

HR Committee

19th October 2017



Report of: Interim Service Director Human Resources

Title: Review of the Constitution – HR matters

Ward: N/A

Officer Presenting Report: Jacquie McGeachie

Contact Telephone Number: (0117) 92 22000

Recommendation

That the Committee endorses the proposed changes to the Constitution in respect of HR matters.

Summary

This report seeks the views and endorsement of the Committee to proposed changes to the Council's Constitution in respect of HR matters relating to chief officers and deputy chief officers.

The significant issues in the report are:

- The Committee has recommended a number of constitutional changes to full Council in recent times and there is a need to undertake some tidying-up.
- There are some procedural gaps in the current constitution and the amendments proposed by this report aim to ensure that the majority of situations are properly provided for.
- The proposed merger of the HR Committee with the Selection Committee to form an Employment and Remuneration Committee aims to bring together all experience and knowledge of HR matters into one place (except for appeals, which are necessarily a separate 3-member non-partisan panel). The new committee would have an increased focus on remuneration, and would have access to independent advice in discharging those duties.
- It is proposed that a member of the Executive become a permanent member of the Employment and Remuneration Committee.
- There is no proposal to remove the provision for any employee to have their appeal against dismissal heard by members of the Appeals Committee.
- The current political composition of full Council requires selection panels to be made up of 7 members so that all political groups are represented. Members' views are invited on the feasibility of moving to 5 or 3-member selection panels for certain chief officer/deputy chief officer appointments.

Policy

- 1.** The Officer Employment Procedure Rules are part of the Council's Constitution and govern the involvement of members in the employment, discipline and dismissal of chief officers and deputy chief officers.
- 2.** Terms of reference and membership of the Appeals Committee, HR Committee and Selection Committee are set at each Annual Council Meeting.

Consultation

- 3. Internal**
Trade unions will be consulted through the Corporate Joint Consultative Committee.
- 4. External**
None required.

Context

- 5.** The Committee has recommended a number of constitutional changes to full Council in recent times and there is a need to undertake some tidying-up to ensure clarity and full compliance with both the law and nationally-negotiated terms and conditions of employment for chief officers and deputy chief officers.
- 6.** There are some procedural gaps in the current constitution and the amendments proposed by this report aim to ensure that the majority of situations are properly provided for. The proposed Officer Employment Procedure Rules and Terms of Reference showing tracked changes are attached at Appendices A and B respectively.
- 7.** The proposed merger of the HR Committee with the Selection Committee to form an Employment and Remuneration Committee aims to bring together all experience and knowledge of HR matters into one place (except for appeals, which are necessarily a separate 3-member non-partisan panel). The new committee would have an increased focus on pay, and would have access to independent advice in discharging those duties.
- 8.** It is proposed that a member of the Executive become a permanent member of the Employment and Remuneration Committee.
- 9.** There is no proposal to remove the provision for any employee to have their appeal against dismissal heard by members of the Appeals Committee.
- 10.** The current political composition of full Council requires selection panels to be made up of 7 members so that all political groups are represented. Members' views are invited on the feasibility of moving to 5 or 3-member selection panels for certain chief officer/deputy chief officer appointments.
- 11.** Members have also requested sight of the guidance used to support chief officer and deputy chief officer selection processes: this is attached at Appendix C for information.

Proposal

11. That the Committee endorses the proposed changes to the Constitution in respect of HR matters.

Other Options Considered

12. None.

Risk Assessment

13. Failure to ensure that the Council's Constitution is up-to-date and compliant with the law and nationally-negotiated terms and conditions of employment will leave the Council at risk of legal challenge.

Public Sector Equality Duties

- 14a) 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.
- 14b) An Equality Impact Assessment has not been completed as no employee will be affected by the proposals.

Legal and Resource Implications

Legal

"The review of the Constitution in relation to HR matters and the terms of reference of the Employment and Remuneration Committee are in accordance with the law."

Advice provided by Husinara Jones (Senior Practitioner (Solicitor)), 10th October 2017.

Financial

(a) Revenue

"No finance comment"

(b) Capital

"No finance comment"

Advice provided by Kevin Lock (Finance Manager), 11th October 2017.

Land

Not applicable.

Personnel

"The proposed terms of reference clearly set out the roles and responsibilities of Members in staffing matters. The Council's HR Policies of the council will be updated to reflect the revised constitutional arrangements when they have been agreed by Full Council."

Advice provided by Mark Williams (HR Business Partner), 10th October 2017.

Appendices:

A – Officer Employment Procedure Rules (tracked changes)

B – Terms of Reference (tracked changes)

C – Briefing Note for Members on Proceedings of the Selection Committee

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

None.