

Report to the Council

Report of: Constitution and Member Services SSP **Date:** 30 July 2013

Chairman: Councillor J Philip

1. EMPLOYMENT PROCEDURE RULES

RECOMMENDING:

- (1) That, in accordance with the advice of Counsel, the Staff Employment Procedure Rules (including the Operational Standing Orders for staff) be adopted as set out in Appendix 1;
- (2) That the Council appoint at this meeting 7 deputies for the present Restructuring Review Panel on the nomination of Group Leaders so as to ensure that the Council is able to comply with the requirements of the revised Employment Procedure Rules when adopted;
- (3) That, when required, a second Panel be formed from among the seven members and deputies appointed to the Restructuring Panel to deal with any appeals under the Employment Procedure Rules against redundancy subject to the seven members concerned not having been involved in the original redundancy decision
- (4) That all members and deputies serving on the Restructuring Review Panel be trained in the requirements of these rules and related legal requirements before the Directorate Restructuring process commences;
- (5) That the Finance & Technology Portfolio Holder be asked to review whether there is sufficient budgetary provision for training for Panel members in the current year
- (6) That a similar pool of 14 Panel members and deputies be appointed at future Annual Council meetings so that the Council is able to respond promptly when the Employment Procedure rules are engaged and that all appointed members and deputies be trained in the relevant procedures when required; and
- (7) That the Chairman and Vice Chairman of any Panel convened in future years for the purposes of the Employment Procedure Rules be appointed by Panel members at the meeting concerned.

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.

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, including changes to 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. Changes to the rules are highlighted in bold type.
- 3.4 Section 6 of the revised rules refers to a Panel to deal with appointments to top management posts. There are references to other Panels dealing with redundancies, dismissal and suspensions/disciplinary action. These are all to comprise 7 members and are to be allocated between political groups on a pro rata basis.
- 3.5 For future years, we are recommending that the appointment of a Panel of 7 Councillors plus 7 deputies should be appointed under the generic title of Employment Procedures Panel so that when the Rules become engaged, Panels can be convened quickly and in accordance with the timescales set out in the Rules. The Council would lose time if Panel memberships have to be agreed on an ad hoc basis.
- 3.6 However, we have noted that the Panel established to deal with the forthcoming Directorate Restructuring Review includes within its terms of reference responsibility

for appointments at Director level and redundancies. However the issue of dismissal, disciplinary action is not covered and we recommend that the present Panel should have appointed substitutes to increase the pool of available members. In the event of such matters arising, the Council would then be able to draw members from that pool. Where appeals are involved a Panel would have to comprise members who had not been involved in an earlier decision.

- 3.7. We feel it is very important that all Panel members and deputies are trained in the procedures covered by the Officer Employment Rules both for the purposes of the forthcoming Directorate review and for the future.

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.
- 5.2 We recommend as set out at the commencement of this report.