

STAFFING COMMITTEE

Submitted by: **Head of Central Services**

Portfolio: **Communications Transformations and Partnerships**

Ward(s) affected:

Purpose of the Report

To delegate functions relating to the terms and conditions of staff (including procedures for dismissal) and pensions

Recommendations

(a) That in principle the council establish a staffing committee consisting of 6 Members to be responsible for the Council's functions as an employer including the Local Government Pension Scheme which are not delegated to Officers or referred to Full Council or constrained by the law with the terms of reference set out in this report.

(b) These functions include the adoption and amendment of all employment policies to the extent they relate to staffing matters to make representations to the Local Government Association and/or the Government or other organisations about any matter relating to employees of the Council and to make arrangements for members of the Committee to determine appeals of employees in accordance with the appropriate policies.

(c) That the Leader of the Council and the Chair of Transformation and Resources Overview and Scrutiny Committee having consulted with the Transformation and Resources Overview and Scrutiny Committee be authorised to finalise the details of the Committee in accordance with the agreed principles and the views of that Committee

Reasons

The Preferred solution balances the benefits and disbenefits of employment decisions being taken by Officers against the benefits and disbenefits of such decisions being made by Members.

1. Background

1.1 The Local Government Act 1972 provides that a Local Authority shall appoint such Officers as it considers necessary for the proper discharge of its or another's functions. Any employee appointed is required to hold office on such reasonable terms and conditions, including pay as the Authority thinks fit.

1.2 Prior to 2000 most changes of any significance to terms and conditions were authorised in most authorities by a personnel or joint negotiating committee. Experimental arrangements with Cabinet forms of government saw this replaced with ratification of changes by Cabinet. However the Local Authorities (Functions and Responsibilities) (England) Regulations now provide that:

It is not to be the function of the Executive to determine the terms and conditions on which staff hold office (including procedures for their dismissal)

and

It is not to be the function of the Executive to exercise functions relating to Local Government Pensions.

Further the Local Authorities (Standing Orders) (England) Regulations provides that **the appointment and dismissal of or disciplinary action against Officers below Deputy Chief Officer level** must be delegated to the Head of the Paid Service or to his nominee.

- 1.3 The Regulations do provide that Members may sit on Committees considering **appeals** relating to appointment dismissal or discipline of staff. Such quasi judicial committees would require appropriate training **from those Officer decisions**.
- 1.4 Those Regulations provide that the Head of Paid service can only be appointed and dismissed by Full Council and that Chief Officers the Head of the Paid Service the Monitoring Officer and the Chief Finance Officer are subject to specific procedures which provide for Executive representation and objection and independent investigation.
- 1.5 The Current scheme of Delegation provides that **the day to day management of staff and the adoption and amendment of Employment Policies** are delegated to the Head of the Paid service and to Executive Directors subject to the Council's Budget and its plans and policy framework set by Members.

2. Issues

- 2.1 Subject to the above constraints (which are provided for in the Councils current Constitution) the matters now dealt with can be delegated by Council to Officers or Committees.
- 2.2 Clearly it is impractical for a Committee to discharge the operational management of staff as this would be likely to lead to delay whilst meetings were called reports written and the appropriate rules about notice etc. complied with. There would also be considerable extra expense in dealing with those matters and ensuring that Members receive the appropriate training and support to make decisions. There is also likely to be a detriment to the managerial ability to control their services appropriately and to their engagement through that responsibility and a loss of the benefit of the experience skills and training that Managers have developed. Over time management skills would also be lost and there is likely to be detriment to the recruitment retention and development of managerial staff.
- 2.3 This has to be balanced against the benefits of Member involvement. Member decision making may be more open and transparent and have opportunities for wider input and equalities. Involvement in making these sorts of decisions would develop Members engagement and understanding of Services and utilise and develop their skills. It would also make services more accountable to the electorate and may increase the trust of employees in policies as being fair.
- 2.4 On balance it is considered that in order to obtain the benefits discussed but to avoid the disbenefits Officers should retain the operational management functions but that Members should set the Employment Policy framework and be responsible for scrutiny (oversight) of the staffing arrangements. Currently, the Employment Policies of the Council provide that most employment decisions are made by Officers but in setting the policies Members would be able to reallocate tasks such as dealing with appeals between the Officers and Members as they considered appropriate.

