

## Governance Working Group

Portfolio:	Non-executive function
Ward(s) Affected:	all

### **Purpose:**

The Council is asked to

- (i) agree amendments to the Terms of Reference of the Executive, Committees and other bodies, including the formalisation of Terms of Reference for the Governance Working Group;
- (ii) agree the establishment of an Employment Committee, an Independent Panel, a Hearing Sub Committee and an Appeals Sub Committee;
- (iii) agree that the Appointments Committee's responsibilities be transferred to an Appointments Sub Committee, a subcommittee of the Employment Committee;
- (iv) agree the adoption of Terms of Reference for these bodies;
- (v) agree the introduction of grievance and disciplinary processes for Statutory Officers at Part 4, Section J of the Constitution;
- (vi) consider and agree alterations to grievance and disciplinary processes for non-statutory Tier 2 officers; and
- (vii) agree any other consequential changes arising from the above proposals.

### **1. Background**

- 1.1. The Council, at its meeting on 4 September 2019, instructed the Working Group to review the Terms of Reference for all the Standing Committees of the Council. Furthermore, it instructed the Working Group to include the formation of an Employment Committee as an additional Standing Committee of the Council in this review.
- 1.2. The Working Group met on 5 September, 26 September, and 19 November 2019.

### **2. Review of the Terms of Reference of the Executive, Committees and Other Bodies.**

- 2.1. In accordance with the Council's instruction to the Working Group, the Terms of Reference of the Executive, Committees and Other Bodies have been reviewed, with a few amendments proposed.
- 2.2. It is proposed to disestablish the Appointments Committee and create an Appointments Sub Committee, a sub-committee of the proposed Employment Committee as set out in paragraph 3.3 below.

- 2.3. It is also proposed to rename the current Hearing Sub Committee which considers complaints against Members of the Council as the Standards Sub Committee. This will clarify the difference between this and the proposed subcommittee of the Employment Committee, as detailed at paragraph 3.3 below.
- 2.4. The Governance Working Group does not currently have any formally adopted Terms of Reference. In order to rectify this, draft Terms of Reference have been discussed and are included at Annex A to this report.

### **3. Employment Committee, Sub Committees and Independent Panel**

- 3.1. It has become apparent that the Council's procedures for dealing with grievance and disciplinary action relating to the Council's three Statutory Officers require further clarification. It is proposed to introduce new procedures in order to reflect best practice and meet the requirements of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 3.2. It is proposed to establish an Employment Committee, with the following areas of responsibility:
  - 3.2.1. To agree amendments to Terms and Conditions of Employment for Staff and Human Resources policies, on the recommendation of the Joint Staff Consultative Group
  - 3.2.2. To recommend any staff pay award to Council, following the competition of the established negotiation process.
  - 3.2.3. To oversee any disciplinary process for a Statutory Officer, including any suspension as deemed necessary.
  - 3.2.4. To recommend the terms of any mutually agreed departure for a Statutory Officer.
  - 3.2.5. To oversee performance and remuneration factors relating to the Head of Paid Service.
- 3.3. It is also proposed to establish 3 sub committees of the Employment Committee, as follows:
  - 3.3.1. **Hearing Sub Committee** – to appoint an Independent Investigator to undertake any investigations into disciplinary and grievance matters as necessary and consider and undertake any hearings as follows:
    - to hear and determine any grievances or disciplinary matters relating to a Statutory Officer, including referring the matter to the Council and an Independent Panel where the action proposed is dismissal

- to hear and determine any grievance or disciplinary matters against a non-statutory Executive Head of Service or Head of Service, as referred by the Head of Paid Service.
- to hear and determine any grievance raised by or against the Head of Paid Service
- to hear and determine any grievance relating to an Executive Head of Service or Head of Service, including Statutory Officers, as referred by the Head of Paid Service.

3.3.2. **Appeals Sub Committee** – to hear and determine any appeals as follows:

- any appeal by a Statutory Officer where the disciplinary action imposed falls short of dismissal
- any appeal by a non-Statutory Executive Head of Service or Head of Service relating to any disciplinary action taken against them
- any appeal relating to a grievance raised by or against a Statutory Officer or an Executive Head of Service or Head of Service.

3.3.3. **Appointments Sub Committee** – to undertake all functions currently delegated to the Appointments Committee.

