

## **Establishment of Appointments Panel**

### **1. Aim**

- 1.1 To improve the efficiency of the governance of the council by disestablishing Personnel Committee and creating an Appointments Panel.

### **2. Summary**

- 2.1 Establishing an Appointments Panel, to replace Personnel Committee, ensures that members have a focused role in dealing with senior appointments and dismissals of Chief Officers and Deputy Chief officers. The Panel will also manage business that a council side committee is statutorily required to deal with which cannot be the function of the Executive or Scrutiny.
- 2.2 Should a Panel be established, the Executive will receive personnel policies and procedures which do fall within its powers.
- 2.3 The Director of Human Resources, Organisational Development and Administration will also determine matters under delegated powers, in consultation with the Leader and relevant Portfolio Holder.

### **3. Recommendations**

#### 3.1 That Council:-

- 1. Dissolves Personnel Committee;
- 2. Establishes an Appointments Panel and approves the terms of reference as set out in Appendix 1 of this report;
- 3. Approves an amendment to the Constitution to reflect the changes set out in 1 and 2 above.
- 4. Appoints members to the Appointments Panel as detailed in paragraph 5.4
- 5. Appoints the Leader of the Council as Chair and Associate Leader as Vice Chair.
- 6. Establishes 2 Employment Appeal Sub Committees and agrees the membership including Chairs and Vice Chairs detailed in paragraph 5.6.

## **4. Know**

- 4.1 This recommendation follows analysis of the business managed by Personnel Committee Meetings over the previous 24 months. It is also aligned to recommendation 11 of the LGA Peer Review in relation to ensuring internal process is as efficient as it can be.
- 4.2 Recommendation 11 of the LGA Peer Review stated, that, *“There is potential for the council to free up capacity within the organisation by simplifying some processes, including report approvals and recruitment processes. This would support capacity to be best aligned to priorities. This should also consider the channels and processes used for sharing information with and resolving issues raised by elected members. This would be welcomed by both officers and members and would free up capacity that is currently being spent resolving these matters elsewhere.”*
- 4.3 The changes proposed would ensure that personnel business is managed as effectively and efficiently as possible, meaning only items of significance are considered by the Appointments Panel. Cabinet would approve policy and there could be a role for overview and scrutiny in developing and reviewing policy. Appendix 2 provides some detail as to the decision-making process, should Council agree to disestablish Personnel and establish an Appointment Panel.

## **5. Background**

- 5.1 The current Personnel Committee was established by the Council at its meeting held on 23<sup>rd</sup> May 2016. Prior to the establishment of the Personnel Committee, the Council structure included an Appointments Board which had broadly similar functions to the current Personnel Committee. Two Employment Appeal sub-committees are established by Personnel Committee each municipal year to hear employee appeals against dismissal. Due to the recent formation of a new political group, political balance is 6 Conservative, 2 Labour, and 1 Walsall Independent Group. The Chair of the Personnel Committee receives an additional Special Responsibility Allowance (SRA) of £5882. Employment Appeal Sub-Committees consist of 7 members. Each Chair receives an SRA of £5,882.
- 5.2 Seven meetings of Personnel Committee are scheduled into the timetable of meetings each year by annual council. In 2022/2023, an additional 2 meetings were held taking the total to 9. In 2023/24 there were 9 meetings in the municipal year. Employment Appeals Sub-Committees take place as and when required but there are usually less than 4 a year across both Sub-Committees.
- 5.3 Personnel business can be broadly split into four sections - Recruitment, Pay, Policy and ‘other’ such as Recruitment & Retention Activity in the Fostering Service. The duration of meetings very much depends on the nature of item(s) being considered. However, a number of meetings less than 10 minutes.

