

Full Council

14th March 2017



Report of: Human Resources Committee

Title: Performance Management Panel

Ward: N/A

Councillor Presenting Report: Councillor Helen Godwin (Chair of HR Committee)

Contact Telephone Number: (0117) 92 22000

Recommendation

That the Full Council agrees the Council's Constitution be amended to provide for a Performance Management Panel as set out in this report.

Summary

The purpose of this report is to seek approval for the establishment of a Performance Management Panel.

The significant issues in the report are:

- The proposed terms of reference for the Performance Management Panel (PMP) are attached at Appendix A.
- The membership of the PMP, which will meet at least annually, is proposed to be:
 - The Elected Mayor, the Party Group Leaders and two representations of the Local Government Association (LGA) (who will be the voting members)
 - The Chief Executive and their trade union or professional association representative
 - The Service Director HR (or nominee).
- In advance of the Panel meeting, the Chief Executive will provide the LGA representatives with evidence of how they have met the agreed targets. The LGA representatives will make an assessment of the information supplied and will propose for the Panel's consideration what if any level of performance-related pay should be awarded.



Policy

1. The Council's Constitution currently makes no provision for the performance management of the Chief Executive, and none took place under the previous administration.
2. Under the JNC it is a contractual obligation on the part of both the Chief Executive and the Council to engage in a regular process of appraisal.

Consultation

3. Internal

The HR Committee considered the performance management of the Chief Executive at its meeting on 24th November 2016 and 6th March 2017. The relevant extract of the minutes of the Committee's meeting of 24th November is as follows:

"The Committee received a report from the Service Director, Human Resources and Workplace, and considered the public forum statement submitted by Paul Wheeler, Bristol Equality in conjunction with this item. The report seeks the Committee's approval for proposals relating to the terms and conditions and performance management of the job of Chief Executive.

a. *Officers read the legal advice which had been provided in relation to the report as follows:*

'The pay of the Chief Executive is set out in the Council's Pay Policy Statement, and any amendments to the Statement require the approval of the Full Council.

Other than in relation pay and to dismissal for poor performance and misconduct, the terms and conditions of employment for the Chief Executive are set by the Human Resources Committee.

The Council's Constitution currently does not provide for the performance management of the Chief Executive and any amendments to the Constitution require the approval of the Full Council.

Legal and HR advice should be sought when drafting the terms of the fixed term contract for the new Chief Executive.'

Advice given by: Shahzia Daya, Service Director, Legal and Democratic Services

Date: 15 November 2016

- b. *The facility to award performance related pay to the Chief Executive is part of the annual Pay Policy Statement, which must be approved by the Full Council. The level of that payment (if any) would be decided by the Performance Management Panel, and not Full Council.*
- c. *The Chief Executive's performance objectives will be set and monitored by the Performance Management Panel. In discussion at HR Committee, it was agreed that Full Council or the Executive Function serving the Mayor and wider council should take on this role and the recommendation is to set up a performance panel for that purpose. It was confirmed that the performance management panel could consist of the Mayor and Party Group Leaders and advisors.*

The Committee RESOLVED:

(i) To recommend to the Full Council that a Performance Management Panel be constituted to agree objectives with the Chief Executive, assess the jobholder's performance and decide what level (if any) of performance related pay should be awarded. The Panel to be composed of the Mayor and Party Group Leaders, supported by advisers with appropriate expertise. (ii) To approve the proposed terms and conditions of employment as outlined in this report."

The relevant extract of the minutes of the Committee's meeting of 6th March is as follows:

"The Committee received a report from the Interim Service Director Human Resources, Change and Communications, presented by Sandra Farquharson.

The Committee considered the significant issues in the report and the following points were noted in response to members' questions:

It was confirmed that the panel would consist of two independent representatives from the Local Government Association (LGA) and that they would have voting rights.

The Performance Management Panel would meet annually to assess what, if any level of performance-related pay should be awarded. Any award would become payable at the end of the contract.

