



## TRAFFORD COUNCIL

# AGENDA PAPERS FOR STANDARDS COMMITTEE

Date: Wednesday, 25 September 2019

Time: 6.30 p.m.

Place: Committee Room 2 and 3, Trafford Town Hall, Talbot Road, Stretford,  
M32 0TH

<b>A G E N D A</b>	<b>PART I</b>	<b>Pages</b>
1.	<b>ATTENDANCES</b>	
	To note attendances, including officers, and any apologies for absences.	
2.	<b>STANDARDS COMMITTEE MEMBERSHIP FOR THE 2019/20 MUNICIPAL YEAR</b>	1 - 2
	To note the Membership of the Committee, including the appointment of the Chair and Vice Chair, for the 2019/20 Municipal Year as agreed by full Council 22 May 2019.	
3.	<b>STANDARDS COMMITTEE TERMS OF REFERENCE FOR THE 2019/20 MUNICIPAL YEAR</b>	3 - 4
	To note the Terms of Reference of the Committee as agreed by full Council on 22 May 2019.	
4.	<b>MINUTES</b>	5 - 8
	To receive and, if so determined, to agree as a correct record the minutes of the meeting held on 6 March 2019.	
5.	<b>DECLARATIONS OF INTEREST</b>	
	Members to give notice of any interest and the nature of that interest relating to any item on the agenda in accordance with the adopted Code of Conduct.	
6.	<b>CONSTITUTIONAL REVIEW: RECRUITMENT AND EMPLOYMENT</b>	9 - 32

**PROCEDURES**

To receive a report from the Corporate Director of Governance and Community Strategy.

7. **MEMBERS ALLOWANCES** 33 - 38

To receive a report from the Monitoring officer and Independent Person.

8. **MEMBER OFFICER PROTOCOL** 39 - 56

To receive a report from the Corporate Director of Governance and Community Strategy.

9. **MONITORING OFFICER'S REPORT** Verbal Report

To receive a verbal update from the Monitoring Officer.

10. **URGENT BUSINESS (IF ANY)**

Any other item or items which by reason of:-

- (a) Regulation 11 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the Chairman of the meeting, with the agreement of the relevant Overview and Scrutiny Committee Chairman, is of the opinion should be considered at this meeting as a matter of urgency as it relates to a key decision; or
- (b) Special circumstances (to be specified) the Chairman of the meeting is of the opinion should be considered at this meeting as a matter of urgency.

**SARA TODD**  
Chief Executive

Membership of the Committee

Councillors K. Procter (Chair), C.H. Churchill (Vice-Chair), Miss L. Blackburn, Dr. S. Carr, G. Coggins, B. Hartley, D. Jarman, M. Minnis, P. Myers, L. Walsh, D. Western, Mr. D. Goodman, Mr. C.E.J. Griffiths, Mr R. Brown, A. Rudden, N. Jackson and Mr M. Whiting.

Further Information

For help, advice and information about this meeting please contact:

A. Murray, Democratic Services Officer  
Tel: 0161 912 4250  
Email: [alexander.murray@trafford.gov.uk](mailto:alexander.murray@trafford.gov.uk)

## Standards Committee - Wednesday, 25 September 2019

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This agenda was issued on **Tuesday, 17 September 2019** by the Legal and Democratic Services Section, Trafford Council, Trafford Town Hall; Talbot Road, Stretford, Manchester, M32 0TH

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**TRAFFORD COUNCIL****MEMBERSHIP OF COMMITTEES 2019/20**

<b>COMMITTEE</b>		<b>NO. OF MEMBERS</b>	
STANDARDS		11	
		+ 2 PARISH REPRESENTATIVES + 3 INDEPENDENT MEMBERS	
		+ 2 INDEPENDENT PERSONS (of the Hearing Panel)	
<b>LABOUR GROUP</b>	<b>CONSERVATIVE GROUP</b>	<b>LIBERAL DEMOCRAT GROUP</b>	<b>GREEN PARTY GROUP</b>
Councillors:	Councillors:	Councillors:	Councillors:
Dr. Serena Carr Ben Hartley David Jarman Kevin Procter <b>CH</b> Laurence Walsh Denise Western	Miss Linda Blackburn Claire Churchill Mrs. <b>V-CH</b> Patrick Myers	Meena Minnis	Geraldine Coggins
<b>TOTAL</b>	<b>6</b>	<b>3</b>	<b>1</b>

## NON-VOTING CO-OPTees (5)

2 Parish Representatives: **Mr. A. Rudden** and **1 vacancy**3 Independent Members: **Mr. D. Goodman, Mr. C. Griffiths** and **Mr. R. Brown**

## INDEPENDENT PERSONS OF THE HEARING PANEL (2)

(under Section 28 of the Localism Act 2011): **Ms. N. Jackson** and **Mr. M. Whiting**

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## **STANDARDS COMMITTEE**

### Terms of Reference

1. To promote and maintain high standards of conduct.
2. To make recommendations to Council on the council's code of conduct and its register of interests.
3. To determine by way of its Hearing Panel whether a breach of the code has occurred; if so, whether to take any action and, if so, what action to take.
4. To determine appeals from the Monitoring Officer's decision on dispensations.

### Delegation

In exercising the power and duties assigned to the Committee in its terms of reference, the Standards Committee shall have delegated power to resolve and to act on behalf of and in the name of the Council.

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## **STANDARDS COMMITTEE**

**6 MARCH 2019**

### **PRESENT**

Councillor A.M. Whyte (in the Chair).

Councillors Dr. K. Barclay (Vice-Chair), Miss L. Blackburn, R. Bowker, J. Coupe, Mrs. L. Evans, D. Jarman, P. Myers, L. Walsh, and D. Western.

Independent Members Mr. D. Goodman, and Mr R. Brown

Independent Person Mr M. Whiting.

#### In attendance

Jane Le Fevre

Monitoring Officer

Alexander Murray

Democratic and Scrutiny Officer

### **APOLOGIES**

Apologies for absence were received from Councillors M. Freeman.

Apologies were also received from Mr A. Rudden (Independent Member) and Mrs N. Jackson (independent Person).

### **10. MINUTES**

RESOLVED: That the minutes of the meeting held 17 October be agreed as an accurate record and signed by the Chair.

### **11. COMMITTEE ON STANDARDS IN PUBLIC LIFE - REVIEW INTO LOCAL GOVERNMENT ETHICAL STANDARDS**

For this item Members had been sent a covering report, the full Committee on Standards in Public Life (CSPL) report, and a review of the full report written by the Association of Democratic Service Officers (ADSO). The Monitoring Officer gave a brief overview of the purpose of the review, which had looked at all areas of standards regimes across the country.

The Committee were told that the responses the CSPL had received showed that standards were generally high within Council's and policies, procedures, and practices were sufficient in most cases. However, the review had highlighted issues in some areas of practice including bullying and harassment, declarations of interest, declarations of gifts and hospitality, the increasing complexity of decision making, and transparency around decision making and complaints.

The report had a total of 26 recommendations which would impact upon a wide range of areas of Council procedures from the Code of conduct to the support offered to Parish Councils. The Monitoring officer informed the Committee that the majority of the recommendations required further action by central government for them to become legal requirements.

Within Trafford's response to the consultation the Committee's main concern had been the lack of sanctions available to the Council when a breach of the Code of Conduct occurred. The Monitoring Officer informed the Committee that

**Standards Committee**  
**6.3.19**

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Recommendation 16 gave Council's the power to suspend a Councillor for up to 6 months. Recommendation 17 asked the Government to clarify other sanctions regarding the access to the Council property and recommendations 10, 12, 13, and 14 covered elements of the process of sanctioning and measures that a councillor could use to make their case against such sanctions.

An Independent Member asked how the report changed the distinction between how Councillors acted in their official capacity and in their personal life. The Monitoring officer explained that as it stood it was the complainant who had to prove that a Councillor was acting in their official capacity. However, if the recommendations were to be agreed they would require the Councillor to prove that they were not acting in their official capacity at the time of the incident.

A Committee Member noted that the Council were already meeting a number of the recommendations and there was one recommendation regarding the disclosure of Councillors address which Trafford had not adopted. The Councillor then detailed their own experience, where they had received a threatening letter through the mail, and asked if the Council could implement the recommendation prior to government acceptance. The Monitoring Officer responded that if a Councillor had reason to believe that they were at risk by their address being publically available there was a process to remove those details from the Council website. However, this was not something that the Council could implement for all Councillors without changes to legislation. The Monitoring Officer advised that if any Councillors had received any threats or concerning communications through the post then they should inform both Council officers and the police.

Another Committee Member added that candidates no longer needed to have their address written on ballot papers. The monitoring officer confirmed that this was the case and that potential candidates could do this by filling in the part two section of the nomination papers. When this was done the ballot would simply state that the candidate was a resident of Trafford.

The Monitoring officer informed the Committee that there were a number of recommendations and areas of best practice which the Council were already undertaking. Officers were to look at the feasibility of implementing all of the areas of best practice within the report prior to the deadline in 2020. An action plan laying out the Councils plan for the implementation of the areas of best practice was to be brought back to the Committee in the next municipal year.

One Member spoke about how Trafford was generally an area of high Standards and noted that some of the recommendations could be done through Secondary legislation but the majority required changes to primary legislation. The Monitoring Officer responded that the next update would state which recommendations were primary and secondary legislation and what progress had been made regarding their implementation nationally and within the Council.

