

# Employment Committee

An excerpt of the Minutes of the meeting held on Wednesday 17 June 2015 at the Town Hall, Royal Leamington Spa at 4.30 pm.

**PRESENT:** Councillors Mrs Bunker, Butler, Day, Mrs Evetts, Heath, Mobbs, Naimo, and D'Arcy

An apology for absence was received from Councillor Rhead.

## 2. **Declarations of Interest**

There were no declarations of interest.

## 4. **Amendments to Officer Employment Procedure Rules**

The Committee considered a report from the Democratic Services Manager and Deputy Monitoring Officer that brought forward proposals to amend parts of the Council's Constitution to ensure it was brought in line with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

The proposed changes related to the processes required before notice of dismissal could be given for the posts of the Head of Paid Service, Monitoring Officer or the Chief Finance Officer. In essence the regulations-

- Required full Council approval before a notice of dismissal could be given to the Monitoring Officer or Chief Finance Officer;
- Abolish the requirement for a designated independent person (DIP) to investigate allegations of misconduct;
- Replaced the DIP scheme with a requirement to have two independent persons on the disciplinary panel;
- Independent persons were those persons appointed for the purposes of the member code of conduct regime; and
- Fixed the maximum amount of remuneration payable to independent persons

The Regulations provided new arrangements for taking disciplinary action against the most senior Council staff, to be given effect by councils modifying their standing orders. Provision was made for councils to make this modification no later than at the first ordinary Council meeting held after the 7 May 2015 elections (for Warwick District Council this was 24 June 2015). The Regulations came into force on 11 May 2015.

The Committee was informed at the meeting that a letter from the Local Authorities Association of Chief Executives (LACE) had been received after the agenda and report had been published. This letter set out an objection to the recommendations since the Association's position was that negotiations were ongoing about the new procedures and these had not yet been concluded. The Council had sought legal opinion on the letter from LACE and this advised that the procedure must be adopted irrespective of negotiations and was a statutory requirement.

## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

It was explained that the adoption of this regulation could result in a “twin hatted” approach should a situation covered by the procedures arise then investigations may need to be conducted by a person independent of the Council and the panel formed to include two independent persons from the Standards Committee. In addition, if one of the statutory officers left and had been replaced, their replacement would be subject to different conditions from the remaining most statutory officers.

The Democratic Services Manager clarified that these amended procedures did not cover the role of the Deputy Chief Executive (BH) because his role was not a statutory post.

The Committee discussed the recruitment aspect of the Officer Employment Procedure Rules and, on advice from officers, asked that these be looked at as part of the review of HR procedures. Specifically, they asked officers to provide consideration to paragraphs 1 (a) (i) and 2 (a) and (b) in Appendix 2 of the report, to check that they were correct; and the definition of an interviewing panel as described in Appendix 2, paragraph 4, required better clarity as to if it was the full committee.

**Recommended** to Council that:

- (1) it amends the Constitution to reflect:
  - (i) the revised Responsibilities of Employment Committee, as set out at Appendix 1 to the minutes;
  - (ii) the revised Officer Employment Procedure Rules, as set out at Appendix 2 to the minutes;
  - (iii) the revision to the Scheme of Delegation, as set out at Appendix 3 to the minutes; and
- (2) the Recruitment and Disciplinary Procedures relating to the Head of Paid Service, Monitoring Officer and Chief Financial Officer be updated.

(The meeting ended at 5.38 pm)

## **Section 2 Council Functions**

- I. **EMPLOYMENT COMMITTEE** (11 Members One of whom will be the Leader as a representative of their political group)

To exercise delegated powers as follows:

- vii. To appoint a person in relation to disciplinary investigations (including capability) involving the Head of Paid Service and Statutory Officers.
- viii. To organise a disciplinary hearing to receive the evidence of such a person and to decide the outcome of such a hearing in accordance with the Officer Employment Procedure Rules.
- ix. To appoint or dismiss chief officers as determined in accordance with the Officer Employment Procedure Rules.
- xi. To appoint a sub-committee that contains at least one member of each of the registered political groups to deal with employment related matters that fall within the jurisdiction of elected members.
- xii. The Committee (or sub-committee if acting on behalf of the Committee) to recommend to Council the appointment or dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer in line with the Officer Employment Procedure Rules.

Note: Where the committee or a sub-committee is involved in the appointment, discipline or dismissal of Statutory Officers (including the Head of Paid Service), the committee or sub-committee must include the Leader, along with two Independent Persons as defined under the Localism Act 2011.

