

LONDON BOROUGH OF CROYDON

REPORT:	GENERAL PURPOSES COMMITTEE	
DATE OF DECISION	10th June 2024	
REPORT TITLE:	PROPOSED CHANGES TO THE CONSTITUTION RELATING TO STAFFING MATTERS	
CORPORATE DIRECTOR / DIRECTOR:	MARIE SNELLING INTERIM ASSISTANT CHIEF EXECUTIVE/DEAN SHOESMITH CHIEF PEOPLE OFFICER	
LEAD OFFICER:	GILLIAN BEVAN HEAD OF HR, RESOURCES AND ACE DIRECTORATES Email: Gillian.bevan@croydon.gov.uk	
LEAD MEMBER:	CLLR JASON CUMMINGS	
AUTHORITY TO TAKE DECISION:	The terms of reference of the General Purposes Committee (see Part 3 of the Constitution, Responsibility for Functions) allow it to conduct periodic reviews of the Constitution and consider changes to the Constitution recommended by the Constitution Working Group and to refer any proposals to Full Council for approval.	
KEY DECISION?	No	REASON: N/A
CONTAINS EXEMPT INFORMATION?	No	Public
WARDS AFFECTED:	All	

1 SUMMARY OF REPORT

- 1.1 This report recommends important changes to be made to the Staff Employment Procedure Rules (Part 4J of the Council's Constitution) as well as other related changes to the Constitution, embedding lessons learned from recent employment tribunal proceedings and practical application of the rules, ensuring clear governance in relation to senior staffing matters.

2 RECOMMENDATIONS

- 2.1 For the reasons set out in the report, the General Purposes Committee is recommended to:
 - 2.1.1 review and comment on the proposed changes to the Constitution contained in paragraph 4.5 of this report and **Appendix 1**; and
 - 2.1.2 recommend to Full Council the approval of the proposed changes.

3 REASONS FOR RECOMMENDATIONS

- 3.1 To ensure efficient and effective governance and decision-making processes are in operation and that important lessons learned are embedded in the Council's Constitution and in practice.

4 BACKGROUND AND DETAILS

- 4.1 This report seeks to make staffing changes to the Council's Constitution, to ensure straightforward and effective decision-making occurs in relation to senior staffing matters. The following sections set out the key changes being recommended which have been the subject of consultation with the Constitution Working Group in advance of being presented to this Committee.
- 4.2 Following a review of the Constitution, it is proposed that the Council's Staff Employment Procedure Rules (Rules) at Part 4.J be amended as set out in **Appendix 1**.
- 4.3 The proposed changes to the Staff Employment Procedure Rules:
 - 4.3.1 Generally make updates and improvements and correct drafting slips.
 - 4.3.2 Reflect the established practice of the Appointments and Disciplinary Committee (ADC) making appointment decisions at Director level and above (1.1).
 - 4.3.3 State explicitly that the rules are supplemented by operational guidance and/or HR procedures (1.4).
 - 4.3.4 Allow the Head of Paid Service (HoPS) to make minor changes (1.5).
 - 4.3.5 Change officer delegation arrangements for interim or fixed term appointments (3.2(2) and (3)) as follows:

- **deputy chief officers at Director Grade 1 and above:** the HoPS to make appointments for less than two years with a requirement for Members of ADC to be notified. Any further extension to be approved by ADC;
 - **Corporate Directors, the Monitoring officer and the Director of Public Health:** the HoPS to make appointments up to one year with a requirement for Members of ADC to be notified. Any further extension to be approved by ADC; and
 - **HoPS:** ADC to recommend appointment to Full Council.
- 4.3.6 Make explicit that there is a right of appeal to ADC against decisions to dismiss or take disciplinary action against Corporate Directors and the Director of Public Health (4.2(2)). Alternatively, if the HoPS or Chief People Officer refers the disciplinary action to ADC for consideration, there is a right of appeal to the Appeals Committee.
- 4.3.7 Make explicit that there is a right of appeal to the HoPS against decisions to dismiss or take disciplinary action against deputy chief officers (4.2(3)).
- 4.3.8 State that ADC (as opposed to the Ethics Committee) should agree the processes and procedures for ADC's consideration of disciplinary matters (4.4).
- 4.3.9 Clarify the rules on suspension (4.10-4.12). Normally, ADC decides whether to suspend the HoPS, Chief Finance Officer or the Monitoring Officer following the JNC Chief Executive's model disciplinary procedure. If urgent, however, the HoPS or Chief People Officer may suspend up to 10 days. The suspension of all other officers is governed by the Council's disciplinary procedure (4.2 (2) and (3)).
- 4.4 In addition to the proposed changes to the Rules, it is also proposed to amend the terms of reference of ADC:
- 4.4.1 so that they align with the Rules;
 - 4.4.2 by transferring from the General Purposes Committee to ADC the functions of recommending a pay policy statement and approving, in limited and specified circumstances, special severance payments. The aim is to make ADC responsible for all staffing matters; and
 - 4.4.3 excluding ADC and the Appeals Committee from the guillotine provisions (i.e. the 3 hour limit on meetings with an extension of 30 minutes following a vote) because, when conducting interviews, ADC meetings often last longer. Although rare, it is also important that provision is made for hearings conducted by ADC and the Appeals Committee to run their proper course and not be time limited.
- 4.5 Other consequential changes or improvements are also proposed as set out below:

“CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

PART 2

ARTICLE 4 The Full Council

4.1 Functions of the Full Council

- (k) Following receipt of a report from the Appointments and Disciplinary Committee and Independent Panel under the Staff Employment Procedure Rules, to consider ~~disciplinary action, including~~ dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer. Before the taking of a vote at the relevant Council meeting on whether or not to approve such a dismissal, full Council must take into account, in particular:
- (a) any advice, views or recommendations of the Appointments and Disciplinary Committee and the Independent Panel;
 - (b) the conclusions of any investigation into the proposed dismissal; and
 - (c) any representations from the relevant officer.

PART 3 – RESPONSIBILITY FOR FUNCTIONS

2.1 Appointments and Disciplinary Committee (Membership 6 including at least one Member of the Cabinet.)

1. To carry out interviews and make appointments in accordance with the Staff Employment Procedure Rules at Part 4.J of the Constitution.

1.2. To carry out interviews and recommend to Council appointments to the roles of ~~Corporate Directors and~~ the Head of Paid Service (Chief Executive ~~(Head of Paid Service)~~, Chief Finance Officer and Monitoring Officer ~~to such other senior posts~~ in accordance with the Staff Employment Procedure Rules ~~at~~ Part 4.J of the Constitution.

3. To carry out interviews and recommend to Council the appointments ~~in respect~~ of the Independent Chair of Audit and Governance Committee.

4. Approve the grading and conditions of service of staff employed on the JNC conditions of service for Chief Executives and Chief Officers (respectively).

4. —

5. ~~The function in respect of voting on salary packages upon appointment~~ Subject to the exceptions specified below, agree the level of remuneration for Chief Officer posts* not in existence at the time of the publication of the Council's Pay Policy Statement (current at the time) if the proposed remuneration is £100,000 per annum and above. The exceptions are: (1) roles which transfer to the Council through either TUPE or any other equivalent or similar statutory transfer process; or (2) roles arising out of

restructures to which the Council is obliged to match existing employees to or conduct a ring-fenced recruitment exercise.

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~~6. Consideration of disciplinary action, as defined within the Staff Employment Procedure Rules in Part 4 of the Constitution, which could result in dismissal and any disciplinary action short of dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer in accordance with the Staff Employment Procedure Rules at Part 4.J of the Constitution.~~

~~4. For this purpose, the Appointments and Disciplinary Committee shall include at least one Member of the Executive when consideration is being given to dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer. The Appointments and Disciplinary Committee shall consider the matter in accordance with the processes and procedures approved by Ethics Committee for this purpose from time to time. Where Appointments and Disciplinary Committee recommends dismissal it shall make a report and recommendations to full Council for consideration and final determination. Any such report shall specifically include the Committee's recommendations on appropriate action and the views of the Independent Panel.~~

~~7. 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 at Part 4.J of the Constitution.~~

~~8. Consideration of appeals by Non-Statutory Chief Officers (including the statutory roles of Director of Children's Services and Director of Adult Social Services) against dismissal or disciplinary action in accordance with the Staff Employment Procedure Rules at Part 4.J of the Constitution.~~

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~~9. If the proposals are being made in the context of litigation and the making of the decision is urgent, consideration of severance packages of staff above such specified threshold as may, from time to time, be updated by statutory guidance.~~

~~10. To agree the Committee's processes and procedures for the consideration of disciplinary matters in accordance with the Staff Employment Procedure Rules at Part 4.J of the Constitution.~~

~~11. Consideration and recommendation to Full Council of the Pay Policy Statement as and when required.~~

~~12. Consideration of any other staffing matter which is neither reserved to Full Council nor delegated to another committee and is referred to the Committee by the Head of Paid Service or Chief People Officer.~~

* As defined in the Council's Pay Policy Statement (current at the time).

2.22.2 Appeals Committee

(Membership 6: Members who shall not be members of the Appointments and Disciplinary Committee but must include at least one member of the Executive).