**RESOLVED:**

- 1) That the report be noted.

*Standards Committee (6.3.19)*

- 2) That an action plan on how the Council will implement the 15 areas of best practice be brought to the Committee in the next municipal year.
- 3) That an update on the 26 Recommendations be provided to the committee.

**12. CONSTITUTIONAL WORKING GROUP**

The Monitoring Officer went through the action plan that had been circulated with the agenda. The Committee were informed of all the areas of work that had been completed. The e- bulletin, which was one of two remaining outstanding actions, was to be implemented within the new municipal year. The other item that was still to be completed was the adjustment to motions at full Council. The Monitoring Officer informed the Committee that an informal protocol was being written and that it would be in place for the new municipal year.

The webcasting of all Council Committee meetings, with the exception of those containing confidential information, was up and running, with each Committee having had at least one meeting broadcast. The Committee had been provided with a list of viewing figures for the webcasts up to the end of February which showed that the webcasts had received over 1600 views during the three months it had been running. The Committee were told that by webcasting the meetings the Council was going beyond their statutory obligations for transparency. This meant that when the Council did not webcast due to having part two information or when there were technical issues preventing a webcast the Council was not failing to meet their obligations.

A Committee Member asked whether the views were just hits on the website or actual views. The Democratic and Scrutiny Officer responded that the numbers which had been given to the Committee were just the number of hits that had been received. The Committee were informed that through the Council's YouTube Channel there were a full set of analytics available for each webcast including the total watch time and average view length which could be provided if the Committee wanted them.

RESOLVED: That the update be noted.

**13. SOCIAL MEDIA PLEDGE**

The Monitoring Officer informed the Committee that the social media pledge was to form part of the Council's communications strategy. A copy of the pledge was to be left on Councillors seats for the first meeting of the new municipal year to encourage them all to sign up. By making the pledge part of the communications strategy it ensure it would be read within the wider context rather than in isolation and so reduce ambiguity about what the pledge related to.

RESOLVED: That the update be noted.

**14. MONITORING OFFICERS REPORT**

The Monitoring Officer informed the Committee that she had attended and observed an instance of each Committee's meetings during the year apart from the licensing Committee and the Health and Wellbeing Board. The Monitoring Officer was satisfied that the Council's decision making process had performed

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well during the year and assured the Committee that Trafford had a robust process in place with no instances of non-compliant decisions being reported to Council. The overall standards within the Council had been excellent during the year. The Monitoring Officer spoke about the fortunate position that Trafford was in with regards to the excellent conduct of Trafford Councillors as shown by the minimal number of Complaints received. The constitutional changes had mainly been completed, as covered earlier in the meeting, although the Constitutional Working Group would be continuing into the new municipal year.

RESOLVED: That the update be noted.

The meeting commenced at 6.30 pm and finished at 7.08 pm

**TRAFFORD COUNCIL**

**Report to:** Standards Committee  
**Date:** 25 September 2019  
**Report for:** Information  
**Report of:** Corporate Director for Governance and Community Strategy

**Report Title**

**Constitutional Review: Recruitment and Employment Procedures**

**Summary**

**A review of the Council’s constitution in respect of HR procedures has been undertaken. This report provides members with details of the outcome of that review.**

**Recommendation(s)**

It is recommended that the Standards Committee notes:

- the Employment Committee’s approval of the constitutional amendments as set out in the report;
- the proposed constitutional amendments as set out in the report; and
- notes the referral to Council for approval and adoption.

**Contact person for access to background papers and further information:**

Name: Dominique Sykes  
 Extension: 3120

Background Papers: None

*Implications:*

Relationship to Policy Framework/Corporate Priorities	N/A
Relationship to GM Policy or Strategy Framework	N/A
Financial	None Arising from the report
Legal Implications:	An independent review of the constitution was undertaken by Eversheds Sutherlands. The proposed amendments incorporate relevant legislative updates.  The proposed amendments also reflect standards adopted by the Joint Negotiation Committee’s (the national

	negotiating body for the pay and conditions of service of chief executives in England and Wales) Conditions of Service
Equality/Diversity Implications	None Arising from the report
Sustainability Implications	None Arising from the report
Resource Implications e.g. Staffing / ICT / Assets	None Arising from the report
Risk Management Implications	None Arising from the report
Health & Wellbeing Implications	None Arising from the report
Health and Safety Implications	None Arising from the report

## 1.0 Background

- 1.1 On 25 July 2018 Council considered a report relating to the Appointment of an Interim Chief Executive and Appointments to the Corporate Leadership Structure. In the course of debate on the report and subsequent to the meeting a number of questions were raised in relation to the procedures for the appointment of senior officers.
- 1.2 It was acknowledged that the Council's constitution, in respect of Human Resources procedures, such as recruitment, appointment, disciplinary and dismissal requirements, together with relevant associated documents, could be clarified further and that the constitution and associated documents would benefit from a general update in respect of current working procedures within Human Resources and relevant legislative changes.
- 1.3 As a result of the queries raised and in order to provide assurance to members generally on this point, external solicitors at Eversheds Sutherlands ("ES") were appointed to review and reconcile the requirements in respect of the appointment of senior officers to ensure they are consistent throughout the Constitution and associated documents and in accordance with legal obligations.
- 1.4 On the 10 September 2019, the Employment Committee considered and approved the constitutional amendments as set out in the report, with a recommendation to Council.
- 1.5 The proposed amendments will be considered by the Executive on 30 September and, if approved, the Executive will refer the proposed amendments to Council for approval and adoption.

## 2.0 Review Scope and Summary.

- 2.1 ES have undertaken a review of the following:-

2.1.1 Extracts from Part 4 of the Constitution, which includes:-

2.2.1.1 the terms of reference for the Employment Committee;

- 2.2.1.2 the terms of reference for the Appointments Committee;
- 2.2.1.3 officer delegations;
- 2.2.1.4 Full Council functions;
- 2.2.1.5 the Officer Employment Rules and Procedures.

2.2.2 The Council's 2019 Pay Policy Statement Report.

- 2.2 Upon conclusion of the review, ES have advised that the wording in the Constitution and the Officer Procedure Rules correctly reflected both relevant legal legislation and set out sound HR recruitment and appointment procedures.
- 2.3 They did however identify a number of areas where the procedures could be clarified or streamlined, or where it did not accurately reflect practice and procedure. A number of amendments were suggested by ES and the full details of these, together with further changes identified following their review are attached at Schedule 1 and 2 to this report. A summary of the amendments is contained in the report below.
- 2.4 The proposed amendments are largely intended to:
  - 2.3.1 improve clarity and consistency of terminology and referencing;
  - 2.3.2 ensure that those who apply the HR recruitment and appointment procedures are alerted to other relevant documents;
  - 2.3.3 improve clarity around roles and responsibilities; and
  - 2.3.4 assist in the application of complex requirements and procedures for the appointment and rare dismissal of Chief Officers.

### **3. Summary of Recommended Amendments**

#### **3.1 Constitution, Part 4: Officer Employment Procedure Rules**

- 3.1.1 It is proposed that these are updated to clarify that there is no requirement to draw up a statement of duties/qualifications or advertise externally where internal candidates only are being considered for promotion to a Chief Officer Post, in accordance with the Council's Succession Planning Policy, which was approved in 2016, or in other exceptional circumstances (e.g. urgent interim roles, restructuring, cost savings).
- 3.1.2 It is proposed that legislative references are updated to reflect the changes introduced since 2015 in respect of the procedures for disciplinary and dismissal procedures for Chief Officers.
- 3.1.3 In the Officer Employment Procedure Rules, (Appendix 1) it is proposed that the role of the Leader is removed in making decisions about whether matters of concern should be investigated. This proposed amendment reflects the principle that decisions about HR matters should not be an Executive function

and it also ensures that the procedures as set out in the Joint Negotiation Committee's (the national negotiating body for the pay and conditions of service of chief executives in England and Wales) Conditions of Service Handbook ("JNC Conditions of Service"), which expect the independent investigatory committee to have a role in determining whether or not a matter should be investigated, are reflected. The views of the Leader would however be one of the factors to be considered by the Investigatory Committee in reaching that decision. It is proposed that an initial view about possible alternatives or conciliation would be led by officers prior to serious issues being referred to the independent committee.

### **3.2 Constitution, Part 2 Article 4: Full Council.**

3.2.1 It proposed that the Pay Policy is added to the list of those policies which require full Council approval. This proposed amendment reflects current legislative requirements. The Pay Policy has as a matter of course always been referred to Council in accordance with the statutory requirements. This amendment will simply reference the Pay Policy in the list of policies requiring Council approval.

3.2.2 It is also proposed that wording is added to require full Council approval of any termination payments in excess of 100k, with a referral to the Employment Committee in the first instance. This proposed amendment reflects current legislative requirements.

3.2.3 The relevant legislation which sets out the requirements above is Section 40, Localism Act 2011 as supported by the Code of Practice for Local Authorities on Data Transparency and further guidance, Openness and Accountability in Local Pay; Guidance under Section 40 Localism Act 2011.

### **3.3. Constitution, Part 3: Officer Delegations**

3.3.1 Additional wording is proposed to the responsibilities of the Corporate Director of People to provide a role for dealing with internal promotions to Chief Officer posts in accordance with the Council's Succession Planning Strategy or at times of urgency. The Appointments and Appeal Panel will continue to lead on this in ordinary circumstances but, it is proposed that the Corporate Director of People should be provided with clear delegated authority to take preparatory steps for preparing job descriptions and advertisement and also to finalise appointments where there is insufficient time to set up an Appointments and Appeals Panel in exceptional cases.

