

# Modernisation of HDC Governance and Democratic Arrangements



**Report to:** Council

**Date:** 23 May 2024

**Lead Officer:** Yvonne Rees Chief Executive (01279) 446004

**Contributing Officer:** Julie Galvin Legal Services Manager and Monitoring Officer (01279) 446045

## Executive Summary

**A** This report seeks approval for the creation of a Personnel Committee together with the required minor amendments to modernise the Constitution and facilitate the introduction of the proposed committee

## Recommended that:

- A** The Monitoring Officer, in consultation with the Leader of the Council and Chief Executive is given delegated powers to finalise a governance structure to create a Personnel Committee.
- B** The draft terms of reference for the Personnel Committee as shown at Appendix A of this report is noted and approved.
- C** The required minor amendments to the Constitution to facilitate the Personnel Committee as shown at Appendix B of this report are noted and approved.
- D** Members note and approve the draft changes as shown in Appendix B.

## Reason for decision

- A** The creation of a personnel committee will provide a forum for Members to have oversight of employment statistics and policy affecting the employment of staff.
- B** The proposed draft changes to the Officer Employment Procedure Rules as shown in Appendix B ensures;

- (i) That Council will determine the permanent appointments and dismissal of Chief Officers and Statutory Officers following recommendations of the appropriate Panels.
- (ii) That the Head of Paid Service in consultation with the Leader of the Council will determine the appointment of Interim Chief Officers and Deputy Chief Officer roles (be they permanent or otherwise).
- (iii) That the Head of Paid Service will determine and manage the appointment of all other temporary or permanent officer posts.

## **Other Options**

**A** None.

## **Background**

1. In April 2024 Members approved the creation of an Investigatory and Disciplinary committee, together with the governance for the same.
2. The creation of a personnel committee will complement the work and scope of the Investigatory and Disciplinary committee, by having oversight of policy affecting the employment of staff.

## **Issues/Proposals**

3. The Monitoring Officer has delegated authority to recommend updates and the modernisation of the Constitution in line with best practice.
4. The Chief Executive and officers wish to modernise and align the constitution to support and facilitate the recruitment and retention of staff, and ensure full oversight of employment policy.
5. The creation of a personnel committee ensures clear lines of employment process and decision making for both statutory officers and the corporate leadership team.
6. As a result of the proposed changes set out in this report; Members will be central to all appointments and dismissal making in respect of Chief officer appointments, and in parallel, appointments to Assistant Director officer posts and below will be directed and managed by Head of Paid Service.

## **Implications**

### **Equalities and Diversity**

Policy and process will need to satisfy continued statutory duties imposed by the Equality Act 2010. No Equality Impact Assessment is required as a result of the proposed governance structure and introduction of a Personnel Committee.

### **Climate Change**

None

### **Finance**

The current member allowance scheme within the constitution states the Chair of “Other Committees” will receive a special responsibility allowance (SRA). As the Personnel Committee is a new Committee, the Chair will receive an SRA of £1,561 a year, in addition to their basic allowance. A Councillor may only receive one SRA.

Author: Jacqueline Van Mellaerts, Deputy Section 151 Officer and Assistant Director – Finance

### **Governance**

The provision of processes and appropriate appeals panels support transparent and clear decision making. As part of the Local Government Pension Scheme any decisions made must reflect any scheme guidance or requirements

Author: Julie Galvin, Monitoring Officer and Legal Services Manager

## **Appendices**

Appendix A – Personnel Committee Terms of Reference

Appendix B - Minor amendments to the Constitution

## **APPENDIX A**

### Personnel Committee Terms of Reference

#### 1.1 Appointed by

- a) Full Council

#### 1.2 Chair/Vice Chair

To be determined by Full Council

#### 1.3 Membership

At least one member must be part of the Cabinet

#### 4. Terms of Reference

4.1 Determination and review of all policies affecting the employment of staff.

4.2 Monitoring of employment statistics for the Authority

4.3 To exercise discretion (subject to any extant pension scheme requirements) on behalf of the Council to award any enhanced pension rights

4.4 To determine formal applications by the Head of Paid Services, s.151 Officer, Monitoring Officer and Chief Officers for changes to their terms and conditions of employment, including flexible retirement requests

## APPENDIX B Minor amendments to the Constitution

### 1 Investigatory and Disciplinary Committee (Statutory Officers and Directors) terms of Reference

1.1. Appointed by:

- a) Full Council

1.2. Membership

- a) Five Councillors allocated between political groups in accordance with the rules on political balance set out in the Local Government and Housing Act 1989.
- b) At least one member must be part of the Cabinet.

1.3. Chair/Vice Chair

To be determined by Full Council.