- 3.4. The introduction of these procedures has provided an opportunity to review the arrangements for non-statutory Tier 2 officers (Executive Heads and Heads of Service), where it is considered that procedures could be clarified. As a result, provision has been included in the above sub-committees for the Head of Paid Service to refer disciplinary or grievances relating to a non-statutory Executive Head of Service/ Head of Service as it is recognised that there may be occasions where it would be inappropriate for them to be heard by an officer. New provision for appeals for Tier 2 officers has also been included.
- 3.5. It is also proposed to establish an Independent Panel. This Panel will meet the requirements set out in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. Membership of the Independent Panel will be drawn from the pool of Independent Persons appointed in accordance with the Localism Act 2011, as required by the above regulations.
- 3.6. Proposed Terms of Reference for an Employment Committee, its sub-committees and the Independent Panel have been drafted and are attached at Annex B.

#### **4. Grievance & Disciplinary Process for Statutory Officers**

4.1. The Officer Employment Rules at Part 4, Section J of the Constitution have been updated to:

- 4.1.1. Extend the authority to suspend a Statutory Officer to the Employment Committee and, where short notice is required, provide for the

Executive Head of Transformation to authorise this on the instruction of the Chairman of the Employment Committee.

4.1.2. Amend provisions for disciplinary procedures for Statutory Officers.

4.1.3. Reflect the proposals for hearing of Grievances at Member level.

4.2. The Officer Employment Rules will sit alongside a Disciplinary and Grievance Policies and Procedures for Statutory and Other Senior Officers, which will form part of the Council's HR Policies and Procedures. These Policies and Procedures provide the detail on the processes leading up to and including any hearing.

4.3. The changes relating to the disciplinary and grievance procedures have been subject to a statutory 30 day consultation with affected staff. The documents will be considered by the Joint Staff Consultative Group in January 2020 and thereafter adopted at the first meeting of the Employment Committee.

## **5. Scheme of Delegation of Functions to Officers**

5.1. The Scheme has been amended to authorise officers to appoint Members to sub committees or Independent Persons to an Independent Panel as a result of the proposed disciplinary procedures. They also reflect the proposal to authorise the Executive Head of Transformation to suspend a Statutory Officer where urgency requires it cannot wait until a meeting of the Employment Committee is called.

5.2. It is also proposed to remove delegated authority to the Head of Paid Service to agree any changes to Staff Terms & Conditions recommended by the Joint Staff Consultative Group, as this can be conducted by the new Employment Committee. This is considered to be a more appropriate process as the previous arrangements were in practice a "paper delegation" which could only be exercised in line with the Joint Staff Consultative Group's decision.

## **6. Committees, Sub Committees and Other Bodies Procedure Rules**

6.1. The Committees, Sub Committees and Other Bodies Procedure Rules at Part 4 of the Constitution have been updated to reflect the new Employment Committee. The Working Group is asked to consider and agree these changes.

## **7. Decision Making**

7.1. It is proposed to require all members of the Employment Committee to undertake annual training on HR matters. It is therefore proposed to amend paragraph 13.9 of Article 13 of the Constitution as follows:

### **13.9 Mandatory Training**

In order to facilitate good quality decision-making, Members are encouraged to attend all relevant training sessions provided by the Council. However the following training is deemed to be mandatory and members who have not

undertaken the required training will not be able to take part in the decision-making process:

<u>Training</u>	<u>Decision-making</u>	<u>Required</u>
(a) Planning	Determination of planning applications and any other related consent applications	Annually - All Members of the Planning Applications Committee All Members of the Council when determining large scale planning applications in accordance with Article 4.2 (n)
(b) Licensing	Determination of applications for licenses under the Licensing Act 2003 and Gambling Act 2005.	All Members of the Licensing Committee in order to be eligible to be appointed to the Licensing Sub Committees.
(c) Standards	The hearing and determination of complaints of member misconduct.	All members of the Audit and Standards Committee
(d) Equality	All decisions	All Members
<b>(e) Human Resources</b>	<b>All decisions made by the Employment Committee and its sub committees.</b>	<b>Annually - All members of the Employment Committee</b>

## 8. Proper Officers

- 8.1. The Local Authorities (Standing Orders)(England) Regulations 2001 require the designation of a Proper Officer to make and receive notifications in relation to the appointment and dismissal of statutory and non-statutory chief officers and deputy chief officers within the meaning of sections 2(7) and 2(8) of the Local Government and Housing Act 1989.
- 8.2. It is proposed to change the named officer from the Head of HR to the Executive Head of Transformation as the post of Head of HR no longer exists.

