaced the previous Regulations.

With regard to the appointments aspects of the Panel, the Council must comply with the terms of its Constitution that full Council shall agree the most appropriate member body for the selection and appointment of the Head of Paid Service (Chief Executive). The Panel must include at least one member of the Cabinet and reflect the Council's political balance.

Following completion of this process the preferred candidate will be recommended to be appointed following approval at a full Council Meeting.

With regard to the employment aspects of the Panel, an Investigation and Disciplinary Sub Committee of three members including at least one member of the Cabinet needs to be established drawn from the membership of the Panel to deal with the issues raised in this report. This will deal with any disciplinary issues in respect of the three statutory officers in accordance with the JNC for Chief Executives revised Model Disciplinary Procedure and Guidance – England that is to be introduced in September 2016. In addition, in order to respond to any appeals received, short of dismissal, the remaining three members [which should include at least one member of the Cabinet] will form an Appeals Committee.

Responsibilities will include:

- . Initial consideration of any allegations against any of the Council's three statutory officers, and to determine whether a disciplinary investigation should be commissioned;
- . If so agreed, appointing an independent investigator to conduct the investigation and determining the matters to be investigated;
- . Receiving the report and recommendations of the investigator;
- . Determining the sanction (if any) to be imposed or, if dismissal is proposed, to recommend the Council accordingly (in which case, the Independent Persons Panel required by the new Regulations should consider that proposal), prior to any consideration by the Council.

The Council is able to vary the Model Procedure, in so far as the parties locally agree to any such variations. The main variation that the Council would introduce is an initial filter stage in the Procedure, whereby the Leader, Head of HR and Monitoring Officer would consider the severity, relevance or otherwise of any complaint or allegation relating to the conduct or capability of the Chief Executive or any other substantial concern (or for any of the other two statutory officers, the Chief Executive would be part of the Panel, rather than the Monitoring Officer),. This initial filter would decide whether the complaint or allegation should proceed to the first stage of the Model Disciplinary and Guidance Procedure.

If there is a conflict of issue or other identified general issue regarding the positions named above, then the Deputy Leader, Deputy Monitoring Officer and HR Adviser, would fulfil the necessary role on the Panel.

It should be noted that the Council already has something similar to this initial filter stage in place.

The Governance Committee on 27th January 2016, considered the changes to the statutory Dismissal Procedure for Protected Officers, following the introduction of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. The issues in the

report to the Governance Committee were then reported to the Council Meeting on 30th March 2016 as part of the Cabinet report.

The two key issues that the Regulations required the Council to agree were the need to have an Independent Person Panel as part of the process and, if the recommendation from the Investigation and Disciplinary Sub Committee was for dismissal, then this recommendation would need to be approved by way of a vote by elected members at a full Council meeting in the light of the views of the Independent Person Panel and any submission by the statutory officer concerned. Nothing fundamental has changed in our new approach with regard to these requirements.

Any other aspects of the Governance Committee Report are now superseded by the new Model Disciplinary Procedure and Guidance.

The flow chart at Appendix A, illustrates the key stages in the proposed JNC for Chief Executives revised Model Disciplinary Procedure.

The exact implementation date in September 2016 of the new JNC Handbook is still to be confirmed at the date of writing this report.

It is proposed that the Appointments and Employment Panel will comprise of 6 elected members as follows;-

Conservative - 3 members* [including at least one Cabinet Member]

Labour – 2 members*

Liberal Democratic – 1 member

Regarding most appropriate member body for the selection and appointment of the Head of Paid Service (Chief Executive), it is proposed that this comprises of;-

Councillor Clark

Councillor Mullineaux

Councillor Foster

Councillor Howarth

*Additional names to be confirmed at the meeting.

FINANCIAL	If, as part of the model procedure, an independent investigator is commissioned, this will incur costs associated with the investigation undertaken.
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LEGAL	<p>With regard to the appointment of a Chief Executive/Head of Paid Service the Constitution states;-</p> <p>Full Council shall agree the most appropriate panel for the selection and appointment of the head of paid service. That panel must include at least one member of the Cabinet and reflect the Council's political balance.</p> <p>With regard to the introduction of an Investigating and Disciplinary Sub-Committee together with the way of dealing with complaints against protected officers, this is in accordance with the relevant legislation – namely the Local Authorities [Standing Orders] [England] [Amendment] Regulations 2015.</p>
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RISK	None identified
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THE IMPACT ON EQUALITY	No adverse impact for equality issues arising from this report.
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OTHER (see below)	
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<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Crime and Disorder</i>	<i>Efficiency Savings/Value for Money</i>
<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>