

AGENDA MANAGEMENT SHEET

Name of Committee County Council

Date of Committee 17 May 2011

Report Title Constitutional Changes

Summary To consider changes to the Council’s Standing Orders relating to meetings and Officer Employment Standing Orders.

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Would the recommended decision be contrary to the Budget and Policy Framework? No.

Background papers None

CONSULTATION ALREADY UNDERTAKEN:- Details to be specified

- Other Committees
- Local Member(s) N/A
- Other Elected Members
- Cabinet Member
- Chief Executive Jim Graham
- Legal Jane Pollard
- Finance
- Other Strategic Directors
- District Councils
- Health Authority
- Police

Other Bodies/Individuals

FINAL DECISION YES

SUGGESTED NEXT STEPS:

Details to be specified

Further consideration by this Committee

To Council

To Cabinet

To an O & S Committee

To an Area Committee

Further Consultation

County Council - 17 May 2011.

Constitutional Changes

Recommendations

- (1) That the Council approves the changes to Standing Orders (Part 3 Section 1 of the Constitution) set out in Appendix 1
- (2) That Council approves the changes to Officer Employment Standing Orders (Part 3 section 2) set out in Appendix 2
- (3) That the Strategic Director for Resources makes any further amendments to the Constitution as may be necessary to give effect to these changes
- (4) That Council establishes an Appointments Sub-committee to deal with the appointment of the Head of Strategic Commissioning and appoints the following members to that sub-committee

Councillors:

1.0 Leader and Portfolio Holder Decision-Making

- 1.1 The current arrangements for decision-making by the Leader and/or Portfolio holders require decisions to be made at a public meeting (unless exempt) with the prior publication of a formal agenda and reports. Experience indicates that there is little interest by either members or the public in attending these meetings. These formal arrangements are expensive in terms of both officer and member time. It is suggested that a more cost effective mechanism would be to deal with these decisions in the same way as officer key decisions.
- 1.2 This means that there would not be a formal meeting open to the public with the prior publication of an agenda and reports. An entry would be required in the forward plan in the usual way to give notice that the Leader or Cabinet member intended to take a particular decision.
- 1.3 In addition the Cabinet member will require a proper report which has gone through appropriate consultation including legal and financial clearances to ensure that any decision-making is robust and defensible in law. Following receipt of finalised report Democratic Services would prepare a draft decision record and submit that together with the report to the appropriate decision-maker.
- 1.4 Once a decision has been made the decision record would be published together with any relevant reports. The decision would normally be published by Democratic Services within 2 working days of being made and a copy of

the decision record would be sent at the same time to the Chairs of the Overview and Scrutiny Committees.

- 1.5 The call-in procedure would apply to all Leader or Portfolio Holder decisions as it does now. The call-in period would run from the publication of the decision record. The decision **could not be implemented** until the call-in period had expired unless approval has been given to an urgent decision in accordance with the Council's usual arrangements.
- 1.6 In order to put these arrangements into place Standing Orders require amendment. A suggested revision is set out in Appendix 1

2.0 Officer Employment Standing Orders

- 2.1 The Council agreed a revised officer structure on 29th March 2011. Given the changing nature of the roles of Head of Service it is suggested that Officer Employment Standing Orders (Part 3 Section 2 Constitution) be updated see Appendix 2.
- 2.2 Basically the changes provide for appointments of Strategic Directors and Heads of Service to undergo a two stage process. An officer panel to interview longlist candidates and draw up a shortlist of candidates for an appropriate member body to interview
- 2.3 A member sub-committee then interviews the shortlisted applicants and decides on the appointment. The Appointment Sub-committee must be politically balanced and must include at least one Cabinet member.
- 2.4 It is suggested that the Staff and Pensions Committee establish a pool of members from which members of an Appointments Sub-committee can be drawn and that the Chief Executive should be responsible for selecting the members of any particular Sub-committee in consultation with the Group Leaders.
- 2.5 Members will be aware that the post of Head of Strategic Commissioning is currently out to advert. In order to bring that process in to line with the new arrangements it is suggested that Council today establishes an Appointment Sub-committee to deal with that appointment and appoints the five members (3 Conservative; 1 Liberal Democrat and 1 Labour) to sit on that Sub-committee.

Report Author:
Head of Service:
Strategic Director:
Portfolio Holder:

Jane Pollard
Greta Needham
David Carter
Councillor Alan Farnell

Shire Hall
Warwick
6 May 2010

10 Leader and Portfolio Holder Decisions

10.1 Key Decision Procedure and Call-in to apply

Any Leader or Portfolio Holder decision shall comply with the procedure for taking key decisions set out in Standing Orders 16 to 18. This means that advance notice of the proposed decision should be given in the Forward Plan unless the requirements for a General Exception Notice or an Urgent Decision have been met.

Any decision made by the Leader or a Portfolio Holder shall be subject to the call-in procedure under Standing Order 13 unless the requirements for an urgent decision have been met under Standing Order 18.

10.2 Reports and Process for Leader and Portfolio Holder Decisions

A report in the standard format for reports to member bodies shall be prepared for each proposed decision in accordance with the Council's procedures and consultation requirements for reports.