3.3.2 It is also proposed that the Chair of the Employment Committee and the Chief Executive (or other Proper Officer – *see proposed amendments*) are given an explicit role in the determination of what constitutes "exceptional circumstances".



### **3.4 Constitution, Part 3: Employment Committee**

3.4.1 It is proposed that the Employment Committee's terms of reference are amended to provide the Committee with:

- a role in approving salary and benefits for Chief Officers; and
- an overarching role in ensuring compliance with the Council's duties in respect of transparency about public sector pay and termination costs.

These proposed changes provide a role for the Employment Committee:

- in considering the annual pay policy;
- in circumstances where termination payments will exceed 100k (subject to Full Council approval); and
- in decisions about senior officers returning to work for the Council after receiving a termination payment.

3.4.2 The above proposed amendments will enable decisions to be made as a consequence of the current Public Sector Exit Payments (Limitation) Bill 2017-19 which is a piece of legislation which is likely to be enacted in the next few months. It will also ensure there is a place for consistent decision making about this in accordance with the current Pay Policy and Pension Regulations.

3.4.3 It is proposed that the Employment Committee should have a membership of at least 7 and that there should be meetings on a quarterly basis in addition to ad hoc meetings.

### **3.5 Constitution, Part 3: Appointment and Appeals Panel ("Panel")**

3.5.1 There are a number of proposed amendments which seek to improve clarity: around terminology; and of the relevant links to the Officer Employment Procedure Rules.

3.5.2 It is proposed that amendments are made to make it clear the Panel has a role in appointing Chief officers or dealing with disciplinary matters.

3.5.3 It is proposed that the correct constitution of a Panel is clearly determined.

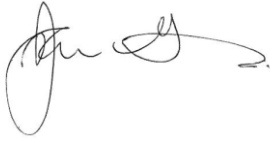
### **Other Options**

The Executive and/or Council may wish to propose variations to the proposed amendments recommended by Eversheds.

### **Reasons for Recommendations**

Following an independent review of the HR procedures contained in the Council's Constitution, the proposed amendments are recommended to ensure that the constitution and associated documents accurately reflect current working procedures within Human Resources and relevant updated legislative requirements and can be clearly interpreted.

**CORPORATE DIRECTOR'S SIGNATURE** (electronic)

A handwritten signature in black ink, consisting of a large, stylized initial 'A' followed by a series of loops and a horizontal stroke extending to the right.

**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 ~~P~~proper ~~O~~fficer 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-P~~proper ~~O~~fficer 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 ~~H~~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 A~~ 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~~ Framework and Conditions of Service Handbook for Chief Officers.

Constitution Part 4: Officer Employment Procedure Rules	
<p><b>Recruitment of Head of Paid Service, <del>Chief Officers and Directors and Heads of Service</del></b></p>	<p>(1) Where the Council proposes to appoint a Head of Paid Service, <del>Chief Officer or Director or Head of Service</del> and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:</p> <p>(a) draw up a statement specifying:</p> <p>(i) the duties of the officer concerned; and</p> <p>(ii) any qualifications or qualities to be sought in the person to be appointed;</p> <p>(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>

	<p>apply for it; and                  (c) make arrangements for a copy of the statement mentioned in paragraph 1(a) to be sent to any person on request.                  (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 –                  (a) interview all qualified applicants for the post, or                  (b) select a shortlist of such qualified applicants and interview those included on the shortlist.                  (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><u>(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 Appeal and Appointments and Appeals Panel/ Appointment Committee. An Appointment Committee must include at least one member of the Executive.</u></p> <p><u>(2) 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 been 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;                  (b) the Proper Officer has notified every member of the Executive of                  (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                  (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

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**SCHEDULE TWO: PROPOSED AMENDMENTS**

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**OFFICER EMPLOYMENT PROCEDURE RULES**

**6. Disciplinary action**

**(1) Suspension of Head of Paid Service, Section 151 Chief Finance Officer and Monitoring Officer**

~~The Head of Paid Service, Monitoring Officer and Chief Finance Officer ("the relevant officer(s)") may be~~ suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months. ~~The Appointment Committee and Appeals Panel will make any decision to suspend the relevant officer (s) and/or authorise any investigation in accordance with the appropriate JNC Conditions of Service Handbook.~~

**Comment [ES1]:** This changes the current procedure from a decision of the Leader to make it consistent with the requirements in the JNC Handbook and to avoid any suggestion of bias or lack of transparency.

**(2) Disciplinary action against the Head of Paid Service, Monitoring Officer and Section 151 Chief Finance Officer**

No other disciplinary action may be taken in respect of any of the officers described in (1) above except in accordance with a recommendation in a report made by a disciplinary panel under the Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. The Disciplinary and Dismissal Procedure for Head of Paid Service, Monitoring Officer and Section 151 Chief Finance Officer is set out as an appendix to these Officer Employment Procedure Rules. The procedures in the relevant JNC Conditions of Service Handbook must also be followed to the extent practicable.

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**(3) Disciplinary action against officers below deputy chief officer.**

Disciplinary action in respect of officers below the level of Deputy Chief Officer will be taken by the Chief Executive or their nominated senior officer. Councillors will not be involved in the disciplinary action against any officer below ~~Head of Service~~ Deputy Chief Officer level except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

**7. Dismissal**

**(1) Head of Paid Service**

- (a) Subject to 8(2) the full Council must approve the dismissal of the Head of Paid Service before notice of dismissal is given following the recommendation of dismissal by ~~a committee or sub-committee of the Council~~ the Appointment and Appeals Panel. ~~That committee or sub-committee must include at least one member of the Executive.~~ The requirements in the relevant JNC Conditions of Service Handbook, summarised in Appendix 1, must also be followed. In this Constitution, to the extent that there is any conflict or ambiguity between such Handbook and the other contents of this Appendix, the latter will prevail.

(b) Notice of the dismissal of the Head of Paid Service must not be given by or on behalf of the committee or sub-committee ~~Appointment and Appeals Panel~~ ("the Committee ~~Panel~~") until –

- (i) the ~~Committee Panel~~ has notified the Proper Officer that they wish to dismiss the Head of Paid Service and of any particulars which the ~~Committee Panel~~ considers are relevant to the dismissal;
- (ii) the Proper Officer has notified every member of the Executive
  - a) that the ~~Committee Panel~~ wishes to dismiss the Head of Paid Service and of any other particulars relevant to the dismissal which the ~~Committee Panel~~ has notified to the Proper Officer; and
  - (b) of the period within which any objection to the dismissal is to be made, by the Executive Leader on behalf of the Executive to the Proper Officer; and
- (iii) either –
  - (a) the Executive Leader has, within the period specified in the notice under (1)(b)(ii) above, notified the ~~Committee Panel~~ that neither (s)he nor any other member of the Executive has any objection to the dismissal;
  - (b) the Proper Officer has notified the ~~Committee Panel~~ that no objection was received by him/her within that period from the Executive Leader; or
  - (c) the ~~Committee Panel~~ is satisfied that any objection from the Executive Leader within that period is not material or well founded.

(2) **Directors and Heads of Service**

- (a) A Committee, sub-committee or another officer may discharge the function of the dismissal of a director or head of service. If a committee or sub-committee is discharging the function that committee or sub-committee must include at least one member of the Executive.
- (b) Notice of the dismissal of a director or head of service must not be given by a committee, sub-committee or officer ("the Committee") until the procedure set out in 7(1)(b)(i), (ii) and (iii) above has been followed.

(3) **Officers below Head of Service**

Dismissal of officers below head of service (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and shall not be made by Councillors.

8. **Appeals**

- (1) Nothing set out above shall prevent a councillor from serving as a member of any committee or sub-committee established by the Council to consider an appeal by –
  - (a) another person against any decision relating to the appointment of that person as an officer of the Council; or

- 
- 
- (b) an officer of the Council other than the Head of Paid Service against any decision relating to the dismissal or, or, taking disciplinary action against, that officer.
- (2) Prior to a meeting of full Council to approve the dismissal of the Head of Paid Service a ~~committee-panel~~ to consider any appeal by the Head of Paid Service must be established. The Members appointed to that appeal ~~committee-panel~~ must not attend or participate in that part of the Council meeting which considers the dismissal of the Head of Paid Service.