## 9. Political Proportionality

- 9.1. Political Proportionality has been reviewed, taking into account the proposal to transfer the Appointment Committee's responsibilities to a Sub Committee.
- 9.2. A committee comprising 9 Members, as set out below, would achieve perfect political proportionality.

Committee	Conservative Group	Liberal Democrats	Community	Green Party	TOTAL
Planning Applications	8	4	2	1	15
Licensing	6	4	2	1	13
Performance & Finance Scrutiny	7	4	2	0	13
External Partnerships Select	6	4	2	1	13
Audit & Standards	4	2	1	0	7
Employment	5	2	1	1	9
<b>Total seats</b>	<b>36</b>	<b>20</b>	<b>10</b>	<b>4</b>	<b>70</b>
% of Committee seats	51.43%	28.57%	14.29%	5.71%	100.00%
% of Council membership	51.43%	28.57%	14.29%	5.71%	100.00%

9.3. Furthermore, an Employment Committee containing 9 members would enable 3 new members to hear an appeal following the original Hearing Sub Committee of 3 members, whilst accommodating any potential conflicts of interest or the need for a fresh Sub Committee to conduct a related grievance, should one arise during the disciplinary process.

## 10. Options

10.1. The Working Group has the option to agree the changes proposed, not agree these proposals, or propose any other alternatives as considered appropriate.

## 11. Resource Implications

11.1. Any resource implications relating to the proposals relate to opportunity costs which can be met from within existing budgets.

## 12. Recommendation

12.1. The Council is advised to RESOLVE that

- (i) the Terms of Reference of the Executive, Committees and Other Bodies be amended, including the disestablishment of the Appointments Committee and the formalisation of Terms of Reference for the Working Group, as set out at Annex A to this report;
- (ii) an Employment Committee be established as a Standing Committee of the Council, with Terms of Reference as set out at Annex B to this report;
- (iii) 9 members be appointed to the Employment Committee, in line with requirements of political proportionality, with appointments to be made on the nomination of the Group Leaders;

- (iv) an Independent Panel be established, with Terms of Reference as set out at Annex B to this report;
- (v) a Hearing Sub Committee be established, with Terms of Reference as set out at Annex B to this report;
- (vi) an Appeals Sub Committee be established, with Terms of Reference as set out at Annex B to this report;
- (vii) an Appointments Sub Committee be established, with Terms of Reference as set out at Annex B to this report;
- (viii) Part 4, Section J of the Constitution be updated as set out at Annex C to this report;
- (ix) the Scheme of Delegation of Functions to Officers be updated as set out at Annex D to this report;
- (x) Part 4, Section D of the Constitution be updated, as set out at Annex E to this report; and
- (xi) Article 13 of the Constitution be updated as follows:

**13.10 Mandatory Training**

<u>Training</u>	<u>Decision-making</u>	<u>Required</u>
<b>(e) Human Resources</b>	<b>All decisions made by the Employment Committee and its sub committees.</b>	<b>Annually - All members of the Employment Committee</b>

- (xii) Part 3, Section C of the Constitution be updated as follows:;

<u>Purpose of Appointment</u>	<u>Proper Officer(s)</u>
<b>Local Authorities (Standing Orders)(England) Regulations 2001</b>	
To make and receive notifications in relation to the appointment and dismissal of statutory and non statutory chief officers and deputy chief officers within the meaning of sections 2(7) and 2(8) of the 1989 Act.	<del>Head of Human Resources</del> <b>Executive Head of Transformation</b>

**Annexes**

Annex A – amended Terms of the Executive, Committees and Other Bodies

Annex B – Terms of Reference of the Employment Committee, its Sub Committees and the Independent Panel

Annex C – Revised Officer Employment Rules

Annex D – Revised Scheme of Delegation of Functions to Officers

Annex E – Revised Committees, Sub Committees and Other Bodies Procedure Rules

Annex F – Proposed revised Committee Structure

Annex G – Flowchart for procedure for disciplinary action against Statutory Officers

**Background Papers:**

[The Local Authorities \(Standing Orders\) \(England\) Regulations 2001](#)

[The Local Authorities \(Standing Orders\) \(England\) \(Amendment\) Regulations 2015](#)

**Author:**

Rachel Whillis – Democratic Services Manager  
[Rachel.whillis@surreyheath.gov.uk](mailto:Rachel.whillis@surreyheath.gov.uk)

**Executive Head of Service:**

Richard Payne – Executive Head of Corporate