A draft report must be submitted at least 12 working days before the proposed date for the decision to Democratic Services, Legal Services and Financial Services for appropriate clearance. Once the report has received the appropriate clearances it should be finalised and sent to Democratic Services at least 7 working days prior to the proposed decision

Once the report has received the appropriate clearances Democratic Services will submit the report to the Leader or Portfolio Holder as appropriate for decision together with a draft key decision record.

The Leader or Portfolio Holder may confirm agreement with the proposed recommendation and draft key decision record by email provided the proposed decision is in accordance with the recommendations in the report.

However where the Leader or Portfolio Holder intends to make a substantive departure from a recommendation in the report s/he shall meet with a representative of Democratic Services to ensure that an appropriate key decision record is produced.

10.3 Record of Decisions and Publication

A record of any decision made by the Leader or a Portfolio Holder shall be compiled in accordance with Standing Order 20.

The decision will normally be published by Democratic Services within 2 working days of the decision being taken

No step may be taken to implement the decision until the decision has been published and any relevant call-in period has expired or if called in the call-in process has been completed.

PART 3 SECTION 2 OFFICER EMPLOYMENT STANDING ORDERS

1. Recruitment and appointment

(a) Declarations

- i. The Council will draw up a statement requiring any candidate for appointment as an Officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council, or of the partner of such persons.
- ii. No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him/her.

(b) Seeking support for appointment

- i. The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- ii. No Councillor will seek support for any person for any appointment with the Council.

2. Recruitment of Head of Paid Service, Strategic Directors, Chief Officers and Heads of Service

Where the Council proposes to appoint the Head of Paid Service, Strategic Director, Chief Officer or Head of Service and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought.
- (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 apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

Except in the case of the Head of Paid Service a longlist of qualified applicants will be prepared for a panel of appropriate officers. The officer

panel will interview the longlist candidates and draw up a shortlist of candidates for interviews by an appropriate member body. Where no qualified person has applied, the Council will make arrangements for the post to be re-advertised.

The selection of an appropriate officer panel to interview candidates will be made by

- the Head of Paid Service (or Monitoring Officer if the former is unavailable) in relation to the appointment of Strategic Directors or Chief Officers.
- The appropriate Strategic Director for the Group or Chief Officer in relation to the appointment of Heads of Service

Appointments Sub-Committee

Composition: At least three elected members drawn from a pool of members agreed by the Staff and Pensions Committee to sit as and when required. The selection of members from the pool to form a subcommittee to deal with a particular matter shall be made by the Chief Executive in consultation with the Leaders of the Political Groups represented on the Council and shall be appointed proportionately to the representation of groups and individual members on the Council

- Role:** (a) To deal with the appointment of Strategic Directors and Chief Officers, Heads of Service and other statutory officers appointed by the Council
- (b) To make recommendations to Council regarding the appointment of the Head of Paid Service

3. Appointment of Head of Paid Service

- (a) An Appointments sub-committee of the Council will carry out the function of interviewing qualified applicants and making recommendations to Council. The sub-committee must include at least one Cabinet member.
- (b) The full Council must approve the appointment of the Head of Paid Service before an offer of employment is made.
- (c) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any Cabinet member.

4. Appointment of Strategic Directors and Heads of Service

- (a) A longlist of qualified applicants will be interviewed by an officer panel in accordance with 2 above and a shortlist of candidates produced for interview by an appropriate member body

- (b) An Appointments sub-committee of the Council will carry out the function of interviewing qualified applicants from the shortlist and appointing Strategic Directors or Heads of Service. The Appointments sub-committee must be politically balanced and must include at least one Cabinet member.

- (c) An offer of employment as a Strategic Director or Head of Service shall only be made where no well-founded objection from any Cabinet member has been received.

5. Other appointments

Appointment of officers below Strategic Director or Heads of Service (other than political assistants to the groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.

6. Disciplinary action

- (a) With the statutory exceptions set out below, disciplinary action in relation to Officers is governed by the Council's agreed procedures

- (b) In relation to the Head of Paid Service, Monitoring Officer and Chief Finance Officer the following restrictions apply: -

They can be suspended on full pay for up to two months whilst an investigation into alleged misconduct takes place but no other disciplinary action may be taken in respect of any of those Officers except in accordance with a recommendation in a report made by a designated independent person.

- (c) Councillors will not be involved in disciplinary action against any Officer below Strategic Director except where such involvement is necessary for any investigation or inquiry into alleged misconduct, or where the Council's disciplinary, capability and related procedures, as adopted from time to time allow a right of appeal to members in respect of disciplinary action.

7. Dismissal of Head of Paid Service

Where a committee or sub-committee of the Council is carrying out the function of dismissing the Head of the Paid Service, it must include at least one Cabinet member.

Notice of dismissal of the Head of Paid Service shall only be given where no well-founded objection has been received from any Cabinet member.

No notice of dismissal may be given without the prior approval of the Council.

8. Dismissal of Strategic Directors

Where a committee or sub-committee of the Council is carrying out the function of dismissing a Strategic Director it must include at least one Cabinet member.

Notice of dismissal of a Strategic Director shall only be given where no well-founded objection has been received from any Cabinet member.

9. Other dismissals

Councillors will not be involved in the dismissal of any officer below Strategic Director except where such involvement is necessary for any investigation or inquiry into alleged misconduct, or where the Council's disciplinary, capability and related procedures, as adopted from time to time allow a right of appeal to members in respect of dismissals.