

Meeting of the Appointments Committee

**Monday, 9th January, 2023 at 6.00pm
in Committee Room 4
The Council House, Priory Road, Dudley**

Agenda - Public Session

1. Apologies for absence.
2. To report the appointment of any substitute members serving for this meeting of the Committee.
3. To receive any declarations of interest under the Members' Code of Conduct.
4. To confirm the minutes of the meeting held on 21st March, 2022 as a correct record.
5. Joint Negotiating Committee Handbook and Model Procedure Update.
6. To consider any questions from Members to the Chair where two clear days notice has been given to the Monitoring Officer (Council Procedure Rule 11.8).



Chief Executive

Dated: 29th December, 2022

Distribution:

Members of the Appointments Committee:

Councillor P Harley (Chair)

Councillor S Clark (Vice-Chair)

Councillors J Foster, S Keasey, N Neale, S Phipps, L Taylor-Childs and Q Zada

1 vacancy (Labour Group)

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Submitting Apologies for Absence

- Elected Members can submit apologies by contacting Democratic Services (see our contact details below).

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**Minutes of the Appointments Committee
Monday, 21st March, 2022 at 9.30 am
In Committee Room 3 at the Council House, Dudley**

Present:

Councillor P Harley (Chair)
Councillors A Aston, N Barlow, J Cowell, J Foster, S Keasey, I Kettle, K Shakespeare and L Taylor-Childs

Officers:

K O'Keefe (Chief Executive), B Heran (Deputy Chief Executive) and J Branch (Head of Human Resources and Organisational Development)

1 Apologies for Absence

Apologies for absence were received on behalf of Councillors S Phipps and Q Zada.

2 Appointment of Substitute Members

It was reported that Councillors N Barlow and J Cowell had been appointed to serve as substitute members for Councillors S Phipps and Q Zada, respectively, for this meeting of the Committee only.

3 Declarations of Interest

Councillor J Cowell declared a non-pecuniary interest as a Council tenant of Dudley MBC.

4 Minutes

Resolved

That the minutes of the meetings held on 11th November, 2020 and 10th December, 2020 be approved as a correct record and signed.

5 Exclusion of the Public and Press

Resolved

That the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information relating to any individual(s) as defined under Part I of Schedule 12A to the Local Government Act 1972.

6 Post of Director of Housing and Communities

The Committee interviewed candidates for the post of Director of Housing and Communities.

Resolved that the Council be recommended:

That, subject to the necessary pre-employment checks, Kathy Jones be appointed to the post of Director of Housing and Communities, in accordance with the salary and terms and conditions of employment applicable to the post, with effect from a date to be agreed.

The meeting ended at 2.18pm

CHAIR

Meeting of the Appointments Committee – 9th January 2023

Report of the Deputy Monitoring Officer

Joint Negotiating Committee Handbook and Model Procedure Update

Purpose of report

1. To inform Members about the updated Joint Negotiating Committee Chief Executive Conditions of Service Handbook and to ensure that the Council has in place appropriate delegations to enable compliance with the Model Procedure set out in the Handbook, and in statute.

Recommendations

2. It is recommended that the Appointments Committee: -
 - note the updated version of the JNC Chief Executive Handbook.
 - delegate authority to undertake and determine the initial 'filter test' in relation to the Statutory Officers (as set out in the JNC Model Procedure), to:
 - the Monitoring Officer
 - the Head of Paid Service (where the Monitoring Officer is unable to act)
 - the section 151 Officer (where the Monitoring Officer and the Head of Paid Service are unable to act); and
 - the Deputy Chief Executive (where the Monitoring Officer, the Head of Paid Service, and the section 151 Officer are unable to act)

including authority for each of the abovementioned Officers to further delegate these powers where this is considered to be necessary.

Background

Joint Negotiating Committee Handbooks

3. The Joint Negotiating Committee for Chief Executives (JNCCE) is the national negotiating body for the pay and conditions of service of chief executives in England and Wales. The Authorities' side consists of elected members nominated by the Local Government Association and the Welsh Local Government Association. The Staff side consists of chief executives nominated by the Association of Local Authority Chief Executives and Senior Managers (ALACE).
4. Pursuant to their role the JNCCE maintain a Conditions of Service Handbook ("the CE Handbook") which applies to the employment of Chief Executives on JNCCE terms and conditions. The Handbook was very recently updated, a copy of which can be accessed at the following address:

https://www.emcouncils.gov.uk/write/Chf_Exec_Handbook_07Sep22_UNTRACKED.pdf
5. The Joint Negotiating Committee for Chief Officers of Local Authorities (JNCCO) is the national negotiating body for the pay and conditions of service of chief officers in England and Wales. The Authorities' side consists of elected members nominated by the Local Government Association and the Welsh Local Government Association. The Staff side consists of representatives of GMB and UNISON.
6. The JNCCO also maintains a Conditions of Service Handbook ("the CO Handbook"), which applies to the employment of Chief Officers on JNCCO terms and conditions. A copy of this can be accessed at the following address:

https://www.emcouncils.gov.uk/write/628_Chf_Officer_Handbook_08Aug17.pdf
7. As the Committee responsible for (among other things) determining the salaries, conditions of service, and all other employment matters in relation to the Chief Executive, Deputy Chief Executive, and Directors of the Council, the Committee would be required to comply with both the CE Handbook and the CO Handbook where these apply contractually.

Legislative protection for Statutory Officers

8. The Council has three Statutory Officers, being the Head of Paid Service, the Monitoring Officer, and the section 151 Officer.
9. Under the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) ("the Regulations") a Statutory Officer cannot be dismissed unless the procedure set out in Schedule 3 to the Regulations is followed.
10. The CE Handbook contains a Model Procedure which incorporates and builds upon the procedure set out in the Regulations, on the basis that the Chief Executive is the Head of Paid Service and therefore has statutory protection.
11. Whilst the CO Handbook does not contain a Model Procedure, it does state that the Model Procedure set out in the CE Handbook can be used in relation to matters concerning the Monitoring Officer and/or the section 151 Officer (being the other Statutory Officers who have protection under the Regulations). It should not be used in relation to Chief Officers who are not also Statutory Officers, because the process set out in the Regulations would not apply to them.
12. The Model Procedure is widely adopted by local authorities in relation to matters concerning the Statutory Officers, even if those Officers are not on JNC terms and conditions. This is because it is a logical and complete process which reflects the process required under the Regulations. It allows for fairness and due process.

The Model Procedure

13. The Model Procedure states that access to the procedure should be managed, and procedures need to be in place to filter out and deal with allegations which are "clearly unfounded, or trivial, or can best be dealt with under some other procedure". This is known as the "filter test".
14. The Model Procedure proposes that the filter test should be undertaken by the Monitoring Officer where the allegations concern the Chief Executive. It therefore follows that where the allegations concern any of the other Statutory Officers, another Statutory Officer should undertake the filter test instead, unless all of the Statutory Officers are unable to act.

15. So as to properly reflect the Model Procedure, and ensure that the Council's processes are appropriate, the Committee is therefore requested to delegate authority to undertake and determine the filter test to:
- the Monitoring Officer
 - the Head of Paid Service where the Monitoring Officer is unable to act
 - the section 151 Officer where the Monitoring Officer and the Head of Paid Service are unable to act and
 - the Deputy Chief Executive where the Monitoring Officer, the Head of Paid Service, and the section 151 Officer are unable to act.
16. The delegation includes authority for each of the abovementioned Officers to further delegate these powers where this is considered to be necessary, for example where all of the Officers are unable to act, or where there is some other good reason why the Officers should not undertake the test (such as where they may be required as a witness for example).
17. Putting in place the delegation would reflect the Model Procedure and the statutory requirements. It also ensures that the Council has in place a fair process that reflects accepted practice across local government.

Finance

18. This report deals with procedural matters and there are no additional financial implications.

Law

19. The legal implications are reflected in the background section of this report.

Risk Management

20. There are no material risks that result from the proposals.
21. Failure to ensure that the Council has in place a process that reflects the Model Procedure would however present a risk to the Council.

Equality Impact

22. The Council's employment policies and procedures reflect the commitment to equality and diversity.

Human Resources/Organisational Development

23. This report deals with the update of procedures. There are no additional human resources or organisational development implications.

Commercial/Procurement

24. There are no commercial or procurement implications associated with the update of procedures referred to in this report.

Environment/Climate Change

25. There are no environment or climate change implications associated with the update of procedures referred to in this report.

Council Priorities and Projects

26. The delivery of the Council Plan objectives and Borough Vision are underpinned by our governance framework, Governance documents and procedures are regularly reviewed to ensure that they are up to date and fit for purpose.

M. J. Wilcox

Deputy Monitoring Officer

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Appendices

None

List of Background Documents

[Joint Negotiating Committee for Local Authority Chief Officers – Conditions of Service Handbook](#)