

MEETING:	EXTRAORDINARY MEETING OF COUNCIL
DATE:	24 MAY 2013
TITLE OF REPORT:	DETERMINATION OF TERMS AND CONDITIONS OF STAFF
REPORT BY:	HEAD OF GOVERNANCE

1. Classification

Open

2. Key Decision

This is not a key decision

3. Wards Affected

County-wide

4. Purpose

To approve amendment of the Constitution to enable the Chief Executive to set the terms and conditions of staff.

5. Recommendation(s)

THAT:

- (a) **an additional power number 7 be inserted in the Constitution, in the specific delegations to the Chief Executive, to read “ To determine the terms and conditions of employment of staff in accordance with the Employment Procedure Rules (part 4 paragraph 4.9.6)”;**
- (b) **paragraph 4.9.6.1 of the Employment Procedure Rules be replaced to read “The Chief Executive shall be responsible for determining the terms and conditions of all officers other than the Head of Paid Service”.**

6. Key Points Summary

- The Council is responsible for the appointment and dismissal of the Chief Executive as Head of Paid Service.

Further information on the subject of this report is available Geoff Hardy, Democratic Services Manager on 01432 383408

- The Council, through its Employment Panel, is responsible for the appointment and dismissal of a Statutory Chief Officer or a Director.
- The Constitution in its current form does not make it suitably clear and apparent that the Chief Executive has the responsibility for setting the terms and conditions of service of all staff.
- The Council's delegation of Council functions confirms that the power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal) can be carried out by either a meeting of Council or the Employment Panel or the Chief Executive as set out in the Functions Scheme. However as far as the Chief Executive's delegation is concerned, this authority has not been carried through to his Scheme of Delegation.
- Bearing in mind the functions of the employment panel, the Chief Executive should have the residual responsibility for setting terms and conditions of employment for all staff (except those in respect of himself which is the responsibility of the employment panel). It is not proposed that the arrangements in the Constitution for the appointment and dismissal of Directors and statutory officers be changed.

7. Alternative Options

7.1 None

8. Reasons for Recommendations

8.1 Any alternative construction of the Functions Scheme would not be workable.

8.2 These revisions represent a clarification rather than a departure from normal practice.

9. Introduction and Background

9.1 The Constitution does not clearly reflect the position in its currently drafted form.

9.2 Whilst the Constitution is currently in the course of revision overall, this particular issue needs clarification in advance of any wholesale revisions, as it could lead to challenge if not implemented correctly.

10. Key Considerations

10.1 The proposed amendments leave a clear distinction between (1) the appointment and dismissal of senior officers and (2) the appointment and dismissal of more junior staff together with the drawing up of terms and conditions for all staff.

10.2 The dismissal of some posts are regulated in law (e.g. Monitoring Officer) and the proposals will be compliant with this.

11. Community Impact

None

12. Equality and Human Rights

12.1 This report pays due regard to the public sector equality duty.

13. Financial Implications

13.1 None.

14. Legal Implications

14.1 None identified.

15. Risk Management

15.1 There is a risk of challenge if these issues are not implemented correctly.

16. Consultees

None.

17. Appendices

17.1 None.

18. Background Papers

None identified.