## Appendix to the Officer Employment Procedure Rules

### Disciplinary and Dismissal Procedure for Head of Paid Service, Monitoring Officer and Section 151 Chief Finance Officer

Employment Committee on 10 August 2015 adopted the procedure, as provided for in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, as follows:

1. Where an allegation of potential misconduct is made against the Head of Paid Service, Monitoring Officer or Chief Finance Officer (the 'protected officers'), then the Head of Paid Service, Leader of the Council, in conjunction with the Corporate Director of HR People (or and Monitoring Officer or Section 151 Chief Finance Officer where an allegation relates to the Head of Paid Service), where the allegation is not related to them will consider whether the issues require investigation and, where this is the case, determine the most appropriate person to conduct the investigatory process.
2. This will ordinarily be an external, independent investigator, with the relevant background, skill set and experience to conduct investigations of this nature. The independent investigator will, to the extent practicable, undertake their investigation in accordance with the ACAS Code of Practice.
3. The Leader of the Council, Head of Paid Service (or Monitoring Officer or Section 151 Chief Finance Officer where an allegation relates to the Head of Paid Service) appropriate) and the Corporate Director of HR People, will consider whether suspension is appropriate or whether there are any other suitable alternative ways of managing the situation. Where suspension is deemed appropriate, the Corporate Director of HR Place will ensure that agreed-normal Council suspension protocols are followed.
4. The findings from the investigation will be presented to a Panel established in accordance with the relevant JNC Conditions of Service Handbook; this Panel must consist of a least 2 independent persons, who must be drawn from those appointed under section 28(7) of the Localism Act 2011. In addition, the Panel will comprise of Elected Members who will ordinarily be members of the Employment Committee and will be politically balanced in line with the rules of proportionality. The Panel will be advised by the Corporate Director of HR People (or their representative).
5. The 'protected officers' are entitled to be given an opportunity to make personal representations to the Panel and have the right to be accompanied by their Trade Union representative or a work colleague if they so wish.

**Comment (ES2):** the Leaders role has been removed here on the basis that employment matters should not be an executive function and since the Leader or Deputy is likely to be involved in any decisions at a later stage.

6. The Panel will consider the conclusions of the investigation and any representations from the protected officer concerned.
7. Where it is considered by the Panel that no action or action short of dismissal should take place, then the Panel can progress in confirming the outcome of the Panel meeting and there is no requirement to put the matter forward for an authority vote.

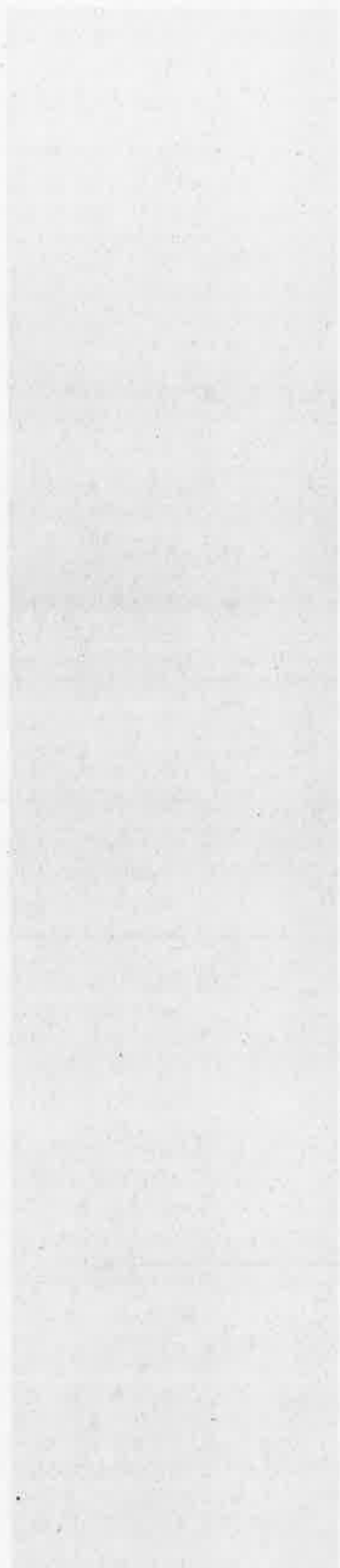
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Appendix to the Officer  
Employment Procedure Rules

8. Where the Panel determines that action short of dismissal is the appropriate sanction, the protected officer has the right of appeal to a politically-balanced Appeals Committee ordinarily made up of members of the Employment Committee, who were not involved in the Panel meeting. The appeal hearing will take the form of a review of the case and the decision that was taken by the Panel. The protected officer will be invited to make their verbal/written representations to the Appeals Committee for consideration. Where the protected officer chooses to present verbally, representatives from the Panel will also be in attendance. The Appeals Committee will be advised by the Corporate Director of HR People (or their representative). All relevant parties will be provided with the relevant documentation in advance of the Appeals Committee.
9. Where the proposal is to dismiss, the Executive Objections Procedure will be followed prior to the matter going forward to full Council.
10. On receipt of any objections, it is for the Panel to decide whether they are material and well-founded. If they are, then the Panel will need to consider the effect of the objection and act accordingly. For example, this may require further investigation.
11. Where there are no objections or any objection is deemed as not material or well-founded, the matter will then be considered at full Council, who will vote at a meeting on whether to approve the proposal to dismiss. There must be an interlude of at least 20 working days between the full Council meeting and the date of the original Panel meeting.
12. At their meeting, full Council will consider the original investigation report and the recommendations of the Panel, along with any verbal/written representation from the protected officer. Where the protected officer chooses to present verbally, representatives from the Panel will also be in attendance. All relevant parties will be provided with the relevant documentation in advance of full Council.
13. The decision of Council will be by way of a majority vote and will be final.
14. Where a decision to dismiss is approved by Council, then the protected officer has no further right of appeal.
15. It is in the interests of all parties that the process should be conducted expeditiously, but fairly and that any delays in the procedure are avoided, wherever possible.

16. This process will also be adopted in cases where there are issues in relation to capability, which are not resolved through the provision of additional guidance, training, development and support.





Appendix to the Officer  
Employment Procedure Rules

**'Protected Officers' Disciplinary and Dismissal Procedure Flowchart**

The following flowchart provides a summary of the procedure:

**Initial Action**

The Leader of the Council, Head of Paid Service (or Monitoring Officer or Section 151 Chief Finance Officer where allegations relate to the Head of Paid Service appropriate) and the Corporate Director of HR People appoints an independent investigator

The independent investigator undertakes an investigation in line with ACAS Code of Practice and produces a report with detailed findings

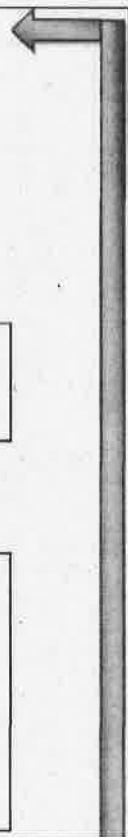
**Panel Hearing**

A Panel, comprising of 2 independent persons, together with Elected Members who will ordinarily be members of the Employment Committee and the Corporate Director of PeopleHR (or their representative in an advisory capacity), hears the case, including representations from the protected officer

Any recommendation on no action or action short of dismissal can be confirmed by the Panel without any referral to full Council.

**Appeals Committee**

The protected officer has a right of appeal against a sanction of action short of dismissal to an Appeals Committee ordinarily made-up of Employment Committee members who were not involved in the Panel meeting. The



Trafford Council

Appeals Committee will review the case and the decision made, together with verbal/written representation from the protected officer and the Panel.



Appendix to the Officer  
Employment Procedure Rules

**Executive Objections Procedure**

Where the proposal is to dismiss, the Executive Objections Procedure will be followed before the proposal being considered by Council

Under the Executive Objections Procedure, members of the Executive have a chance to object to the proposed dismissal. If there are no objections or it is deemed that any objection is not material or well-founded, then the proposal to dismiss can proceed.

It is for the Panel to decide whether any objections are material and well-founded. If they are, then the Panel will need to consider the effect of the objection and act accordingly. For example, this may require further investigation.

**Full Council**

Where the proposal is to dismiss, full Council considers all written documentation relating to the case for dismissal, including the advice, views and recommendation from the Panel, together with verbal/written representation from the protected officer and the Panel. An interlude is required of at least 20 working days between the original Panel meeting and the full Council meeting.

Council votes on whether or not to dismiss (majority vote) and their decision will be final.



## **TRAFFORD COUNCIL**

**Report to:** Standards Committee  
**Date:** 25 September 2019  
**Report for:** Decision  
**Report of:** Monitoring Officer and Independent Person  
**Report Title**

### **Investigation into changes to Members Allowances**

#### **Summary**

A motion was proposed to Council on 17<sup>th</sup> July 2019, condemning the Labour Group for having reversed a voluntary reduction to their members' allowances which had been applied since 2013. Council voted pursuant to a motion without notice to refer the matter to the Standards Committee for review and to report back to Council. This report details the outcome of that review, which has been conducted by the Monitoring Officer and the Independent Person.

