

Report to the Constitution and Member Services Standing Scrutiny Panel



Date of meeting: 25 June 2013

Report of: Assistant to the Chief Executive

Subject: Employment Procedure Rules

Responsible Officer: I Willett (01992 564243)
Assistant to the Chief Executive

Committee Secretary: Mark Jenkins (01992 564607)
Democratic Services Officer

Recommendations:

(1) That, in accordance with the advice of Counsel the Staff Employment Procedure Rules (including the Operational Standing Orders for staff) be amended as set out in Appendix 1; and

(2) That, subject to the consideration of these revisions, a report be submitted to the Overview and Scrutiny Committee and the Council recommending adoption of these various constitutional changes.

Report:

1. Introduction

1.1 On 14 February 2012 (Minute 117) the Council adopted new procedures for top management officer appointments within the Council. This followed a specially convened review by a Task and Finish Scrutiny Panel which explored concerns about the contractual arrangements for previous Chief Executives.

1.2 As part of this process, Counsel was instructed to give advice on the Council's Redundancy and Redeployment Policy and Procedure and also to carry out a review of the Constitution's Staff Employment Rules and Operational Standing Orders to ensure that all processes were consistent.

2. Staff Employment Procedure Rules

2.1 The current Staff Employment Procedure Rules derive from the Local Government Act 2000 and represent statutory advice from the Government. These rules are set out on pages M2-4 of the Constitution folder and are supplemented at pages M5-9 by the Operational Standing Orders for Staff.

2.2 These rules cover matters such as recruitment and appointment of staff, redundancies, dismissals and disciplinary action for all posts and in particular those at top management level, e.g., Chief Executive/Head of Paid Service, Deputy Chief Executive and Chief Officers and Deputy Chief Officers.

3. Counsel's Opinion

3.1 Counsel's advice drew attention to the need to review some aspects of the Staff

Employment Procedure Rules and Standing Orders and also responsibility for functions.

- 3.2 Counsel has advised that the Officer Employment Procedure Rules, although dealing with appointment and disciplinary action, do not cover dismissal. He points out that the latter provisions are set out in a separate appendix (page M5 – Operational Standing Orders – Staff) and recommends that those sections should be integrated into the rules with clarification in the text concerning dismissal by reason of redundancy.
- 3.3 Appendix 1 to this report shows the amended rules recommended by Counsel. Counsel's recommended changes also clarify the position of certain key post holders, or designated officers and politically restricted posts which are not subject to the normal redundancy policy. Certain designations (e.g. Head of Paid Service, Monitoring Officer and Chief Financial Officer and deputies to the latter two positions) are statutory in origin but are not substantive posts in themselves.
- 3.4 Appendix 2 shows the present version.
- 3.5 At Section 6 of the revised rules, an additional panel is proposed to deal with top management posts, which is akin to the Appointments Panel which dealt with the position of Chief Executive recently. This would need to be appointed by the Council as and when required.

4. Right of Objection to Appointments/Dismissal by the Executive

- 4.1 The Local Authorities (Standing Orders) Regulations 2001 put in place certain procedures which allow the Executive of a Council to object to a proposed appointment of a range of senior positions or for dismissal from those positions and requires the Council to determine whether or not any objection received is sound.
- 4.2 The Task and Finish Panel called for more clarity in the Staff Employment Procedure Rules as to the process to be adopted in allowing the Executive to object where appropriate. Those procedures are currently set out in the Operational Standing Orders – Staff and, on the basis of the advice of Counsel to integrate the two documents more closely, these have now been reproduced in new Sections 8 and 11 within the Procedure Rules document.

5. Operational Standing Orders – Staff

- 5.1 As a result of the changes made to the rules, the accompanying Standing Orders are much reduced in length and a revised version is set out in Appendix 1 to this report.

6. Next Steps

- 6.1 These various changes, if agreed, represent changes to the Constitution which require approval by the Overview and Scrutiny Committee before submission to the Council for adoption.