

Division(s):

AUDIT & GOVERNANCE COMMITTEE – 14 NOVEMBER 2018

PARTNERSHIP ARRANGEMENTS WITH CHERWELL DISTRICT COUNCIL – JOINT COMMITTEES

Report by the Monitoring Officer

Introduction

1. At the Audit & Governance Committee on the 12 September, members asked for further clarity as to the role and purpose of the Joint Committees established by Full Council on the 11 September to facilitate the joint working arrangements with Cherwell District Council (CDC).
2. This report seeks to bring that clarity and to enable the Committee to approve the terms of reference for the Joint Committees.

Background

3. Cabinet agreed to develop joint working arrangements with CDC on the 4 June 2018 and the first stage of that was the appointment of a Joint Chief Executive and an instruction to enter into a s113 Agreement.
4. The s113 Agreement is essentially a facility whereby members of staff of the separate authorities are loaned to each other and although there are consultation obligations with staff whose role might involve them working in a joint team or 'shared service', their employment does not change in law. They would still remain employed by their original authority sharing their time reasonably and fairly between the two authorities.
5. The s113 Agreement establishes the framework within which the partnership operates and included the establishment of a Partnership Working Group (PWG) which, in summary, will consider proposals for joint working and recommend to the Cabinets of each respective authority the approval of shared services with a shared management.
6. As an example, both authorities have a Legal Services function and the PWG might consider the benefits of having one shared Legal Services between both authorities. (This would be receipt of a detailed business case to include matters such as: costs split, staffing, risks, budgets, conflicts etc). The Director of that service would likely be a shared post and, over time, a Shared Senior Management Team for both Councils might evolve.
7. Initially there will be separate senior management teams for each authority. Subject to the approach that PWG wish to take, it is likely that senior managers appointed to a shared service will sit on both management teams, and possibly

over time move to Shared Senior Management Team responsible for both Councils.

8. It is not intended that the decision via the PWG and Joint Committees should fetter the decision-making requirements and processes of the respective Councils.

Role of Joint Committees

9. The Joint Committees established by Full Council have two specific roles. The first is to take decisions on the staffing matters as they arise – both the appointment of officers and any appeals that arise from their employment; the second is to take decisions on the shared services established by the respective Cabinets.

'Joint Personnel Committee'

10. It is intended that the 'Joint Personnel Committee' is comprised of 10 Members (5 from each authority) with a quorum of 6 (3 from each authority).

Staffing function

11. The Joint Committee would be the interviewing panel for and approve the appointment of senior officers (i.e., Chief Officers, specifically those reporting to the Chief Executive, working in a shared service which has been approved). The appointment of other staff in that shared service would fall to the Chief Executive or Directors in the respective employing authorities to appoint under their delegated powers, again as is the case now.
12. In addition to senior staff appointments, its function would also to be approve dismissals that might arise from redundancy and have an overview of terms and condition, policies and restructuring proposals relating to shared services.

Executive function

13. In addition to these functions, it is proposed that the Joint Committee play an important role in the implementation and outworking of the shared services that are created. This is considered a more efficient forum to undertake that function rather than having to report separately to each respective Cabinet. As such, it is proposed that executive powers are delegated to this Committee. This will enable it, for example, to exercise Cabinet's power to approve a restructuring, to consider any contractual and procurement issues etc. (It is therefore a requirement that a Cabinet member from each authority is a member of this Committee.)
14. As Statutory Officers have special protections in law, it is also proposed that this Committee is able to exercise the normal executive powers in terms of addressing or investigating performance issues relating to such a statutory officer (e.g., s151 officer, Monitoring Officer etc) and providing the report to Full Council in the event of a proposal to remove them from their post.

15. Given this range of functions, Members might consider the title of the Committee should be changed to the '**Joint Shared Service and Personnel Committee**'.

Appeals Committee

16. It is suggested that this Committee is comprised of 3 Members from each authority (total of 6) with a quorum of 4.

17. Under the Council's policies staff can raise an appeal – whether a grievance, or an appeal against selection for redundancy or an appeal against any disciplinary sanction – with their Director and thereafter to Members.

18. Under the joint working arrangements, it is not proposed that these existing arrangements would change except in the case of 'shared senior managers'. Such senior managers appointed, or potentially displaced or otherwise aggrieved, by a decision of the 'Joint Personnel Committee' will have a right to appeal to this Appeal Committee. Over time, it may be that the generality of staff who carry out their role within a Shared Service ought to be able to utilise this procedure, but for the time being they would use their existing procedures.

Legal and Financial Implications

19. There are no financial implications in the confirmation of these terms of reference. The proposed terms of reference are consistent with legislation and the s113 Agreement.