#### **Recommendation(s)**

**That the Committee :-**

- 1. Notes the contents of the report;**
- 2. Notes that, prior to and shortly after the elections in 2018 each of the political groups was asked to confirm whether they wished to continue the voluntary reduction in members' allowances first applied in 2013/14;**
- 3. Notes that both the Labour Group and the Liberal Democrat Group indicated that they wanted to reverse the reduction;**
- 4. Notes that there was nothing improper in the actions of the Labour and Liberal Democrat Groups in indicating that the voluntary reduction in allowances should be reversed for their members;**
- 5. Notes that there was no requirement that such a decision should be subject to public scrutiny as it was essentially a decision which fell to each individual member**
- 6. Approves the proposal to add an explanatory sentence on the annual publication of Members allowances and to identify those Members who have renounced part of their allowance on the same document.**

#### **Contact person for access to background papers and further information:**

**Name:** Jane Le Fevre  
**Extension:** 4215

**Background Papers:**

None

**Implications**

Relationship to Policy Framework/Corporate Priorities	N/A
Financial	None
Legal Implications:	None
Equality/Diversity Implications	None
Sustainability Implications	None
Staffing/E-Government/Asset Management Implications	None
Risk Management Implications	None
Health and Safety Implications	None

**1. Background.**

**1.1** On 17<sup>th</sup> July 2019 a motion in the following terms was proposed and seconded to Council:-

*(h) Motion Submitted by the Conservative Group - Members' Allowances Increases for Labour Councillors*

*This Council condemns the revelation that, on 22 August 2018, the Labour Group via the Leader of the Council wrote to the Corporate Director for Finance and Systems instructing that the voluntary reduction of 1.9% applied to Members Allowances since 2013/14 be reversed.*

*Council notes:*

- *This letter was submitted secretly with no public accountability or scrutiny of the change*
- *That the change in allowances was subsequently backdated to April 2018*
- *That the Labour group also requested this change to be applied to significant Special Responsibility Allowances, to ensure maximum personal financial benefit for Labour members*

*Council finds it abhorrent and hypocritical that this Labour administration has the audacity to talk about austerity whilst at the same time:*

- *increasing their own allowances, in secret without scrutiny*
- *trebling the cost of the Corporate Leadership Team to nearly £1million per annum in the last 10 months*
- *overseeing the deterioration of services in Trafford (see Children's Services) through poor leadership and management*

*The Council requires every Labour member to return their increased allowance to the taxpayers of Trafford and for members' allowances to be reset to the levels stipulated in 2015/16 to be consistent for all Members (i.e. 98.1% of present full allowance).*

**1.2** A Motion Without Notice proposing that the issues raised by the motion be referred to the Standards Committee for review and for the Committee to report back to Council once it had had the opportunity to review the matter was subsequently moved, seconded and agreed by Council.

**1.3** In order to assure members of the transparency, objectivity and independence of the subsequent review and notwithstanding the fact that this was not a formal complaint under the Standards procedures the Monitoring Officer decided to approach the Independent Persons ("IP's") and it was agreed that one of the

IP's would assist in the review and that the report to the Standards Committee should be a joint report from the Monitoring Officer and the IP.

- 1.4 Given that the matter was referred to the Standards Committee pursuant to a Council motion, the Monitoring Officer and IP agreed that this was not a matter which should be considered as a formal complaint. This is a matter which the Committee has been asked to review. The Monitoring Officer and IP have approached the matter on that basis.

## 2. The Review

- 2.1 The Monitoring Officer and the IP have reviewed the regulations governing the position in relation to Members' allowances; the Members' Allowances Scheme; previous reports to Council; and the correspondence between the group leaders and Council officers and have established the position is as set out below.
- 2.2 Members Allowances are determined by an Independent Remuneration Panel. The Council is obliged to appoint such a panel in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003. The panel will consider the position in relation to Members' allowances and make recommendations to Council in respect of the same.
- 2.3 The Council adopted a scheme in relation to Members' Allowances, which was set out in Part 6 of the Constitution. Under Clause 7 of the Scheme a member may, by notice in writing given to the Chief Executive, elect to forgo any part of his/her entitlement to an allowance under this Scheme.
- 2.4 In 2013 the position in relation to Members' allowances was linked to austerity measures which were introduced in 2013/14 council budget. At that time staff were required to take mandatory unpaid leave as part of that year's budget savings. Members subsequently volunteered that they would take a 1.9% reduction in their allowances to show solidarity with the staff.
- 2.5 This was initially done on an individual basis, with each member having to indicate whether they wished to volunteer up that portion of their allowance and it was initially the intentions that this would, for as long as the political groups wanted to maintain the reduction, be reaffirmed by each member on an annual basis in accordance with clause 7 of the Members' Allowances Scheme. However given that there was absolute solidarity between the groups on the application of the reduction, after the first year the renunciation of the benefit was accepted as a group rather than an individual member decision.
- 2.6 The original changes to staff terms and conditions in relation to mandatory leave were introduced on the basis that they would be reviewed after three years. On review the mandatory scheme was dropped after 3 years and a voluntary scheme was introduced instead. This meant that members and officers were out of step in that the reduction was still being applied to members' allowances.
- 2.7 The position in this regard was raised with the leaders of the Conservative, Labour and Liberal Democrat groups in 2018. It is understood that the conservative group, prior to the elections in May 2018, confirmed that the Conservatives would maintain the voluntary reduction. The Labour and the

Liberal Democrats when asked the same question after the May election said that they did not want to continue with the reduction.

- 2.8** Technically and legally, this has always been a matter of individual choice for members, although it was reaffirmed through group decisions on an annual basis. Members were at all times during that period entitled to the full allowance and the council could not have imposed the reduction against any member who did not agree to accept it.
- 2.9** The allowances are set for the financial year which is why, when the Labour and Liberal Democrats were asked to confirm their position in August 2018, on receipt of their decision on this point, the allowance at full level was reinstated for the full year, i.e. back to April 2018.
- 2.10** The reduction which had been applied was a straight reduction to all allowances, both ordinary and special responsibility, so reversing it reversed the position in relation to both sets of allowances.
- 2.11** On a separate note, the Independent Remuneration Panel (IRP) did recommend an increase in Members' allowances linked to the JNC settlement for staff in any given year and a report was taken to Council on this in July 2018. However, whilst the principal of the linkage of the allowances to the JNC negotiated settlement for staff was agreed by Council, the minute for that meeting records the following:-

*"The Leaders of the Labour and Conservative Political Groups accepted the reports contents, however, indicated that their Members would not take up the resultant 2% increase in allowances".*

That is entirely separate from the 1.9% reduction which is the subject of the motion and this review

### **3. Review Findings**

- 3.1** This matter has been considered as a review of the position in relation to members' allowances in the light of the issues raised in the Motion to Council on 17 July 2019. Notwithstanding that the matter has proceeded by way of review, there is no evidence that there has been any breach of the Members Code of Conduct.
- 3.2** In 2013 Members elected to accept a reduction from the allowances recommended by the IRP in order to show solidarity with staff who were suffering a reduction in their pay due to a mandatory change to their terms and conditions;
- 3.3** Members were asked each year to confirm whether they wished to continue with the reduction;
- 3.4** This was a matter of individual choice for each member – the council cannot impose cuts to allowances as these are set by the IRP;
- 3.5** There was no requirement for any formal decision making around the decision on whether to continue the reduction – any member could have called to reverse its application to them at any time;

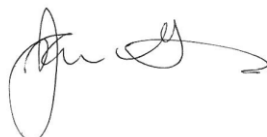


- 3.6** The change to staff terms and conditions was reversed after 3 years and staff were then back to receiving 100% of their salaries;
- 3.7** There has been no increase in members' salaries, there has simply been a reversal of a voluntary reduction;
- 3.8** The only increase which could have been applied to members' allowances was that which was recommended by the IRP and approved in principle by Council in 2018;
- 3.9** Both Conservative and Labour voted in July last year not to accept the 2% increase recommended by the IRP and that remains the position for both those sets of members;
- 3.10** There is no requirement to publish the correspondence between officers and the Group Leaders on the matter of Allowances but the amounts paid to individual members by way of allowances is required to be and is duly published each year to allow transparency;
- 3.11** The Independent Person comments that: *“from an external perspective there is a lack of transparency of the arrangement that each Group agrees the renunciation of allowances (with the agreement of each of its individual members). The publication of Members Allowances demonstrates that members of differing political groups are paid 3 different basic allowances for carrying out the same role. Without any explanation, council tax payers are entitled to assume that that is based upon a decision made by the Council which appears to distinguish between the ‘value’ of different political groups. This is not correct, would be unlawful and is potentially damaging. There therefore needs to be a reference on the document publishing Members allowances that identifies that specific Members have agreed to renounce part of their allowance. This will make it transparent that the difference in payment is not due to a Council decision but is an individual Member’s decision.”*
- To further improve transparency, officers will ensure that appropriate explanatory wording is added to the annual publication of Members allowances and that those Members who have renounced part of the allowances are identified on the same document.
- 3.12** In order to avoid tensions around members' allowances in the future, Officers will liaise with all group Leaders at the same time to establish their respective positions and will ensure that those respective positions are shared between all Leaders for information.

### **Review Documents**

- Members' Allowances Scheme;
- Relevant e-mail correspondence;
- IRP report July 2018

**CORPORATE DIRECTOR'S SIGNATURE** :



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## TRAFFORD COUNCIL

Report to: Standards Committee  
Date: 15 September 2019  
Report for: Decision  
Report of: Corporate Director of Governance & Community Strategy

### Report Title

Review of Member/Officer Relations Protocol

### Summary

The Member/Officer Relations Protocol was approved by Council 22<sup>nd</sup> May 2013. This report summarises the principles of the current protocol.

On 17 October 2018, the Committee was invited to review the current protocol and to determine whether the protocol needs to be amended.

A working group have since reviewed the existing protocol and propose a number of amendments which are detailed in this report.

### Recommendations

It is recommended that the Standards Committee approves:

- the amendments as set out in the report; and
- the referral to Council for approval and adoption.

## **1.0 Introduction**

1.1 The working relationship between Councillors and Officers is integral to the successful operation of an effective local authority. Politicians and managers have vital roles to play in providing a form of joint leadership which is based on shared knowledge, skills and experience. And at the heart of this relationship should be a common vision, shared values and mutual respect.

1.2 Many councils produce formal written protocols to determine what is regarded as acceptable in working relationship terms. These protocols reflect the principles of the Council's Members' Code of Conduct, the Officers' Code of Conduct, the Council's Whistle Blowing Protocol and more generally the Council's policies, procedures and processes.