Purpose

1. To hear appeals against any action short of dismissal taken by the Appointments and Disciplinary Committee against the Head of Paid Service, Monitoring Officer or Chief Finance Officer.
- ~~1.~~ To hear appeals against disciplinary action (including dismissal) taken by the Appointments and Disciplinary Committee against
2. Non-Statutory Chief Officers (including the statutory roles of Director of Children's Services and Director of Adult Social Services) in accordance with the Staff Employment Procedure Rules at Part 4.J of the Constitution.

4. CORPORATE DIRECTORS

- 4.1 The Council may appoint such officers as it considers appropriate for the discharge of its functions. The following posts shall be Corporate Directors for the purposes of this Constitution and which form the Corporate Management Team together with the Chief Executive ~~and Assistant Chief Executive~~:

Corporate Director /DCS Children, Young People & Education
Corporate Director/DASS Adult Social Care & Health
Corporate Director Sustainable Communities, Regeneration & Economic Recovery
Corporate Director Resources
Corporate Director Housing
Assistant Chief Executive

The statutory officers are detailed in Article 12 of this Constitution.

- 4.7.8 the approval of the Chief People Officer to the grading and conditions of service of staff (other than those based in schools or subject to the JNC conditions of service ~~efor the~~ Chief Officers and Chief Executives ~~J.N.C.~~) (respectively);
- 4.7.9 the approval of the Appointments and Disciplinary Committee to the grading and conditions of service of staff employed subject to the JNC conditions of service ~~efor the~~ Chief Officers and Chief Executives ~~J.N.C.~~ (respectively).

Part 4.F – Non-Executive Committee Procedure Rules

- 3.5 In the event that a meeting of a non-executive committee (not including Planning or Planning Sub Committee, Licensing or Licensing Sub Committee or Appointments and Disciplinary Committee or Appeals Committee) has lasted for three hours the Chair shall interrupt the meeting and call for a vote of Members present on whether the meeting shall continue for a further 30 minutes."

- 4.6 Finally, as an enhancement of current reporting/accountability arrangements, the HoPS will present an annual report to ADC on staffing matters which will, among other things, set out the use made of officer delegated powers in the Staff Employment Procedure Rules to make interim or fixed term appointments.

5 ALTERNATIVE OPTIONS CONSIDERED

- 5.1 There are no alternatives to the proposals which are made to update the Constitution or correct drafting slips. The other proposed changes are intended to improve current decision-making arrangements. Members can, however, opt to retain the status quo or recommend to Full Council the approval of alternative arrangements.

6 CONSULTATION

- 6.1 The draft changes have been discussed and approved by the Constitution Working Group (CWG). Members of the Appointments and Disciplinary Committee and the Corporate Management Team have also been consulted about the proposed changes.

7. IMPLICATIONS

7.1 FINANCIAL IMPLICATIONS

- 7.1.1 There are no financial implications arising from this report.

- 7.1.2 Comments approved by Lesley Shields, Head of Finance for Assistant Chief Executive and Resources on behalf of the Director of Finance. 28/05/2024

7.2 LEGAL IMPLICATIONS

- 7.2.1 The proposed changes to the Constitution comply with the relevant requirements of the Local Government and Housing Act 1989 and the Localism Act 2011. They also comply with the mandatory standing orders all Councils have to adopt under the Local Authorities (Standing Orders) Regulations 1993 and the Local Authorities (Standing Orders) (England) Regulations 2001.

- 7.2.2 Adopting changes to the Council's Constitution is a non-executive function reserved to Full Council after the General Purposes Committee has considered the proposed changes and made a recommendation.

- 7.2.3 According to s9P of the Local Government Act 2000 the Council must keep its Constitution up to date.

7.3 EQUALITIES IMPLICATIONS

- 7.3.1 Under section 149 of the Equality Act 2010, the Council has a duty when exercising its functions to have “due regard” to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act and advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. This is the public sector equality duty. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.3.2 “Due regard” is the regard that is appropriate in all the circumstances. The weight to be attached to each need is a matter for the Council. As long as the Council is properly aware of the effects and has taken them into account, the duty is discharged.
- 7.3.3 There are no equalities impacts directly arising from the proposed changes.

7.4 HUMAN RESOURCES IMPLICATIONS

- 7.4.1 There are no additional human resources impacts beyond those described in the body of the report.
- 7.4.2 Comments approved by Gillian Bevan, Head of HR Resources and Assistant Chief Executives directorates on behalf of the Chief People Officer, Date: 09/05/2024

8 APPENDICES

- 8.1 Appendix 1- Draft changes to Part 4J – Staff Employment Procedure Rules

9 BACKGROUND DOCUMENTS

- 9.1 None.