1.4. Terms of Reference

- a) To consider any allegation of misconduct capability or break down of trust against the Head of Paid Service, the Section 151 (Chief Financial Officer) ~~or~~ Monitoring Officer (“Statutory Officers”) or Directors (collectively “Officer”)
- b) To authorise an investigation in relation to matters referred to in a) above (with set timescales), including (where appropriate) the appointing of an Independent Person who will consult with the Chair of the Committee.
- c) Decide when the matter can be dealt with by informal resolution or other appropriate procedures of that there is no case to answer and advise the Statutory Officer accordingly
- d) To suspend the Statutory Officer, if deemed appropriate, whilst an investigation takes place into alleged misconduct, for a period of up to two (2) months. The Chair will have delegated powers to review the suspension after the two-month period. Where appropriate ~~t~~The suspension may only be extended following consultation with the Independent Person and the consideration of representations by the Statutory Officer. The Chair will also have delegated authority to suspend the Statutory Officer immediately in an emergency.

- e) To review the outcome of the investigation to consider whether disciplinary action is appropriate, after hearing the **Statutory** Officer under investigation, and report its recommendations to Full Council
- f) To take disciplinary action short of dismissal against the Statutory Officer.
- g) To make a recommendation to the Independent Panel of dismissal against the Statutory Officer.
- h) The Committee will be governed by the provisions contained in Part 5 of the Constitution (Officer Employment Procedure Rules) and guidance from the JNC.

## 2 Investigatory and Disciplinary (Statutory Officers **and Directors**) Appeals Panel (“Appeals Panel”)

### 2.1. Appointed by:

- a) Full Council

### 2.2. Membership:

- a) Five Councillors allocated between political groups in accordance with the rules on political balance set out in the Local Government and Housing Act 1989.
- b) No Councillor must also be on the Investigatory and Disciplinary Committee (Statutory Officers).
- c) At least one member must be part of the Cabinet.

### 2.3. Chair/Vice Chair

- a) To be determined by Full Council.

### 2.4. Terms of Reference

a) To determine appeals against decisions, short of a recommendation of dismissal, made by the Investigatory and Disciplinary Committee (Statutory Officers **and Directors**) in respect of **Statutory Officers**.

a)b) To determine appeals against decisions, made by the Investigatory and Disciplinary Committee (Statutory Officers **and Directors**) in respect of **Directors non-statutory officers**.

- b)c) To consider the report of the report of the Independent Person, other relevant information considered by the Committee, and any representations made ~~by the statutory officer~~ at the meeting.
- e)d) To determine whether the decision of the Committee should be upheld, a lesser sanction should be imposed, or no sanction imposed and advise ~~the Statutory Officer~~ accordingly
- d)e) The Appeals Panel will be governed by the provisions contained in Part 5 of the Constitution (Officer Employment Procedure Rules) and guidance from the JNC.

## Terms of Reference for Working Groups, Parties and Panels

### 1 Appointments Panel

- 1.1. Recommends the appointment of the Chief Executive and statutory officers (following short listing and interview) to Council to determine.
- 1.2. Appoint all other Chief Officers ~~and Deputy Chief Officers~~ (as defined in the Constitution)
- 1.3. Where an appointment for a Chief Officer is being considered (other than for the Chief Executive or the Head of Paid Service – if they are separate roles), the Chief Executive will be a non-voting member of the Panel.  
~~1. — Where an appointment for a Deputy Chief Officer is being considered, the relevant Chief Officer and/or the Chief Executive (or Head of Paid Service if they are separate roles) will be a non-voting member of the Panel.~~

### Officer Employment Procedure Rules amendment as follows:

#### 5 Other appointments

- 5.1. The appointment of all Chief Officers ~~and Deputy Chief Officers~~ will be subject to Full Council upon the recommendation of the Appointments Panel ~~(except for where those positions are Head of Paid Service or Statutory Officers on which it will recommend appointments to Council).~~

5.2. Appointment of Deputy Chief Officers ~~below Deputy Chief Officers~~ is the responsibility of the Head of Paid Service or their nominee in consultation with the Leader of the Council ~~and will not be made by Councillors.~~

5.3 appointment of all Interim Chief Officers and Interim Deputy Chief Officers remain with Head of Paid Service in consultation with Leader

5.4 appointment of all any other officer remains with Head of Paid Service

5.53. Members of the Appointments Panel must undertake recruitment and selection training prior to their participation in recruitment processes.

## 8 Interpretation

8.1. For the purposes of these rules, "Chief Officers" are the Chief Executive and Directors. Deputy Chief Officers are Assistant Directors.

### **Scheme of Delegations to Officers – (Part 1) General Provisions amendment as follows:**

2.1. The Chief Executive and any Officer acting in their place in accordance with paragraph 2.1& 7 below may discharge the functions of, any of the Council's Committees or the Cabinet, the professional and managerial functions relating to their service and any of the Council's functions in cases of emergency.

2.2. The Chief Executive and Director (any Officer acting in their place in accordance with paragraph 1& 7 below) may discharge the general functions delegated to them (in paragraphs 2.3 to 2.1& 7 below). They may also delegate the specific professional and managerial functions relating to their service as identified below.