- 1.3 The purpose of the Member/Officer Relations Protocol (“The Protocol”) is to provide a framework to guide Members and Officers in building strong working relationships, which is essential to the effective and efficient working of the Council.
- 1.4 The Protocol forms a key part of the Council’s approach to corporate governance and its commitment to uphold standards in public life.
- 1.5 The current protocol was approved by Council on 22nd May 2013. There have been no amendments to the protocol since that date.
- 1.6 On 17 October 2018, the Committee was invited to review the current protocol and to determine whether the protocol needs to be amended.
- 1.7 A working group have since reviewed the existing protocol and propose a number of amendments which are detailed in this report at Schedule One.
- 1.8 The Standards Committee is now invited to consider the proposed amendments and determine whether the amendments should be approved.

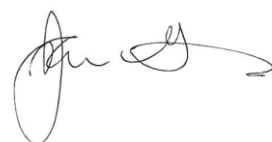
### **Other Options**

The Standards Committee may determine to reject any amendments to the protocol. Given the length of time since the protocol was approved, the protocol would benefit from a review and update and therefore, this option is not recommended.

The Standards Committee may wish to propose different or additional variations to the proposed amendments.

### **Reasons for Recommendations**

The protocol has not been amended since it was adopted in 2013, the proposed amendments are recommended to ensure that the protocol accurately reflect current working procedures and relevant issues that may affect the Member/Officer working relationship.

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**CORPORATE DIRECTOR’S SIGNATURE** (electronic)

## Schedule One

# PART 5

## CODES AND PROTOCOLS

### Member/Officer Relations Protocol

#### 1.0 INTRODUCTION

- 1.1 The aim of this Protocol is to guide Members and Officers of Trafford Council in their relations. It is hoped the Protocol will help build good working relationships between Members and Officers as they work together.
- 1.2 A strong, constructive and trusting relationship between Members and Officers is essential to the effective and efficient working of the Council.
- 1.3 It is recognised that relationships between Members and Officers are very varied and can often be complex. Therefore, this Protocol does not seek to be comprehensive and may not cover all situations. However, it is hoped that the framework it provides will serve as a guide to dealing with a wide range of circumstances.
- 1.4 This Protocol forms a key part of the Council's approach to corporate governance and its commitment to uphold standards in public life.

#### 2.0 INTERPRETATION OF THE PROTOCOL

- 2.1 Members and Officers must observe this Protocol at all times.
- 2.2 The provisions of this Protocol will be interpreted having regard to the requirements of the Members' Code of Conduct, the Officers' Code of Conduct, the Council's Whistle Blowing Protocol and the Council's policies, procedures and processes.
- 2.3 Where there is a conflict or discrepancy between this Protocol and the Codes and Policies referred to in 2.2 above then those Codes and Policies shall have precedence. Conventions will also be taken into account in cases of conflict or discrepancy. Any questions over interpretation will be decided by the Monitoring Officer in consultation with the Chief Executive.
- 2.4 **PROPOSED AMENDMENT TO PROVISION**

**Existing Provision:** It is recognised that, in the period preceding any Council Election or by-election, specific protocols are in place. These protocols will take precedence over this Protocol where there is again conflict or a discrepancy.

**Proposed Amendment:** It is recognised that during pre-election periods, specifically the time between the announcement of an election and the final election results which is known as Purdah, additional measures govern the conduct of officers. Officers and Members should seek further guidance around such measures and their application from the Monitoring Officer. Where there is a conflict or discrepancy between this protocol and any Purdah protocol, the Purdah protocol shall take precedence.

2.5 This Protocol does not affect or interfere with any rights or protection which a person may have in law.

### **3.0 THE ROLE OF MEMBERS**

3.1 Members are accountable to the electorate who determine the people they wish to represent them on the authority. Therefore, this Protocol recognises that Members are elected to serve the people of Trafford.

3.2 Members, as politicians, may express the values and aspirations of their party political groups but they must recognise that in their role as Members they have a duty to always act in the public interest.

3.3 Members may have a number of roles within the Council and need to be alert to the possible conflicts of interest that may arise.

3.4 At all times Members should be aware that the role they are performing may impact upon the nature of their relationship with Officers and the expectations that Officers may have of them.

3.5 Members are mainly responsible for:

- the political direction and leadership of the Authority
- the determination of policies, plans and strategies
- deciding matters to give effect to or implement those policies, plans and strategies particularly in service delivery terms
- performing the Council's regulatory functions
- monitoring and reviewing, primarily through the Executive and Overview and Scrutiny functions, the Council's performance in implementing its policies, plans and strategies and in delivering its services
- participation in partnership working
- representing the Council on national, regional and local bodies and organisations

- representing the views of their communities and individual constituents

### 3.6 **PROPOSED AMENDMENT TO PROVISION**

**Existing provision:** Some Members will have additional responsibilities relating to their membership of the Executive, Overview and Scrutiny Committees or other committees and sub-committees. The holding of these roles will involve a different relationship with certain Officers in areas where the Member has particular roles and responsibilities.

**Proposed amendment:** Some Members will have additional responsibilities relating to their membership of the Executive, Overview and Scrutiny Committees or other committees and sub-committees

3.7 Members who serve on committees and sub-committees collectively have delegated responsibilities. These responsibilities may include deciding quasi-judicial matters which by law are excluded from the remit of the Executive.

3.8 Officers can expect Members:

- to act within the policies, practices, processes and conventions established by the Council
- to work constructively in partnership with Officers acknowledging their separate and distinct roles and responsibilities
- to understand and support the respective roles and responsibilities of Officers and their associated workloads, pressures and reporting lines
- to give political leadership and direction and to seek to further their agreed policies and objectives with the understanding that Members have the right to take the final decision in issues based on advice
- to treat them fairly and with respect, dignity and courtesy
- to act with integrity, to give support and to respect appropriate confidentiality
- to recognise that Officers work to the instructions of their senior Officers and not to individual Members
- not to subject them to intimidation, harassment, or put them under undue pressure. Members will have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between the Member and Officer, and the potential vulnerability of Officers, particularly at junior levels
- not to request them to exercise discretion which involves acting outside the Council's policies and procedures

- not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a Member without proper and lawful authority
- not to use their position or relationship with Officers to advance their personal interest or those of others or to influence decisions improperly
- to comply at all times with the Members Code of Conduct, the law, the Constitution and such other policies, procedures, protocols and conventions agreed by the Council.

3.9 It is important that Members of the Authority:

- respect the impartiality of Officers and not undermine their role in carrying out their duties
- do not ask Officers to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to an Officer being criticised for operating in a party political manner
- do not ask Officers to exceed their authority where that authority is given to them in law, by the Council or by their Managers

3.10 The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (section 151 Officer) and other Statutory Officers have specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Council. Where an Officer is discharging his/her responsibilities under any statutory office a Member or Members shall not:

- interfere with or obstruct the Officer in exercising those responsibilities
- victimise any Officer who is discharging or has discharged his/her responsibilities of the Statutory Office

## 4.0 THE ROLE OF OFFICERS

### 4.1 PROPOSED AMENDMENT TO PROVISION

**Existing provision:** The primary role of Officers is to advise, inform and support all members and to implement the **lawfully agreed** policies of the Council.

**Proposed amendment:** The primary role of Officers is to advise, inform and support all members and to implement the agreed policies of the Council.

4.2 Officers are responsible for day-to-day managerial and operational decisions within the Council. Members should avoid inappropriate involvement in such matters.

4.3 In performing their role Officers will act professionally, impartially and with political neutrality. Whilst Officers will report a Members' view on an issue, the



Officer should not be influenced or pressured to make comments, or recommendations which are contrary to his professional judgement or views.

4.4 Officers should:

- implement decisions of the Council and its subordinate bodies which are lawful, which have been properly approved in accordance with the requirements of the law and the Council's constitution, and are duly recorded.
- work in partnership with Members in an impartial and professional manner
- assist and advise all parts of the Council. Officers must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.

**PROPOSED AMENDMENT TO PROVISION**

- **Existing provision:** respond to enquiries and complaints in accordance with the Council's standards
- **Proposed amendment:** within a reasonable period of time, respond to enquiries and complaints in accordance with the Council's standards and procedures
- be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
- act with honesty, respect, dignity and courtesy at all times
- provide support and learning and development opportunities for Members to help them in performing their various roles
- not seek to use their relationship with Members to advance their personal interests or to influence decisions improperly
- comply, at all times, with the Officer Code of Conduct, and such other Policies or Procedures approved by the Council

4.5 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officers' involvement in political activities.

4.6 Some Officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the Council or in their personal capacity.

**5.0 THE RELATIONSHIP: GENERAL**

- 5.1 Members and Officers are servants of the public. They are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the Public, whereas Officers are accountable to the Council as a whole.
- 5.2 At the heart of the Codes, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party.

## 6.0 THE RELATIONSHIP: OFFICER/CHAIR

### 6.1 PROPOSED AMENDMENT TO PROVISION

**Existing Provision:** Officers and Committee Chairmen will inevitably need to work closely together. However such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other party groups, to carry out their duties in respect of the Council as a whole, or to undermine public trust and confidence in the Council.

**Proposed amendment:** Officers and Committee Chair will inevitably need to work closely together. However such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other party groups, to carry out their duties in respect of the Council as a whole, or to undermine public trust and confidence in the Council.

- 6.2 It must be remembered that officers within a Service are accountable to their Director and that whilst Officers should always seek to assist a Chair (or indeed any Member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director.

