

## SCHEDULE ONE

### SUGGESTED AMENDMENTS TO THE CONSTITUTION.

#### AMENDMENTS TO PART 2 OF THE CONSTITUTION – FULL COUNCIL RESPONSIBILITIES.

Amend Article 4, Part 2 of the Constitution to refer to the Council's Pay Policy in 4.01 and add to Article 4.02 "approval of payments of salary and benefit packages or termination payments in excess of 100,000."

#### AMENDMENTS TO PORTFOLIOS: Scheme of Delegation

##### **Structure (Officers – Article 12, Part 2)**

- Head of Paid Service will determine, publicise and amend the officer structure of the Council in accordance with Council and Joint Negotiating Committee ( JNC) Conditions of Service and Council and national policies and procedures.
- Head of Paid Service will provide a regular report (at least annually) to ~~Full Council or to~~ Employment Committee and/or to Council on the manner in which the discharge of the Council's functions is coordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

##### **Leader's Portfolio (Part 3)**

- To review, with Chief Executive or in the absence of the Chief Executive the Proper Officer, management arrangements of the Council
- Subject to policies and legislation, overall direction of all HR matters
- To have responsibility for CE's Functions – determination of how and by whom Executive Functions are exercised

##### **Proper Officer and Deputies – The Local Authorities (Standing Orders) (England) Regulations 2001**

- Constitution Part 3, Appointment of Officers - Proper Officer in accordance with The Local Authorities (Standing Orders) (England) Regulations 2001 is the Chief Executive: Officer for receiving notification of proposed appointment of certain officers, notifying executive members of that proposed appointment and for receiving and notifying of objections to the proposed appointment. The Chief Executive is officer is the Proper Officer unless otherwise determined referred to in the Officer Employment Procedure Rules set out in Part ~~43~~ of the Constitution.
- Constitution Part 3, Appointment of Officers (14): In event of ~~an officer~~ Proper Officer being for any reason unable to act, carry out functions or the post being vacant the Chief Executive or in their the Chief Executive's absence, Director of Legal the Monitoring Officer, or in absence of both the Chief Executive and the Monitoring Officer, the Chief Finance Officer to act in proper officer's stead.
- Constitution Part 4, Officer Employment procedure Rules (9): For the purposes of these Officer Employment Procedure Rules the Proper Officer shall be the Head of Paid Service except:

- –where the dismissal relates to the Head of Paid Service when the Proper Officer shall be the Monitoring Officer, or in the Monitoring Officer's absence, the Chief Finance Officer to act in the Proper Officer's stead.

**Chief executive – Scheme of Delegation (Part 3).**

- Undertake all matters associated with the professional management of the Council
- Is responsible for the overall direction of all human resource matters.
- Is responsible for the administration and implementation of the Council's organisational, employee development and human resource plans.
- Before referring any matters deemed by the Chief Executive to be of strategic significance to Employment Committee for consideration and/or determination the Chief Executive shall consult with, and obtain views of the Executive.

**Corporate Directors - Scheme of Delegation (Part 3).**

- In relation to any matters delegated to them, to take any action which is calculated to facilitate or is conducive or incidental to the discharge of the Council's functions within their service area.

**Corporate Director People (HR) – Scheme of Delegation (Part 3)**

- Service Review Directorate wide service reviews and development of corporate proposals – including decisions relating to the creation/re-grading and deletion of posts above Band 12.
- In exceptional circumstances, decisions on proposals affecting Director Statutory and non Statutory Chief Officer or Deputy Chief Officer level posts – (exceptional circumstances to be determined by the Proper Officer in consultation with the Chair of the Employment Committee);:
- Other than in exceptional circumstances, decisions on proposals affecting Statutory and non Statutory Chief Officer or Deputy Chief Officer level posts are subject to the prior approval of the Proper Officer and the Employment Committee.
- Decisions in exceptional circumstances decisions in respect of the preparation of the statement of duties and qualifications, advertisement and appointment of internal and external candidates to the role of statutory and non-statutory Chief Officers or Deputy Chief Officers in accordance with Joint Negotiating Committee (JNC) Conditions of Service and Council and government policies and procedures (exceptional circumstances to be determined by the Proper Officer in consultation with the Chair of the Employment Committee) :
  - Appointments of internal candidates may be on an interim or a permanent basis;
  - Appointments of external candidates shall be on an interim basis only.
  - All decisions shall be reported to the Employment Committee prior to reporting to Full Council.
- Directorate wide reviews and development of corporate proposals
- Decisions on proposals affecting Director level posts are subject to the prior approval of the Chief Executive and the Employment Committee.

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**Comment [SD1]:** Now contained above

**Comment [SD2]:** Now contained above

- ~~Decisions relating to salary packages for new posts above £100k, such decisions shall then be subject to full Council approval. In addition, decisions relating to any severance arrangements agreed in line with the relevant policies that exceed £100k, such decisions shall then be subject to full Council approval. The Council will approve all salary and termination packages for Chief Officer posts in excess of £100,000.~~

**Corporate Director T&R:** It is proposed that this section should now form part of the Corporate Director of People's portfolio.