- 5.4 The Appointments Panel would comprise of a membership of 7 members which would include: The Leader of the Council (as Chair), Statutory Deputy Leader of the main political group (as vice chair), the Leaders of the Opposition groups and 3 other members appointed by council to reflect political balance which is 4 Conservative, 2 Labour, and 1 Walsall Independent Group. Membership is proposed as follows:-

| <b>Conservative (x4)</b> | <b>Labour (x2)</b> | <b>Walsall Independent Group (x1)</b> |
|--------------------------|--------------------|---------------------------------------|
| G. Perry                 | M. Ward            | A. Nawaz                              |
| A. Andrew                | T. Jukes           |                                       |
| P. Gill                  |                    |                                       |
| A. Hicken                |                    |                                       |

- 5.5 The proposed terms of reference of this Committee are set out at Appendix 1 of this report.

### **Employment Appeals Committees**

- 5.6 Personnel Committee established 2 employment appeal sub committees. It is proposed that Council reestablishes these as Appointments Board sub-committee retaining the same membership and chairs / vice chairs, as follows:-

| <b>Employment Appeals Sub-Committee A</b>   | <b>Employment Appeals Sub-Committee B</b>  |
|---|--|
| <p><b>Chair: Councillor Gill</b><br/> <b>Vice-Chair: Councillor A. Hussain</b></p> <p>Conservative x 4 seats: Councillors Cooper, A. Hussain, Gill and one vacancy.</p> <p>Labour x 2 seats: Councillors Russell and Margetts.</p> <p>Independent Group x 1 seat: Councillor Nawaz.</p> | <p><b>Chair: Councillor Whitehouse</b><br/> <b>Vice-Chair: Councillor Martin</b></p> <p>Conservative x 4 seats: Councillors I. Hussain, Martin, Rasab and Whitehouse.</p> <p>Labour x 2 seats: Councillors S. Hussain and Coulson.</p> <p>Independent Group x 1 seat: Councillor Gultasib.</p> |

## 6. Financial information

- 6.1 Should the Leader be appointed Chair, this would save £5,882 per year as members can only claim 1 Special Responsibility Allowance.

## 7. Legal Implications

- 7.1 Under s101 Local Government Act 1972 a local authority may arrange for the discharge of any of its functions by a committee, a sub-committee or an officer of the authority; or by any other local authority. The council therefore determines the structure it wants to manage its business. Walsall MBC, operates the Leader and Cabinet model of governance. The 2000 Act (and Statutory Instruments made under it) allocate responsibility for discharging an authority's 'functions' when operating Executive Arrangements.
- 7.2 Council-side and Local Choice functions are listed in a series of over a dozen Statutory Instruments made under the 2000 Act, section 13 of the 2000 Act gives effect to this position by providing that, ***"... any function of a local authority which is not specified in ... [the Functions Regulations] ... is to be the responsibility of an executive of the authority under executive arrangements."***
- 7.3 Appointments Panel is a politically balanced council committee and it will be responsible for matter which are council side functions (as opposed to Executive (Cabinet) functions). The power for local authorities to appoint staff falls under section 112 of the Local Government Act 1972 . Officers appointed under this section 'shall hold office on such reasonable terms and conditions, including as to remuneration' as the appointing authority 'think fit' (section 112(2)). Schedule 1 of "The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ('the 2000 Regulations') "makes the power to appoint staff under section 112 of the 1972 Act a Council-side function.
- 7.4 The Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 and 2015) (together, 'The Standing Orders Regulations') require that the function of appointing, dismissing, or taking disciplinary action against an officer below deputy Chief Officer level must be discharged on behalf of the Council by the Head of Paid Service (the Chief Executive), or by an officer nominated by him. The Council's Staff Employment Procedure Rules are compliant with The Standing Orders Regulations. None of the Functions Regulations refer to section 111 of the 1972 Act. Accordingly, the default position set out in section 13(2) of the 2000 Act applies and the power to approve Human Resources Policies and Procedures rests with the Executive.

## **8. Decide**

8.1 There are two options available to the Council:

- a. Council establishes an Appointment Panel as set out in Appendix 1 of this report;  
or
- b. the Council continues to operate a Personnel Committee.

## **9. Respond**

9.1 Should the Council agree the recommendations then the Appointments Board would be formally established and elected members sitting on the Board would receive any training required to undertake the role. The Executive will resume responsibility for Human Resources policy and forthcoming decisions would be included on the Forward Plan.