### 7.0 PROPOSED AMENDMENT TO PROVISION

**Existing provision: THE RELATIONSHIP**

*This section repeats provisions that are set out in Part 4 (Procedure Rules) of the Constitution, which deals with Overview and Scrutiny Functions.*

**Proposed amendment: It is proposed to delete provision 7 in its entirety to avoid any duplication or conflict with Part 4 of the Constitution.**

- 7.1 It is accepted that in carrying out the Council's overview and scrutiny functions Members may require an Officer to attend to answer questions or to discuss issues.
- 7.2 It is recognised by this Protocol that challenge in a constructive and non-confrontational way is important in ensuring policies and performance are meeting the Council's strategic objectives. Therefore, nothing in this Protocol is intended to stop Members holding Officers to account for decisions made under

delegated powers. Nor is it intended to affect the Council's overview and scrutiny functions

- 7.3 When deciding whether to require an Officer to attend, the body will consider the seniority of the Officer it would be appropriate to invite. There is a presumption against inviting Officers outside the senior Officers' range to attend in this capacity. Requests for Officer attendance should be made to the Director concerned. Such requests should indicate in broad terms the areas which Members will want to discuss, and should give reasonable notice of the dates when attendance is needed
- 7.4 Where an Officer attends such a body his/her contribution should be confined to matters of fact and explanation. However, an Officer may be asked to explain and justify advice which he/she has given prior to a decision having been taken, including decisions taken by him/her under delegated powers.
- 7.5 Officers should not be drawn, overtly or covertly, into discussions of a political nature which would be inconsistent with the political neutrality requirement. Any questioning of an Officer should not be reasonably interpreted as constituting harassment.
- 7.6 In overview and scrutiny proceedings the capability or competence of Officers must not be questioned. The distinction needs to be drawn between reviewing the policies, performance and decisions of the Council or its services and the appraisal of staff's individual performance. The latter is not a function of overview and scrutiny bodies.
- 7.7 The approach here is consistent with the Overview and Scrutiny Procedure Rules as set out in the Council's Constitution.
- 7.8 In applying this part of the Protocol, account will be taken of any guidance agreed by Overview and Scrutiny bodies provided that guidance is consistent with the principles of this Protocol.

## **8.0 PROPOSED AMENDMENT TO PROVISION**

**Existing Provision: POLITICAL GROUPS**

**Proposed amendment: POLITICAL GROUPS AND MEETINGS**

## **8.1 PROPOSED AMENDMENT TO PROVISION**

**Existing provision:** The Chief Executive, together with Directors and Heads of Service and occasionally other employees all with the permission of the Chief Executive may at times decide that it is appropriate to attend a political group meeting with a view to briefing and advising on the formulation of policy. This may be of his/her own initiative or at the request of a political group. However, the decision on whether he/she should attend is the Chief Executive's, in either case.

**Proposed amendment:** The Chief Executive, together with **Corporate Directors**, Directors and Heads of Service and occasionally other employees all with the permission of the Chief Executive may at times decide that it is

appropriate to attend a political group meeting with a view to briefing and advising on the formulation of policy. This may be of his/her own initiative or at the request of a political group. However, the decision on whether he/she should attend is the Chief Executive's, in either case.

- 8.2 If the Chief Executive decides that he/she or another Officer may attend a political group meeting and it concerns a proposed significant policy change which is about to be presented to a meeting of the Council, Executive or committee, then he/she must offer the facility to all other political groups within the Authority, indicating the area of policy upon which he/she is offering to brief/advise. He/she will inform the leader of the political group with whom he/she is having the meeting that he/she will be offering the facility to the other political groups.

8.3 **PROPOSED AMENDMENT TO PROVISION**

**Existing provision:** Certain points must be clearly understood by all those participating in this process, Members and Officers alike. In particular:

**Proposed amendment:** Where officers do attend a political group meeting, the following provisions must be clearly understood and exercised by Members and officers alike;

**PROPOSED AMENDMENT TO PROVISION**

**Proposed amendment: It is proposed to insert the following provisions:**

- a) When deciding whether to request the attendance of an officer at a political party meeting, Members must consider the appropriate seniority of the officer that should be invited:
  - i) Unless agreed with the Chief Executive, Members should not invite officers outside of the senior Officers' range to attend.
- b) Members should make all requests for officer attendance to the relevant Corporate Director and such requests should indicate in broad terms the context of the meeting, areas which Members will want to discuss, together with any other relevant information which will assist officers in understanding the purpose of the meeting and their role at such meetings and Members should give reasonable notice of the dates and times when attendance is needed

(a) **PROPOSED AMENDMENT TO PROVISION**

**Existing provision:** Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present at meeting, or parts of meeting, when matters of party business are to be discussed;

**Proposed amendment:** An officer's role at such meetings must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. To assist in the observance of this provision, Members should refrain from requesting, and officers should refrain from offering, to remain at the at meeting, or parts of meeting, when matters of party business are to be discussed;

### **PROPOSED AMENDMENT TO PROVISION**

**Proposed amendment: It is proposed to insert the following provisions:**

Officers should not be drawn, overtly or covertly, into discussions of a political nature which would be inconsistent with the political neutrality requirement.

Members shall ensure that any questioning of an Officer should not be reasonably interpreted as constituting harassment.

#### **(b) PROPOSED AMENDMENT TO PROVISION**

**Existing provision:** political group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and

**Proposed amendment: Members and officer shall be aware that** political group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council **and they shall note that** conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and

#### **(c) PROPOSED AMENDMENT TO PROVISION**

**Existing provision:** similarly, where Officers provide information and advice for a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet or relevant committee when the matter in question is considered.

**Existing provision:** similarly, where Officers provide information and advice for a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet or relevant committee when the matter in question is considered.

- 8.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a political group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the

Members' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.

- 8.5 Officers must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussions to another political group.

## 9.0 MEMBERS' ACCESS TO INFORMATION AND COUNCIL DOCUMENTS

### 9.1 PROPOSED AMENDMENT TO PROVISION

**Existing provision:** The Council's Constitution (Part 4) sets out in the provisions relating to Members' access to information. The key issue to note for the purposes of this Protocol is that Members should not put undue pressure on officers to release information and documents to which they are not entitled to have access. Reference should be made to the provisions relating to Members' access to documents contained in the Access to Information provisions inserted into the Local Government Act 1972, particularly the restrictions in s. 100F(2).

**Proposed amendment:** The Council's Constitution (Part 4) sets out in the provisions relating to Members' access to information. Members access to information shall, in all cases, be determined by relevant legislation, including GDPR, Freedom of Information and Local Government legislation. The key issue to note for the purposes of this Protocol is that Members should not put undue pressure on officers to release information and documents to which they are not entitled to have access.

- 9.2 Members have a right to request from any Directorate relevant information or advice which they might reasonably need to assist them to discharge their functions as Members of the Council. This information can range from general information regarding the Directorate's functions to specific enquiries on behalf of constituents.
- 9.3 Members have a statutory right to inspect documents relating to any business to be transacted in the open section of the agenda for a Council, committee or sub-committee meeting, irrespective of whether or not they are a Member of that committee or sub-committee. This right applies additionally to relevant background papers. The right does not, however, extend to documents which have been deemed to contain "exempt information" as defined in Schedule 12A, Part 1 of the Local Government Act 1972. Exemption categories are set out in Part 4 of the Constitution – Access to Information Procedure Rules. In respect of access to such information, a Member will normally be expected to justify a request in specific terms.
- 9.4 The common law rights of Members, which are broader, are based on the principle that any Member has a *prima facie* right to inspect Council documents insofar as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This is commonly referred to as the "need to know" principle. In respect of the

Council / committee papers referred to above, a Member's "need to know" will normally be presumed.

## 9.5 PROPOSED AMENDMENT TO PROVISION

### Numbering to be added.

**Existing provision:** The exercise of this common law right depends therefore upon the Member's ability to demonstrate that he/she has the necessary "need to know". In this respect a Member has no right to a "roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination for the "need to know". This question must initially be determined by the particular Director whose Service holds the document in question (with advice, if necessary, from the Director of Legal & Democratic Services).

**Proposed amendment:** The exercise of this common law right depends therefore upon the Member's ability to demonstrate that he/she has the necessary "need to know". In this respect a Member has no right to a "roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination for the "need to know". This question must initially be determined by the particular Director whose Service holds the document in question (with advice, if necessary, from the **Monitoring Officer**).

## 10.0 CORRESPONDENCE BETWEEN MEMBERS AND OFFICERS

10.1 Correspondence between an individual Member and an officer will not as a matter of course be copied (by the officer) to any other Member. Where correspondence is copied to another Member, this should be made clear to the original Member. In other words, a system of "silent copies" should not be employed. Members will, of course, bear in mind that officers will brief Chair and Executive Members on a regular basis as part of the ordinary decision making process.

10.2 Where an officer corresponds with a Member on a matter of general interest in his or her ward, it is in the best interests of the Council to ensure that other Members in the locality are informed of such matters. In these circumstances, copies of correspondence will normally be sent to all Members in the locality unless there is a reason why this is not appropriate (such as it involves an individual) or for a specific reason from the Member concerned.

