

## **Employment and Appeals Committee – Membership and Terms of Reference**

**Summary:** To approve new Terms of Reference for the Council's Employment and Appeals Committee as detailed in the report so as to strengthen the authority's governance arrangements.

**Recommendations:** **Council is asked:-**

- 1. To agree the revised Terms of Reference for the Employment and Appeals Committee**
- 2. To nominate members to form a "pool" of members to serve on the Committee with appropriate training**

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### **1. Introduction**

- 1.1 The District Council has an Employment and Appeals Committee (EAC) which deals with matters relating to the appointment, discipline and grievances of Chief Officers in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015). The Terms of Reference of the established Employment and Appeals Committee, as included within the Council's Constitution, is attached at Appendix 1 to this report.
- 1.2 Further guidance issued by the Joint National Council (JNC) in April 2019 detailed that, in the event of disciplinary proceedings being brought against a Chief Officer, an Investigations and Disciplinary Committee should operate as a Panel or sub-Committee of the EAC to investigate such matters.
- 1.3 A review of the Council's governance framework has established that, whilst the authority has an established Employment and Appeals Committee, it has not put in place or adopted other key requirements to ensure that a sound and robust governance framework is in place to manage such situations should they arise.
- 1.4 This report therefore proposes a series of actions to strengthen the Council's arrangements in this regard and proposes amended / revised Terms of Reference for the Employment and Appeals Committee to be included within the Council's Constitution.

## **2. Current Position**

- 2.1 The April 2019 JNC guidance on Investigation and Disciplinary Committees suggests that in addition to operating an Investigation and Disciplinary Committee (perhaps as a Panel or Sub-Committee of an Employment Committee), local authorities should appoint an Independent Persons Panel to support any complaint investigation process and ensure that both the members of the Committee and any Independent Person(s) have relevant training such that they understand how any allegations should be considered, any “investigation” process taken forward, the sensitivity of such matters and potential outcomes / appeal processes etc. At the present time the Council does not have an Independent Persons Panel established.
- 2.2 Whilst reference is made to the Council having an Employment and Appeals Committee within the Council’s Constitution, the annual meeting of Council held on 15<sup>th</sup> May 2019 did not appoint members to the Committee (the Terms of Reference state “*The members shall be drawn from a rota of Councillors willing to serve. It will not necessarily be politically balanced*”); and no Chair or Vice Chair was nominated (again the Terms of Reference state that the “*Chairman and Vice-Chairman appointed by: The Committee at each meeting*”).
- 2.3 In respect of the latter issue, this meant that no Chair of the Committee was identified with whom any concerns or allegations relating to the conduct of the Council’s Chief and Statutory Officers could be raised.
- 2.4 Further, no training for any members was arranged in the summer of 2019 such that a Committee could be formed to hear any disciplinary cases and no “appeal mechanism” established; as per the JNC guidance. Some training of members in Employment and Appeals processes was subsequently delivered in October 2020.
- 2.5 Given these shortcomings in the Council’s existing arrangements, it is now considered necessary to review and clarify these arrangements moving forward such that the Council’s governance framework is strengthened.

## **3. Proposed changes**

- 3.1 In light of the above, consideration has been given to how the Council’s systems and processes with respect to the Employment and Appeals Committee might be strengthened. The key requirements of the procedure are as follow:-
  - A politically balanced “Investigations and Disciplinary Committee” (which should include at least one member of Cabinet);
  - A politically balanced “Appeals” Committee (again containing at least one member of Cabinet, different to the member sitting on the Investigations and Disciplinary Committee);
  - An “Independent Persons Panel” made up of at least two people. This can include the Independent Person appointed by the Council under

the Localism Act and such a person appointed by another local authority.

- 3.2 It is believed that these requirements could be achieved by the Employment and Appeals Committee being made up of a “pool” of fifteen (15) members, who are trained in all aspects of the EAC responsibilities – ie appointment, discipline and grievances of Chief Officers, from which a group of five (5) members can be drawn at any time, dependent on circumstances.
- 3.3 In order to meet the JNC guidance an Independent Person Panel requires at least two persons. The District Council has an Independent Person appointed to consider Member conduct issues under the Localism Act, who could equally fulfil the role of Independent Person for complaints against Chief Officers. It will be necessary for the Council to recruit at least one other Independent Person and this could be achieved through an arrangement with another local authority.
- 3.4 Whilst the appointment of Chief Officers would involve quite long lead in times, on the rare occasions the Committee might need to come together to consider disciplinary issues or grievances, the Committee might need to be formed or brought together quite quickly and dependent on the nature of the issues involved some members of the “pool” of members might not be able to participate in the workings of the Committee at that time due to potential conflicts of interest.
- 3.5 Further, the establishment of a pool of members from which a Committee of five members could be drawn at any time would also build in a degree of capacity should a separate “Appeals Panel” need to be formed to hear any appeal into a disciplinary matter or grievance as any such appeal would need to be heard by a new group of trained members.
- 3.6 Following appointment to the “pool” of EAC members, a new programme of training has been provisionally arranged for delivery on the 3<sup>rd</sup> November 2021 such that the Committee can be brought together as necessary in the future.
- 3.7 The annual meeting of Council held in May 2021 nominated Cllr Eric Seward as Chair of the Committee, such that the issue of there being an identified Chair of the Committee is already addressed.
- 3.8 A new / revised Terms of Reference which seeks to reflect the proposed changes outlined above is attached as Appendix 2 to this report for members’ reference / agreement.

#### **4. Corporate Plan Objectives**

- 4.1 Not applicable – this report does not raise issues with respect to the delivery of Corporate Plan priorities or objectives; it is part of the Council’s strong governance framework.

#### **5. Medium Term Financial Strategy**

- 5.1 No issues raised in this report have an implication on the Council's Medium Term Financial Strategy.

## **6. Financial and Resource Implications**

- 6.1 There are no direct financial or resource implications arising from this report beyond the costs of member training for those members nominated to sit on the Committee.

## **7. Legal Implications**

- 7.1 The Council is required by legislation to have an Investigation and Disciplinary Committee which, under the Council's Constitution, can be incorporated within the remit and Terms of Reference of its established Employment and Appeals Committee.

## **8. Impact on Climate Change**

- 8.1 Not applicable.

## **9. Equality and Diversity**

- 9.1 There are no equality and diversity issues raised by this report.

## **10. Section 17 Crime and Disorder considerations**

- 10.1 Not applicable.

## **11. Recommendations:-**

### **Council is asked:-**

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