9.2 If the Council does not support the recommendations the status quo will continue with the Personnel Committee continuing to make decisions on senior officer appointments and Human Resources policies.

## **10. Review**

10.1 This change will be subject to normal periodic reviews of the constitution, including the annual review, to ensure that the council's governance is fit for purpose.

### **Background papers:**

None

### **Authors:**

**Anthony Cox, Director of Governance**

☎ 653732, ✉ Anthony.Cox@[walsall.gov.uk](mailto:Anthony.Cox@walsall.gov.uk)

**Neil Picken, Principal Democratic Services Officer**

## **9. APPOINTMENTS PANEL**

### **Membership**

7 Members of the authority as determined by the Council but to include the Leader of the Council as Chair; the Associate Deputy Leader as Vice Chair and Leaders of the Opposition Group(s).

### **Substitutes**

Substitute members may be nominated to the Committee in accordance with paragraph 4 of the Council procedure rules (Part 4), subject to them having undertaken the relevant training as detailed below.

### **Chairman and Vice-Chairman**

The Chairman and Vice-Chairman will be appointed at the Annual Council meeting for the municipal year.

### **Quorum**

The quorum of the Committee shall be one third of the membership, subject to a minimum of two.

### **Meetings**

The Committee will meet as and when required, meetings usually held at the Council House, Walsall at 6.00 p.m.

### **Access to information**

The Committee will comply with the Access to Information Rules set out in Part 4 of the Constitution.

### **Training**

All members of the Appointments Panel shall be required to attend a training session on employment law (in relation to both appointing and dismissing), the Council's internal procedures and remit relating to dismissals prior to sitting on the Committee for the first time and subsequently to attend refresher training annually thereafter.

### **Delegations**

- (1) To act as the Committee which makes recommendations to Council on the appointment of the Head of the Paid Service, the Chief Executive.

- (2) To determine the appointment of Chief Officers/Deputy Chief Officers as defined within Article 10 of the Constitution and within the Local Authorities (Standing Orders) (England) Regulations 2001, following the provisions thereof, particularly in relation to the well founded objection procedure, in accordance with the Employment Procedure Rules, as set out at Part 4.6 of the council constitution.

(Note: The appointment and dismissal of the Director of Public Health will be subject to consultation with Public Health England.)

- (3) To consider and determine appeals against dismissal submitted by employees at all levels in the context of the application of the relevant procedure or for claims of unfair or unduly severe sanctions only, in accordance with the policies approved by the Council (save for appeals in respect of decisions taken by the Appointments Panel, or in circumstances where the Appointments Panel reasonably believes that it is not appropriate for it to deal with any appeal due to a conflict of interests, in which case, responsibility for hearing such appeal shall be heard by a committee constituted for the purposes of hearing that appeal or an existing appeal committee as appropriate.
- (4) To approve the remuneration levels (other than those associated with the National Pay Awards) for the Chief Executive, Executive Directors and Directors.
- (5) To act as the Committee which considers and determines matters relating to the conduct, capability and/or dismissal of Chief Officers/Deputy Chief Officers as defined in (2) above in accordance with the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001, save for relevant officers (as defined in Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001, as amended as set out at Part 4.6 of the council constitution) which are dealt with below.
- (6) To act as the Committee which considers and determines matters relating to the conduct, capability and/or dismissal of relevant officers (as defined in Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001, as amended). However, in circumstances where dismissal is being considered, the Committee shall include two independent persons and no decision to dismiss shall be taken by the Committee until any dismissal is approved by Council (please see the Officer Employment Procedure Rules for further details).
- (7) To act as the Committee which considers and determines any grievances where the Chief Executive reasonably determines that it is not appropriate for an officer to consider and determine such grievance. Where the Appointments Panel reasonably believes that it is not appropriate for it to deal with any appeal due to a conflict of interests, responsibility for hearing such appeal shall be heard by a committee constituted for the purposes of hearing that appeal or an existing appeal committee as appropriate.