## 10.3 PROPOSED AMENDMENT TO PROVISION

**Existing provision:** Official letters on behalf of the Council should normally be sent out under the name of the appropriate officer, rather than under the name of a Member. It will be appropriate in certain circumstances (e.g. representations to a Government Minister or other organisations) for a letter to appear under the name of a Member (this is most likely in the case of an Executive Member or Chair), but this should be the exception rather than the norm. Letters which, for example, create obligations or give instruction on behalf of the Council should never be sent out under the name of a Member.

When Members use official Council notepaper, they should be careful to ensure that it is for the discharge of their duties as a Member and not in any private capacity.

**Proposed amendment:** Official letters on behalf of the Council should normally be sent out under the name of the appropriate officer, rather than under the name of a Member. It will be appropriate in certain circumstances (e.g. representations to a Government Minister or other organisations) for a letter to appear under the name of a Member (this is most likely in the case of an Executive Member or Chair), but this should be the exception rather than the norm. Letters which, for example, create obligations or give instruction on behalf of the Council should never be sent out under the name of a Member. When Members use official Council mode of communication, **including email or letter headed note paper**, they should be careful to ensure that it is for the discharge of their duties as a Member and not in any private capacity.

## 11.0 WARD COUNCILLORS' REPRESENTATIVE ROLE

11.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward or wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the ward Members should be notified at the outset of the exercise.

11.2 Officers will seek both to inform and to keep Members informed about any initiative which is being developed under their control. However, Members must be aware of the pressures on officers' time and that officers may exercise judgement as to how much information is provided.

### 11.3 PROPOSED AMENDMENT TO PROVISION

**Existing provision:** If a meeting is being arranged by a Member(s) on a ward issue, they can decide not to invite other ward Members. Officers can be invited to attend such meetings. If an officer attends a meeting and a Member who was not present requests information about what was discussed the officer should provide this information, as long as the information is not commercially sensitive, does not breach Data Protection and or any confidentiality and should also inform the lead Executive Member.

**Proposed amendment:** If a meeting is being arranged by a Member(s) on a ward issue, they can decide not to invite other ward Members. Members may invite officers to attend such meetings.

#### **It is proposed to insert the following provisions:**

The Chief Executive, together with Directors and Heads of Service and occasionally other employees all with the permission of the Chief Executive may at times decide that it is appropriate to attend such ward meetings to provide a briefing and or provide advice. This may be of his/her own initiative or at the request of a Member. However, the decision on whether he/she should attend is the Chief Executive's, in either case.



When deciding whether to request the attendance of an officer at a ward meeting, Members must consider the appropriate seniority of the officer that should be invited and unless agreed with the Chief Executive, Members should not invite officers outside of the senior Officers' range to attend.

Members should make all requests for officer attendance at ward meetings to the relevant Corporate Director and such requests should indicate in broad terms the context of the meeting, areas which Members will want to discuss, together with any other relevant information which will assist officers in understanding the purpose of the meeting and their role at such meetings and Members should give reasonable notice of the dates and times when attendance is needed.

- 11.4 When a meeting dealing with a ward issue is arranged by an external body, group or person, they can be advised of the Council's guidance for officers arranging meetings and encouraged to follow this guidance. Where a meeting is arranged and an officer is invited, but not all the relevant ward Members are invited, the officer should request an explanation from the organiser before agreeing to attend. If officers attend such a meeting where there is no adequate reason for the differing treatment of Members or if the meeting is 'political' (i.e. only Members from a specific party/parties are invited to attend), an equitable parity for the ward Members is not being provided. In such instances, officers should not attend the meeting, unless there is an overriding justification to attend, and they should communicate this to all relevant Members in advance of the meeting.
- 11.5 Officers will, if asked by local residents for advice on how to contact a Member, guide the resident in the first instance to approach their own Ward Councillors for the area where they live. On occasion residents may choose to contact a Member in another ward and/or from a different political party.
- 11.6 At all times, officers need to be mindful of the sensitivities when dealing with issues raised by residents and/or Members in order that information, particularly personal data, is treated with great care and not shared in an indiscriminate manner or in breach of Data Protection principles.

### **PROPOSED AMENDMENT OF PROVISION**

**It is proposed that the second section of the wording contained in provision 11.3, be inserted here:**

If an officer attends a ward meeting and a Member who was not present requests information about what was discussed the officer should provide this information, as long as the information is not commercially sensitive, does not breach Data Protection and or any confidentiality and should also inform the lead Executive Member.

- 11.7 Members frequently receive correspondence from their ward constituents and are asked to respond to and help with a variety of issues as they arise. There is an expectation that Members will deal with issues arising within their own

wards that are referred to them by constituents. Members will not deal with issues that originate from outside of their ward unless:

- the relevant ward councillors are unable to deal with the issue
- the constituent expressly indicates that they do not wish to involve the ward councillors for their area
- the Member concerned has another link to the ward, for example, as a Member of a Friends Group

11.8 In the event of any of the above scenarios being applicable, the Member concerned will advise the relevant ward councillors as a matter of courtesy. It is also recognised that there may be occasions where constituents contact the Mayor, the Leader of the Council, Opposition Group Leaders or Executive Members for assistance with a particular matter. In such instances, the protocol that Members from that specific ward will deal with matters from their ward will be applicable, unless any of the exceptions in the above paragraph are applicable.

11.9 Where a Ward Councillor has taken lead responsibility for communicating with or meeting with an individual or group over an issue that they raised, officers should ask that councillor if other ward councillors need to be made aware of the issue or invited to relevant meetings on the issue. If there is no need for the other ward members to be aware then officers may deal directly with the ward councillor who has taken lead responsibility, but will be bound by [11.9] above in relation to requests for information from other Members. If other councillors have been involved or the issue is of significance to the wider ward then all ward councillors should be involved.

## **12.0 CEREMONIAL EVENTS**

12.1 The Mayor, or in his/her absence, the Deputy Mayor, will be the appropriate person to lead Council ceremonial events and to represent the Council by invitation at ceremonial events of other organisations. Where an event is specifically associated with an Executive function, the Leader of the Council and the appropriate Executive Member should be invited.

12.2 Appropriate Executive Members and Chairmen of Committees, or where they are not available, Vice-Chairmen, should be invited to ceremonial events within the scope of their portfolio or committees. Where the relevant Executive Member is not available, the Leader of the Council should be invited to the event or another Member of the Executive.

12.3 Local Members should always be informed of, and where possible, invited to ceremonial events taking place within their wards. The same also applies to the leaders of the political groups.

12.4 Any Member taking part in a ceremonial event must not seek disproportionate personal publicity or use the occasion for party political advantage bearing in mind that the Member is representing the Council as a whole.

## **13.0 ACCESS TO PREMISES**

- 13.1 Officers have the right to enter Council land and premises in order to carry out their work. Some Officers have the legal power to enter property in the ownership of others.
- 13.2 Members have the right of access to Council land and premises to fulfil their duties.
- 13.3 When making visits as individual Members, Members should:
- notify and make advance arrangement with the appropriate manager or Officer in charge (unless this is not practicable);
  - comply with health and safety, security and other workplace rules;
  - not interfere with the services or activities being provided at the time of the visit; and
  - notify ward Members beforehand if visiting somewhere outside his/her own ward.

#### **14.0 USE OF COUNCIL RESOURCES**

- 14.1 All Members are provided with ICT to enable them to type, print and photocopy documents and stationary to assist them in discharging their roles as Members. These goods and services are paid for by public funds and should only be used for Council purposes.
- 14.2 Members should not ask Officers to provide resources or support which they are not permitted to give, for example support or resources
- which are to be used for business which is solely to do with a political party;
  - for work in connection with a ward or constituency party political meeting or electioneering;
  - for work associated with an event attended by a Member in a capacity other than as a Member of the Council;
  - for private personal correspondence;
  - for work in connection with another body or organisation where a Member's involvement is other than as a member of the Council; and
  - which constitutes support to a Member in his/her capacity as a member of another authority.

#### **15.0 BREACHES OF THE PROTOCOL**

##### **15.1 PROPOSED AMENDMENT TO PROVISION**

**Existing provision:** Where a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the

appropriate Director or Head of Service. Where the Officer concerned is a Director, the matter should be raised with the Chief Executive, and in the case of a Head of Service with the appropriate Director. Where the employee concerned is the Chief Executive, the matter should be raised with the Monitoring Officer.

**Proposed amendment:** Where a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate **Corporate** Director or Head of Service. Where the Officer concerned is a **Corporate** Director, the matter should be raised with the Chief Executive, and in the case of a Head of Service with the appropriate Director. Where the employee concerned is the Chief Executive, the matter should be raised with the Monitoring Officer.

- 15.2 Where the relationship between Members and Officers breaks down or becomes strained, every effort will be made to resolve matters informally, through conciliation by an appropriate senior manager or Members. Officers will also have recourse to the Grievance Procedure or to the Council's Monitoring Officer, as appropriate, in certain circumstances. In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive who, having advised the Leader of the Council and the other appropriate Group Leaders, will decide on the course of action to be taken, following consultation with the Standards Committee if appropriate.
- 15.3 Breaches of the Protocol by a Member may also constitute a breach of the Members Code of Conduct.

## **16.0 STATUS OF THIS PROTOCOL - TO BE UPDATED**

- 16.1 This Protocol was approved by Council on 22nd May 2013. It now forms part of the Council's Constitution. As such, it is binding on all Members including co-opted and independent Members, and Officers.
- 16.2 This Protocol shall apply, as appropriate and necessary, to any person appointed individually or on behalf of a body or organisation to advise support or assist the Authority in its work.