- Authority, after consultation where appropriate with the Portfolio Holder, chairman of the Employment Committee, Trade Unions and staff representatives, to approve revisions and amendments which are not significant to corporate human resources strategies and policies in so far as they relate to the appointment, terms and conditions of employment and dismissal of staff.
- ~~Excluding those policies which must be approved by Full Council, the Authority~~ to approve all other corporate human resources strategies, policies and procedures.
- ~~Responsibility for all Service Reviews — including the creation/re-grading and deletion of posts above Band 12;~~
- ~~Responsibility for directorate wide reviews and the development of corporate and cross cutting proposals.~~

**Comment [SD3]:** Now contained above

In the absence of a Corporate Director for ~~T&R~~People, the ~~CE~~ Proper Officer would assume the responsibilities.

#### **CONSTITUTION PART 4: Officer Employment Procedure Rules**

##### **3. Definition of Head of ~~Paid Service~~ Chief Officer**

Throughout these Officer Employment Procedure Rules the term "~~Head of Service~~ Chief Officer" shall include all officers employed on Joint Negotiating Committee (JNC) National Salary Framework and Conditions of Service Handbook for Chief Officers.

<b>Constitution Part 4: Officer Employment Procedure Rules</b>	
<b>Recruitment of Head of Paid Service, <del>Chief Officers and Directors and Heads of Service</del></b>	(1) Where the Council proposes to appoint a Head of Paid Service, <del>Chief Officer or Director or Head of Service</del> <b>and it is not proposed that the appointment be made exclusively from among their existing officers</b> , 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

	<p>apply for it; and</p> <p>(c) make arrangements for a copy of the statement mentioned in paragraph 1(a) to be sent to any person on request.</p> <p>(2) Where a post has been advertised as provided in (1) (b), the Council's <u>Appeal and Appointments and Appeals Committee Panel</u> shall –</p> <p>(a) interview all qualified applicants for the post, or</p> <p>(b) select a shortlist of such qualified applicants and interview those included on the shortlist.</p> <p>(3) Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with (1)(b).</p>
<p><b>Appointment of Head of Paid Service</b></p>	<p>1) <u>The Executive Notice and Objection Process must be followed before the appointment is referred to full Council for approval.</u></p> <p>(2) The full Council must approve the appointment of the Head of Paid Service before an offer of appointment is made following the recommendation of such an appointment by an <u>Appeal and Appointments and Appeals Panel/ Appointment Committee. An Appointment Committee must include at least one member of the Executive.</u></p> <p>(2) <u>An offer of appointment must not be made by or on behalf of the Appointment Committee ("the Committee") until the Executive Notice and Objection Process has been followed.</u></p>
<p><b>Executive Notice and Objection Process: The Local Authorities (Standing Orders) (England) Regulations 2001</b></p>	<p><u>The Executive Notice and Objections process shall be as follows:</u></p> <p>a) the Proper Officer <del>has</del> shall be notified of the name of the person to whom the <u>Appeal and Appointments Committee Panel Committee</u> wishes to make the offer <u>of an appointment</u> and any other particulars which the <u>Appeal and Appointments Committee Panel Committee</u> considers are relevant to the appointment;</p> <p>(b) the Proper Officer has notified every member of the Executive of</p> <p>(i) the name of the person to whom the offer <u>of an appointment</u> is to be made and any other relevant particulars notified to the Proper Officer; and</p> <p>(ii) the period within which any objection to the making of the offer is to be made by the Executive Leader on behalf of the Executive to the Proper Officer; and</p>

Comment [SD4]: Now above.

	<p>(c) either –</p> <p>(i) the Executive Leader has, within the period specified under (2)(b)(ii), notified the <u>Proper Officer Committee</u> that neither (s)he nor any other member of the Executive has any objection to the making of the offer;</p> <p>(ii) the Proper Officer has notified the <u>Proper Officer Appeal and Appointments Committee Panel Committee</u> that no objection was received by him/her within that period from the Executive Leader; or</p> <p>(iii) the <u>Proper Officer Committee</u> is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.</p>
<p><b>Appointment of Corporate Directors and Directors</b></p>	<p><u>Other than in exceptional circumstances (exceptional circumstances to be determined by the Proper Officer in consultation with the Chair of the Employment Committee) :</u></p> <p>(1) <del>(1) An -Appeal and Appointments Committee Panel A Member Appointment Committee</del> will appoint Statutory and Non-Statutory Chief Officers and Deputy Chief Officers, as defined in the Local Government and Housing Act 1989, (definitions set out below) <u>in accordance with Joint Negotiating Committee (JNC) Conditions of Service and Council and government policies and procedures. That Appointment Committee must include at least one member of the Executive.</u></p> <p><i>Definitions:</i></p> <p><i>Statutory Chief Officer – director of children’s services, director of adult social services and officer with responsibility for the administration of the Council’s financial affairs</i></p> <p><i>Non-Statutory Chief Officer – a person for whom the Head of Paid Service is directly responsible; a person who, as respects all or most of their duties (excluding secretarial/clerical duties), is required to report directly to or is directly accountable to the Head of Paid Service or the Authority itself</i></p> <p><i>Deputy Chief Officer – a person who, as respects all or most of their duties (excluding secretarial/clerical duties), is required to report directly to or is directly accountable to the one or more of the chief officers</i></p> <p>(2) An offer of appointment must not be made by or on behalf of the <u>Appeal and</u></p>