As with other quasi-judicial committees Members will require training before making decisions. The Members of the Committee will be appointed in accordance with the rules of political proportionality.

As a new committee amends the Constitution it is considered appropriate that the decision should be in principle to allow Transformation and resources overview and Scrutiny to have an input. It is therefore recommended that the final decision be delegated to allow that.

3. **Options Considered**

- 3.1 The relevant Functions can be delegated wholly to Officers wholly to a Committee or Committees (but not to an individual Member) or partly to Officers and partly to a Committee or Committees

4. **Proposal**

- 4.1 That the council establish a staffing committee consisting of Members with the following terms of reference:-

- 4.2 To be responsible for the Council's functions as an employer including the Local Government Pension Scheme which are not delegated to Officers or referred to Full Council or constrained by the law. For the avoidance of doubt the following functions are included:

- (1) The adoption and amendment of all employment policies including the following to the extent they relate to staffing matters:

- Adoption leave policy
- Agency staff procedure
- Alcohol, drugs, substance misuse policy
- Attendance management policy
- Bullying and harassment policy
- Capability procedure
- Officers' Code of Conduct
- Compensatory leave policy
- Computer, telephone and clear desk policy
- Equal opportunities and diversity in employment
- Disciplinary procedure
- Discretionary powers
- Driving at work
- Early retirement
- Employee recognition policy
- Employees' handbook
- Flexible retirement
- Flexible working hours
- Grievance procedure
- Health and safety
- Home working
- Information policies – internet, email
- Job evaluation
- Job sharing
- Local Government Pension Scheme
- Maternity and paternity
- National agreement on pay and conditions of service
- Smoking
- Recruitment
- Redundancy
- Restructuring
- Remote working
- Staff communications and consultation

Stress at work
Time off for trade union duties
Working time.

- (2) To make representations to the Local Government Association and/or the Government or other organisations about any matter relating to employees of the Council.
- (3) To make arrangements for members of the Committee to determine appeals of employees in accordance with the appropriate policies.

5. **Reasons for Preferred Solution**

- 5.1 The Preferred solution balances the benefits and disbenefits of employment decisions being taken by Officers against the benefits and disbenefits of such decisions being made by Members.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 6.1 The objective of the proposal is to provide the most effective and efficient employment arrangements to motivate and help the workforce to enable the Council to deliver its priorities. Accordingly the link to transforming our Council to achieve excellence could not be clearer.

7. **Legal and Statutory Implications**

- 7.1 As with all other Local authority functions the power to employ and the control of employment is constrained by statute and controlled by the Courts and Auditor. The Council is of course still subject to the general regime of employment protection and anti-discrimination legislation as well.

8. **Equality Impact Assessment**

- 8.1 The Equality Act 2010 has been considered. It is not considered that there will be a significant impact on equalities issues in relation to the proposal. However, having these decisions made by a committee does make them more open and transparent and the decisions will be made by a group of diverse individuals (members) which may enhance the decision making process from an equalities point of view. Each individual policy will continue to be subject to assessment of its equality impact as is the case now and it will be important to ensure that Members have the appropriate training officer support and information to enable them to make a positive contribution.

9. **Financial and Resource Implications**

It is intended to meet the needs of this Committee out of existing resources

10. **Major Risks**

- 10.1 The proposal takes into consideration the potential detriment to Managerial empowerment and motivation the need for efficient and timely decision making and the requirement to ensure professional and technical competence. It is considered that the correct balance is struck between this and the benefits of member involvement referred to in the issues section of the report which might otherwise be lost.

11. **Sustainability and Climate Change Implications**

Not applicable.

12. **Key Decision Information**

Not a key decision