

Divisions Affected - All
Audit and Governance Committee

17 July 2024

AMENDMENTS TO THE COUNCIL'S CONSTITUTION-APPEALS

Report of the Director of Law and Governance and Monitoring Officer

The Committee is **RECOMMENDED** to:

- 1. Support the proposed changes to the appeals process in respect of employee relations matters and the resultant changes to the Council's Constitution to reflect the changes.**
- 2. Delegate to the Director of Law and Governance and Monitoring Officer to draft the necessary changes to the Constitution for approval by Council.**

TO RECOMMEND TO COUNCIL

- 1. To approve amendments to the Officer Employment Procedure Rules in Part 8.4 of the Council's Constitution and any consequential amendments to the Constitution.**

1. Executive Summary

There is a need to change the approach to hearing and deciding on appeals in employment relations matters in respect of officers of the council to reflect best practice and to reduce delay in dealing with the appeals process.

As a result there will be a need to update the current Officer Employment Procedure Rules set out in Part 8.4 of the Council's Constitution and to amend other relevant clauses in the Constitution to reflect those changes.

2. Background

Currently, on average the Council manages 200 employment relations cases per month. Cases are investigated and heard by managers within the organisation. Should an appeal be raised (there are approximately 2 appeals per month), this is currently heard by a members' panel made up of 3 members. It has been identified that arranging the Panels for members to hear those appeals as a result of Members' availability leads to delays in those matters being decided, resulting in increased risk to the Council, lower employee morale and financial impact to the council.

The recommendation to change the approach to appeals in the council arises from:

- a) The drive to effectively manage risk in relation to employment procedures and the potential resultant Employment Tribunal claims. This is to ensure the best outcomes for the Council, and to protect the Council's reputation as well as to ensure that the public funds are spent in the most efficient and effective manner possible.

- b) To ensure fairness to and avoid delays for employees exercising their right to appeal
- c) It is recognised that Members have significant calls on their time and with the potential for a significant increase in the number of appeals in the current period of Organisational Change, it is considered prudent for the requirement for appeals to be heard by Members to be changed and the instances when Members hear appeals to be reduced.
- d) The need to modernise the Council's processes and embrace best employment practice in line with the Council's ambition to become an Employer of Choice.

It is recognised that appeal procedures in employment processes are essential for ensuring fair and consistent treatment of employees in any organisation, however, amending the Council's procedures (and enshrining the change in the Council's Constitution) would lead to the following positive outcomes:

- a) ensure that the appeal process is fair, impartial, and consistent.
- b) reduce both reputational and financial risk to the Council.
- c) enable Members to focus on their strategic role
- d) ensure that officers undertake their appropriate managerial responsibilities at an operational level contributing towards the Council's ambition to become and Employer of Choice.

3. Summary of Changes

It is proposed that an Appeals Sub Committee continues to hear and decide appeals against dismissal lodged by any Chief Officer of the council other than the Head of the Paid Service, the Section 151 Officer, the Monitoring Officer and where a separate process set out in legislation and the Constitution is followed. It is proposed that for all other roles any employees investigation, hearing and appeals process will at each stage be conducted by an independent suitably trained officer with appropriate technical competence. .

Further, a delegation to the Monitoring Officer is requested to make changes to the Constitution corresponding to the recommendations made in this report.

4. Consultation and approvals

Prior to finalising this paper, the following levels of consultation and approval have been obtained:

- UNISON has been consulted as the Council's recognised Trade Union on 15 May 2024, and on 29 May 2024 has agreed to this proposed change.
- The Head of Paid Service and Director of HR and Cultural Change have been consulted on the matters discussed in this report
- The Council's Management Team have been consulted on the principles of a new improved appeal process for officers (other than Chief Officers) and endorsed the proposal on 20 June 2024.

5. Financial Implications

There are no additional financial costs arising from the recommendations in this Report.

The recommendations are expected to result in leaner operation of personnel processes relating to grievances, conduct and capability appeals. As a result capacity in the Employment Relations team will be released for other priorities and more cases are expected to be resolved more quickly. This should lead to a reduction in costs, as outcomes are achieved more quickly and there is less risk of the need for employment tribunals, and in member allowances.

Comments checked by:

Kathy Wilcox, Head of Corporate Finance
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6. Legal Implications

The recommendations in this report are consistent with the Council's duty under Section 9P of the Local Government Act 2000 to have a Constitution and keep it up to date.

The recommendations in this report are consistent with the ACAS Code of Practice on disciplinary and grievance procedures, and other relevant employment legislation. If approved, this will be more efficient more Appeals can be heard in a prompt and streamlined manner, and is endorsed by the ACAS statutory Code of Practice, which Employment Tribunals take into account.

The Officer Employment Procedure Rules will be amended and submitted to Council for approval to incorporate the provisions of The Local Authorities (Standing Orders) (England) Regulations 1993 ('the 1993 Regulations') and The Local Authorities (Standing Orders) (England) Regulations 2001 ('the 2001 Regulations') as amended.

Comments checked by:

Paul Grant Head of Legal and Deputy Monitoring Officer.

7. Staff Implications

There are no direct staff implications arising from this report, other than it could be argued that personnel procedures being dealt by Officers may result in an alignment of the Council's values and their application in such procedures. It is likely that appeals will be heard and decided at a faster pace as it is easier to organise hearings when they only involve officers.

8. Equality & Inclusion Implications

Inclusive language will wherever possible (subject to the requirements of the legislation) be used in the proposed amendments to the Officer Employment Procedure Rules and any resultant guidance for employees. The proposed web presentation for the Constitution should make information more easily available to those with visual impairment.

9. Risk Management

The recommended change is likely to result in risk reduction by reducing delays in dealing with appeals including a potential reduction in Employment Tribunal proceedings.

ANITA BRADLEY

Director of Law and Governance and Monitoring Officer