RECOMMENDATIONS

20. The Committee is RECOMMENDED to:

- a) Agree that the proposed Joint Personnel Committee be named 'The Joint Shared Services and Personnel Committee';**
- b) Approve the proposed terms of reference for the Joint Shared Services and Personnel Committee (as in Annex 1); and**
- c) Approve the proposed terms of reference for the Joint Appeals Committee (as In Annex 1).**

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Annex 1

JOINT SHARED SERVICES AND PERSONNEL COMMITTEE

CHERWELL DISTRICT COUNCIL and OXFORDSHIRE COUNTY COUNCIL

Under Local Government Act 1972 s.101 (5) two or more local authorities may appoint a joint committee to discharge any of their functions that are not reserved for the sole decision of a single authority in legislation. The Joint Committee can authorise an officer employed by either authority to act on its behalf. Whilst it is envisaged that the majority of daily business and processes such as recruitment, personnel and appeals will be carried out under each employing authority's decision-making processes, there are a few functions which are best delivered through joint arrangements.

Area: the Joint Committee shall exercise its authority for the areas comprising of Cherwell District Council and Oxfordshire County Council.

Membership: the Committee shall be comprised of 10 Councillors, 5 from Cherwell District Council and 5 from Oxfordshire County Council with 5 named substitutes from each authority. All Councillors including substitutes will receive appropriate training before they can participate as a Committee member.

Quorum: will be 3 Members from each authority (i.e. a total of 6).

Chairman: the Chairman and Vice Chairman will be elected by the committee and will be representative of each authority.

Decision making: decision will be by a majority of Members of the committee present and voting.

Terms of Reference

- To have responsibility for and to take any decision on staffing matters, (other than those delegated to officers) and any other non-executive decisions function specifically delegated to the committee by the respective councils, for any shared service established for the councils
- To have responsibility for and to take any executive decisions (other than those delegated to officers), specifically delegated to it by the respective Executive arrangements of the councils with regard to any shared service established for the councils
- To ensure that any shared service meets the requirements of the councils in furthering the objectives of their respective corporate plans.
- To take all executive decisions with regard to any established and future shared service to include regular budget and performance data for any shared service.

Shared Management

In the case of shared Chief Officer posts:

- To act as the interviewing panel for the Head of Paid Service (Chief Executive), making recommendations to the councils for formal appointment.
- To act as the interviewing panel and appoint shared chief officers (Officers who report to the Chief Executive) working across the councils (NB. Anyone involved in the decision for a particular post must be present throughout the entire interview process).

Shared Posts

Where a business case has been agreed by the councils and a decision made to share a service between them to:

- Agree posts to be declared 'at risk', and to approve dismissal, including compulsory or voluntary redundancy and the exercise of discretionary awards to any post where costs are shared or are going to be shared. This excludes the dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer (if shared) on the grounds of misconduct which must be the subject of a resolution of the relevant full Council following compliance with the procedure set out in the Officer Employment Procedure Rules.

Shared Statutory Officer Discipline

The role and responsibilities of the Joint Personnel Committee with regard to shared Statutory Officer disciplinary action is to:

- Ensure that the Statutory Officer clearly understands the standards of conduct expected of him/her.
- Carry out, or make arrangements for, an investigation when any breach of discipline is alleged.
- Ensure that the Statutory Officer subject to investigation is kept up-to-date with progress.
- Decide, in the most serious cases whether or not to suspend or (where the Statutory Officer has already been suspended by the Head of Paid Service or Monitoring Officer under their delegated powers) to continue the suspension of the Statutory Officer, in accordance with the Statutory Officer disciplinary policy.
- Report to Full Council (of the employing authority) in respect of a recommendation to dismiss, having convened a Panel comprising Independent Persons in accordance with the Officer Employment Procedure Rules.

JOINT APPEALS COMMITTEE

CHERWELL DISTRICT COUNCIL and OXFORDSHIRE COUNTY COUNCIL

Area: The Joint Committee shall exercise its authority for the areas comprising of Cherwell District Council and Oxfordshire County Council.

Membership: The Committee shall be comprised of 6 councillors, 3 from Cherwell District Council and 3 from Oxfordshire County Council with 3 named substitutes from each authority. They may not be members of the Joint Personnel Committee. All councillors including substitutes will receive appropriate training before they can participate as a Committee member.

Quorum: will be 2 Members from each authority (i.e. a total of 4).

Chairman: The Chairman and Vice Chairman will be elected by the Committee and will be representative of each authority.

Decision making: decision will be by a majority of Members of the Committee present and voting.

Terms of Reference

- To hear and determine any appeals, or grievance appeals, made against the Head of Paid Service/Chief Executive by any shared Chief Officer or Deputy Chief Officer either Council.
- To hear and determine any appeals brought by the Chief Executive and (if shared) the Monitoring Officer and section 151 Officer against any disciplinary sanctions imposed short of dismissal.
- To hear and determine any appeals against any disciplinary sanctions imposed on a Chief Officer who is shared between Cherwell District Council and Oxfordshire County Council excluding the statutory officers referred to above.