***OFFICER EMPLOYMENT PROCEDURE RULES***

**1. Recruitment and Appointment**

(a) Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Chief Officer of the Council, as defined in Article 12; or the partner of such persons.
- (ii) No candidate so related to a Councillor or Chief Officer will be appointed without the authority of the relevant Chief Officer or the Head of Paid Service (especially if the identity of the related Chief Officer and relevant Chief Officer coincide).

(b) Seeking support for appointment.

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No Councillor will seek support for any person for any appointment with the Council.

**2. Recruitment of Head of Paid Service, Statutory Officers and Chief Officers**

Where the Council proposes to appoint such an officer, and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) draw up a statement specifying:

- (i) the duties of the officer concerned; and
- (ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) make arrangements for a copy of the statement mentioned in paragraph 1 and 2 to be sent to any person on request.

**3. Appointment of the Head of Paid Service, Monitoring Officer and Chief Finance Officer**

## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

- (a) The appointment of the Head of Paid Service will be recommended by the Employment Committee to Council and no offer will be made until Council has made this decision.
- (b) No appointment will be made to the post of the Head of Paid Service, Monitoring Officer or Chief Finance Officer where the Leader of the Executive advises the proper officer appointed for the purpose that the Executive have a well founded and material objection to the appointment of that person.

### **4. Appointment of Chief Officers as defined in Article 12 (excluding the Head of Paid Service, Monitoring Officer and Chief Finance Officer)**

*The appointment of Chief Officers will be made by an interviewing panel which will be the Employment Committee.*

### **5. Other Appointments**

Councillors will not be involved in the appointment of any officer below Chief Officer level. The responsibility for these appointments will be with the Head of Paid Service in liaison with the relevant Chief Officer.

### **6. Disciplinary Action**

#### **(a) Head of Paid Service, Chief Finance Officer and Monitoring Officer**

A politically balanced group of no fewer than three members (along with two Independent Persons) will be appointed by the Employment Committee to consider any allegations of discipline. The Head of Paid Service may be suspended on full pay by the Employment Committee whilst an investigation takes place. The Statutory Officers may be suspended by the Head of Paid Service. In all cases the suspension will last no longer than two months.

#### **(b) Chief Officers**

Preliminary investigations into any disciplinary matters will be conducted by the Head of Paid Service. Where the preliminary investigation determines there is a potential case to answer, a Sub Committee of no fewer than three elected members will be established by the Employment Committee, as set out in the JNC Constitution conditions of service and salaries for Chief Officers.

#### **(c) Other Officers**

Councillors will not be involved in disciplinary action against any Officer below a Chief Officer.

### **7. Dismissal**

#### **(a) Head of Paid Service, Monitoring Officer & Chief Finance Officer**

## **EMPLOYMENT COMMITTEE MINUTES (Continued)**

The dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer must be recommended by Employment Committee and ratified by Council.

Where a committee or sub-committee of the council is to consider the possible dismissal of the head of paid service, the monitoring officer or the chief finance officer it must include

- At least two independent members appointed in accordance with section 28(7) Localism Act 2011 and
- The Leader.

The committee or sub-committee must be appointed at least 20 working days in advance of the scheduled hearing.

If the committee or sub-committee is of the view that dismissal is appropriate the committee or sub-committee may only make a report to Council with its recommendation for dismissal. The committee or sub-committee is not empowered to give any notice of dismissal.

In cases where dismissal is recommended the final decision will be taken by council, who must consider any advice, views or recommendations from the committee or sub-committee, the conclusions of any investigation into the proposed dismissal, and any representations from the officer concerned.

Notice of dismissal of the head of paid service, the monitoring officer, or chief finance officer shall only be given where the Leader of the Executive advises the proper officer appointed for the purpose that the Executive have a well founded and material objection to the appointment of that person.

### **(b) Chief Officers**

The dismissal of Chief Officers will be made by a Sub Committee of Employment Committee, as set out in the JNC Constitution conditions of service and salaries for Chief Officers.

### **(d) Other Officers**

Councillors will not be involved in the dismissal of any officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

## **8. Appeals**

The Council's disciplinary capability and related procedures, as adopted from time to time, may allow a right of appeal to members in respect of disciplinary action and dismissals.

**EMPLOYMENT COMMITTEE MINUTES (Continued)**

NB. Where a meeting of the Employment Committee is required under these terms the meeting will take place under Council Procedure rules with the press and public excluded as per the Access to Information procedure rules of the Constitution.

## Section 4 Scheme of Delegation

4. **Chief Executive** (and in their absence their Deputies) shall have authority to:

- CE (23) The membership of the Panel(s) identified in the recruitment, disciplinary and grievance process for officers (excluding Statutory and Chief Officers) be appointed by the Chief Executive in consultation with the Chairman of the Employment Committee.