**Comment [SD5]:** See TOR for A&A Panel

	<p>Appointments Committee  Panel Committee until the Executive  Notice and Objection Process has been  followed.</p> <p>(2)(3) All decisions shall be reported to  the Employment Committee prior to  reporting to Full Council.</p>
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**Constitution Part 3: Functions**

**TERMS OF REFERENCE**

**EMPLOYMENT COMMITTEE**

The Employment Committee shall consist of at least 7 members and be established in accordance with the political balance of the Council and shall have a quorum of 3 members to include at least one member of the Executive.

The Employment Committee shall meet at least quarterly and also when convened by the Director for Governance and Community Strategy Monitoring Officer.

Terms of Reference

1. To determine and keep under review collective and corporate terms and conditions of employment.
2. To approve the Council's draft Pay Policy Statement prior to recommendation ferral to Full Council for approval and adoption.
3. To keep under review the consistent and lawful application of the Councils Pay Policy and publication requirements in respect of transparency of pay, termination payments and audit responsibilities.
4. Except in exceptional circumstances, (To approve the job description, salary and benefits for Chief Officers prior to appointment.
  - (exceptional circumstances to be determined by the Proper Officer in consultation with the Chair of the Employment Committee) :
5. To approve any decisions for the re engagement or reemployment of former Chief Officers.
6. To consider and determine decisions about the recovery of exit payments or overpayment of pension for Chief Officers.
- 1.7. To consider any matter referred to the Committee by the Head of Paid Service or Corporate Director Resources of People.
- 2.8. To consider, approve and adopt any new or significant revision to existing corporate human resources strategies and policies in so far as they relate to the appointment, terms and conditions of employment and dismissal of staff.
9. To determine any other matters relating to the appointment, terms and conditions of employment, severance and dismissal of staff which are neither covered by policies of the Council, required to be decisions of Full Council nor delegated to Officers under the Scheme of Delegation.
10. To review proposals for severance payments in excess of £100,000 prior to consideration of the proposals by Full Council.

Delegation

The Executive Member with responsibility for Strategic HR and the Corporate Director Resources of People will notify/keep the Employment Committee informed of all other relevant HR related issues, as required.

In exercising the above powers and responsibilities, the Employment Committee shall have delegated power (subject to Council Procedure Rule 9 - Call-in of Decisions taken under Delegated Powers) to make decisions on behalf of the Council, except for any matter where:

- **the Head of the Paid Service determines the matter should be considered by full Council, or**
- the Council has resolved to determine the matter

[Note: The Committee may itself determine not to exercise its delegated powers and instead make recommendations to Council]

### Constitution Part 3: Responsibility for Council Functions

#### Appointment and Appeals Panel (Employment Matters)(the "Panel")

To act as the Council's appeals body regarding appeals other than those for which specific arrangements have been established.

All elected members of the authority shall be eligible to be appointed as a Panel member. Smaller numbers of members will constitute individual panels.

The Appointment and Appeals Panel shall be constituted by the Monitoring Officer, unless a matter relates to the appointment, terms and conditions of employment, severance or dismissal of the Monitoring Officer in which case it shall be constituted by the Proper Officer, in accordance with relevant conditions of service and employment procedures, including Joint Negotiating Conditions (JNC) of Service in respect of Chief Officers.

Unless otherwise determined by the Monitoring Officer, all Panels constituted for the purposes of staff appointments and related matters shall be constituted in ~~proportion~~ accordance with the political balance of the Council and will have a membership of at least 3, except when constituted for Investigating and Disciplinary functions when the minimum shall be 5.

The Panel shall:

- ~~to~~ act as the Council's appeals body regarding appeals other than those for which specific arrangements have been established;
- ~~be To be~~ (except in exceptional circumstances) be responsible for staff appointments and related matters regarding short-listing and interview of external and internal applicants and appointments of Corporate Directors and Directors (Statutory and Non Statutory Chief Officers and Deputy Chief Officers as defined in the Officer Employment Procedure Rules) in accordance with the Officer Employment Procedure Rules
- short-listing applicants and appointments of Joint Council / Trafford Clinical Commissioning Group Director level posts. Appointment panels to consist of one member from each political party and 2 from the Governing Body;
- ~~To~~ except in exceptional circumstances, approve the interim ~~and~~ appointment of Chief Officers.
- ~~To~~ act as an investigatory and disciplinary Panel in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001, as amended in 2015 and JNC Conditions of

Service and the Appendix to the Officer Employment Procedure Rules .

- Be responsible for appeals in accordance with the disciplinary and grievance procedures
- Be responsible for appeals by employees against grading

For meetings of Appointment and Appeal Committees the quorum shall be as follows:

(i) for a committee comprising 3 members the quorum shall be 2

(ii) for a committee comprising 5 members the quorum shall be 3

(iii) in all other cases the quorum shall be 4