- (8) To act as the Committee which considers and determines any suspensions where the Chief Executive reasonably determines that it is not appropriate for the Chief Executive to deal with such issues. In circumstances, where the Personnel Committee reasonably believes that it is not appropriate for it to deal with any appeal due to a conflict of interests, responsibility for considering and determining suspension shall be heard by a committee constituted for the purposes of hearing that appeal or an existing appeal committee as appropriate.
- (9) To suspend and, where appropriate, take any disciplinary action short of dismissal in relation to the Chief Finance Officer (s.151 Officer) and the Monitoring Officer.
- (10) To recommend Council on the designation of the Monitoring Officer and the Chief Finance Officer.
- (11) To consider policies for approval by the Council on the exercise of its functions under the Local Government Pension Scheme and the Teachers' Pensions Scheme.
- (12) To determine remuneration and severance packages for employees in excess of £100,000.
- (13) To appoint Sub-Committees to deal with appointments and appeals.
- (14) To approve the Council's draft Pay Policy Statement prior to recommendation to full Council for approval and adoption and to keep under review the consistent and lawful application of the Councils Pay Policy and publication requirements.



**Decision Making**

| Item  | Appointments Panel | Cabinet | Council                          | Delegated to Director of HR in consultation with Leader/relevant Portfolio Holder |
|---|--------------------|---------|----------------------------------|---|
| <b>Policies</b>                                       |                    |         |                                  |   |
| Pay Policy Statement and living Wage                  |                    |         | X                                | X<br>(minor only)   |
| Alcohol and Drugs Testing                             |                    | X       |                                  | X<br>(minor only)   |
| Schools Model Pay Policy / Unattached Teachers Pay    |                    | X       | X<br>(as part of budget setting) | X<br>(minor only)   |
| Family Friendly                                       |                    | X       |                                  | X<br>(minor only)   |
| Customer Focused Ways of Working                      |                    | X       |                                  | X<br>(minor only)   |
| Flexible Retirement                                   |                    | X       |                                  | X<br>(minor only)   |
| Ways of Working and Right to Request Flexible Working |                    | X       |                                  | X<br>(minor only)   |
| Transgender & Non-binary Equality                     |                    | X       |                                  | X<br>(minor only)   |
| Sickness Absence                                      |                    | X       |                                  | X<br>(minor only)   |
| New Policies  |                    | X       |                                  |   |

| Item   | Appointments Board | Cabinet | Council | Delegated to Director of HR in consultation with Leader/relevant Portfolio Holder |
|--|--------------------|---------|---------|---|
| <b>Pay and conditions</b>                                    |                    |         |         |   |
| Soulbury Pay Scale for Educational Psychologists             |                    | X       |         |   |
| Chief Officers Leave   |                    | X       |         |   |
| Government Guidance in respect of Special Severance Payments |                    | X       |         |   |
| Chief/ED and Director Pay                                    | X                  |         |         |   |
| <b>Permanent Appointments</b>                                |                    |         |         |   |
| Authority to recruit   |                    |         |         | X   |
|  |                    |         |         |   |
| Shortlisting   | X                  |         |         |   |
| Interview  | X                  |         |         |   |
| Recruitment Permanent Chief Executive                        | X                  |         | X       |   |
| <b>Interim Appointments</b>                                  |                    |         |         |   |
| Authority to recruit   |                    |         |         | X   |
| Shortlisting   |                    |         |         | X   |
| Interview  | X                  |         |         |   |

| Item  | Appointments Board | Cabinet | Council | Delegated to Director of HR in consultation with Leader/relevant Portfolio Holder |
|---|--------------------|---------|---------|---|
| <b>Miscellaneous</b>  |                    |         |         |   |
| Establishing Employment Appeals Cttee 'A' and 'B'                   | X                  |         |         |   |
| Annual Health & Safety Report                                       |                    | X       |         |   |
| Update on Promotional Recruitment Activity in the Fostering Service |                    | X       |         |   |