

REPORT TO:	Extraordinary Meeting of Council 8 February 2021
SUBJECT:	Appointments Committee
LEAD OFFICER:	Katherine Kerswell, Interim Chief Executive
WARDS:	All
FINANCIAL IMPACT:	
There is no additional expenditure arising directly from the recommendations contained in this report.	

1. RECOMMENDATIONS

Council is recommended to:

- 1.1 Following the change of Leader of the Council, suspend paragraph 2.4 of Part 4F of the Constitution in order to appoint a new Chair of the Appointments Committee;
- 1.2 Appoint Councillor Hamida Ali as the Chair of the Appointments Committee for the remainder of the 2020/21 Municipal Year;
- 1.3 Agree to amend Part 3 of the Constitution (Responsibility for Functions) and Part 4J (Staff Employment Procedure Rules) as detailed in paragraph 5.

Reasons for urgency: *This report has been agreed by the Mayor to be an item of urgent business to ensure that the Council has made adequate provision for the Appointments Committee to operate fully within its terms of reference as detailed in Part 3 of the Constitution.*

2. EXECUTIVE SUMMARY

- 2.1 This report seeks Council's approval to appoint a new Chair of the Appointments Committee and to amend two parts of the Constitution to clarify responsibility for certain actions in relation to the functions of the Appointments Committee.

3. BACKGROUND

- 3.1 At its extraordinary meeting on 19 November 2020, Council noted that an independent initial investigation into corporate management actions, organisational systems and environment in response to the Report in the Public Interest had been commissioned and that this independent investigation would include an assessment of what, if any, formal action was required to be taken under any relevant processes.

- 3.2 While the report of that independent initial investigation is yet to be finalised, a prudent approach has been taken to review the preparedness of the governance arrangements for the Appointments Committee should the report make any recommendations that formal action may be required to be taken.
- 3.3 Members will also be aware that, as part of Croydon's renewal plans, the Council is currently undertaking a management restructure. The review of the governance arrangements for the Appointments Committee has also been undertaken in that context, to ensure that any meetings of that Committee, if required, can be properly constituted.
- 3.4 This review has identified that the Council should both urgently appoint a Chair of the Appointments Committee and amend the Constitution to clarify where responsibility lies for undertaking certain aspects of the powers delegated to the Committee.

4. APPOINTMENT OF CHAIR OF THE APPOINTMENTS COMMITTEE

- 4.1 Paragraph 2.4 of Part 4F of the Constitution allows committees of the Council to fill vacancies to the role of Chair or Vice-Chair at their next ordinary meeting.
- 4.2 As with all Committee Chairs, the Chair of the Appointments Committee has power delegated to them in relation to a number of aspects of the operation of the Committee. It is considered prudent to ensure that this post is filled immediately in the event that there is any need for any of those powers to be exercised.
- 4.3 On that basis, Council is recommended to suspend paragraph 2.4 of Part 4F of the Constitution in order to appoint Councillor Hamida Ali as the Chair of the Appointments Committee for the remainder of the 2020/21 Municipal Year.

5. AMENDMENTS TO THE CONSTITUTION

- 5.1 The Constitution currently makes provision for the Appointments Committee to consider certain matters above a defined threshold, if necessary to do so, that relate to the Head of Paid Service, Monitoring Officer and the Chief Finance Officer.
- 5.2 In describing those functions, there is currently a conflict between Part 3 (Responsibility for Functions) and Part 4J (Staff Employment Procedure Rules) of the Constitution in relation to the authority to make provisional suspension of Statutory Officers and Chief Officers should such a situation arise.
- 5.3 In order to clarify the responsibility for this particular aspect of the Constitution, it is recommended that the following amendments be made:
 - (i) That Paragraph 2.1(7) of Part 3 be amended to read:
“Consideration of Suspension of the Head of Paid Service, Chief Finance Officer or Monitoring Officer, including following provisional

suspension in accordance with the Staff Employment Procedure Rules in Part 4 of the Constitution”;