The Committee Resolved (with one abstention):

That the Committee recommends to the Full Council that the Council's Constitution be amended to provide for a Performance Management Panel as set out in the report."

- 4. External**
None required.

Context

- 5.** It is for the Council to decide whether the appraisal should be carried out by a small committee representing all political groups or by a senior representative or representatives of the controlling group. Whichever approach is adopted, those conducting the appraisal need to bear in mind at all times that the Chief Executive is employed by the Council as a whole, not by the Mayor or controlling group, and is therefore required to service all of the Council.
- 6.** Appraisal should take place at least annually, supplemented by regular monitoring meetings, and should be set in the context of the Council's objectives, priorities and targets as expressed in the Corporate Strategy.
- 7.** The focus of the process should be on clarifying what the Chief Executive is expected to achieve and on identifying any development needs which, if met, would maintain a high level of performance. The process of setting objectives should be by agreement and the result should be to identify objectives that are relevant and challenging, but achievable. Wherever possible standards of performance should be expressed in ways that can be monitored objectively.

8. As with every individual, the Chief Executive will have strengths and weaknesses, and the parties should identify the professional development necessary to equip the postholder with the skills needed to meet the Council's objectives. Occasionally, changes may be needed to the working relationship between the Mayor and/or councillors and the Chief Executive, and it should be accepted that this may apply on all sides.
9. The detailed content of appraisal interviews should normally be treated as confidential to the participants, unless both parties agree that it would be helpful for the targets agreed to be shared more widely.
10. A formal process of appraisal does not prevent the review of progress and performance or the application of capability/conduct procedures as necessary.

Proposal

11. The proposed terms of reference for the Performance Management Panel (PMP) are attached at Appendix A.
12. The membership of the PMP, which will meet at least annually, is proposed to be:
 - The Elected Mayor and the Party Group Leaders (who will be the voting members)
 - The Chief Executive and their trade union or professional association representative
 - Two representatives of the Local Government Association (LGA) and the Service Director HR (or nominee).
13. In advance of the Panel meeting, the Chief Executive will provide the LGA representatives with evidence of how they have met the agreed targets. The LGA representatives will make an assessment of the information supplied and will provide an agreed recommendation for the Panel's consideration of what if any level of performance-related pay should be awarded.
14. One of the LGA representatives will be invited to sit as an independent member of the Panel and must approve the final decision reached by the Panel.

Other Options Considered

15. None.

Risk Assessment

16. The risks of not putting in place a structured performance management process for the Chief Executive are:
 - Vesting the performance management of the Chief Executive in the controlling group only.
 - The parties may be in breach of employment contract
 - Achievement of the Council's key priorities may be monitored less frequently under informal arrangements
 - The absence of a comparative framework for judgements on the performance
 - Openness and transparency may be eroded

Public Sector Equality Duties

- 17a) Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:
- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
 - ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
 - iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
 - tackle prejudice; and
 - promote understanding.
- 17b) Not applicable because this report concerns an individual post.

Legal and Resource Implications

Legal

“The Report provides a recommendation for the establishment of a Performance Management Panel. This recommendation reflects the contractual requirement to ensure the Council has a process in place for the performance appraisal of the Chief Executive as set out by the JNC Chief Executives Conditions of Service.”

Advice provided by Husinara Jones (Lawyer), 6th March 2017.

Financial

(a) Revenue

“Advice not sought”

(b) Capital

“Advice not sought”

Land

Not applicable.

Personnel

“Within an appropriate framework, performance related pay provides a direct incentive to achieve well defined objectives. The performance culture of the council can be further developed with its introduction at the level of Chief Executive. Management derive assistance and direction from a corporate framework of the objectives set. The monitoring of objectives and the assessment of achievements that includes an independent review, prior to award, provides appropriate rigour and reassurance to the council.”

Advice provided by Sandra Farquharson (Interim Head of Human Resources), 4th March 2017.

Appendices:

A – Performance Management Panel terms of reference

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**Background Papers:**

None.