- (ii) That Paragraph 4.5 of Part 4J be amended to read:
“Suspension: The Head of Paid Service, Chief Finance Officer or Monitoring Officer may be suspended by resolution of the Appointments Committee on full pay while a disciplinary investigation and disciplinary proceedings are conducted into alleged misconduct or gross incapability.”;
- (iii) That Paragraph 4.6 of Part 4J be amended to read:
“Provisional / Urgent Suspension: In exceptional circumstances, the Director of Human Resources (or officer in that role), having taken legal and HR advice may temporarily suspend the Head of Paid Service, Chief Finance Officer or Monitoring Officer for up to ten days pending the Appointments Committee being convened to consider suspension under paragraph 4.5 above”.
- (iv) That an additional paragraph be added to Part 4J at 4.6(a) that reads:
“Provisional / Urgent Suspension of Non-Statutory Chief Officers: In exceptional circumstances, the Director of Human Resources (or officer in that role), having considered both legal and human resources advice, may temporarily suspend a Non-Statutory Chief Officer for up to ten days pending full initial assessment of the allegations against the Non-Statutory Chief Officer by the Chief Executive or their nominated representative”.
- (v) That the reference made in Paragraph 4.7 to “Paragraphs 4.5 and 4.6” be amended to read “...paragraphs 4.5, 4.6 and 4.6(a)...”.

5.4 Part 4J also contains three erroneous references to incorrect paragraph numbers that require correction. In order to remedy these drafting errors, it is recommended that:

- (i) That the erroneous reference to a paragraph 7.1 in Paragraph 1.2 of Part 4J be amended to read “4.1”; and
- (ii) That the erroneous references to paragraphs 7.5 and 7.6 in Paragraph 4.7(e) of Part 4J be amended to read “4.5” and “4.6” respectively.

6. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

6.1 While there are no costs arising directly from the recommendations detailed in this report, should any matters be presented for formal consideration by Members at any point in the future, they may incur additional costs relating to the remuneration of independent investigators, external advice to Members and any necessary training for Members.

7. LEGAL CONSIDERATIONS

- 7.1 The filling of a vacancy in the role of the Chair of the Appointments Committee is proposed in a manner consistent with the Constitution by suspending paragraph 2.4 of Part 4F of the Constitution.
- 7.2 The changes proposed to Part 3 of the Constitution (Responsibility for Functions) and Part 4J (Staff Employment Procedure Rules) as detailed in paragraph 5 of this report are in accordance with the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001 as amended which impose certain requirements to be set out in the Constitution. These requirements establish procedural safeguards for certain senior officers which are important to be observed and set out in the Constitution.
- 7.3 The Staff Employment Procedure Rules already contain the power for the Director of Human Resources to suspend on an urgent but temporary (ten days) basis the Head of Paid Services, and it is appropriate to expressly include further senior officers within the ambit of this power, subject to the requirement to refer any such suspension to the appropriate Committee for a decision upon whether or not to continue such suspension.
- 7.4 The Council has received external legal advice in this matter.

Approved by Sandra Herbert, Head of Litigation and Corporate Law on behalf of the interim Director of Law and Governance & Deputy Monitoring Officer.

8. HUMAN RESOURCES IMPACT

- 8.1 There are no additional Human Resources implications beyond those already described in the main body of the report.

Approved by: Sue Moorman, Director of Human Resources.

9. DATA PROTECTION IMPLICATIONS

- 9.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

The recommendations contained in this report will not directly involve the processing of personal data.

Approved by Elaine Jackson, Interim Assistant Chief Executive

CONTACT OFFICER: Stephen Rowan, Head of Democratic Services and Scrutiny

APPENDICES TO THIS REPORT: None

BACKGROUND DOCUMENTS: There are no unpublished documents on which this report has been based.