

Personnel Committee

Date: **Friday 21st October 2016**

Time: **9.00am**

Venue: **Conference Room, Ground Floor, South Wing
County Hall, Norwich**

Persons attending the meeting are requested to turn off mobile phones.

Membership

Mr T Coke
Mr C Jordan (Chairman)
Mr G Nobbs
Mr A Proctor
Mrs A Thomas

**For further details and general enquiries about this Agenda
please contact the Committee Officer:**

Karen Haywood on 01603 228913
or email committees@norfolk.gov.uk

Under the Council's protocol on the use of media equipment at meetings held in public, this meeting may be filmed, recorded or photographed. Anyone who wishes to do so must inform the Chairman and ensure that it is done in a manner clearly visible to anyone present. The wishes of any individual not to be recorded or filmed must be appropriately respected.

A g e n d a

1 Apologies

To receive any apologies.

2. Minutes

- (i) To confirm the minutes of the meeting held on 21st June 2016. **(Page 5)**
- (ii) To confirm the minutes of the meeting held on 11th July 2016. **(Page 9)**

3. Members to Declare any Interests

If you have a Disclosable Pecuniary Interest in a matter to be considered at the meeting and that interest is on your Register of Interests you must not speak or vote on the matter.

If you have a Disclosable Pecuniary Interest in a matter to be considered at the meeting and that interest is not on your Register of Interests you must declare that interest at the meeting and not speak or vote on the matter.

In either case you may remain in the room where the meeting is taking place. If you consider that it would be inappropriate in the circumstances to remain in the room, you may leave the room while the matter is dealt with.

If you do not have a Disclosable Pecuniary Interest you may nevertheless have an Other Interest in a matter to be discussed if it affects

- your well being or financial position
- that of your family or close friends
- that of a club or society in which you have a management role
- that of another public body of which you are a member to a greater extent than others in your ward.

If that is the case then you must declare such an interest but can speak and vote on the matter.

4. Terms of Reference of Personnel Committee

Report by the Managing Director **(Page 11)**

5 Appointments and Disciplinary action relating to senior officers.

Report by the Managing Director **(Page 17)**

6. Exclusion of Public

The committee is asked to consider excluding the public from the meeting under section 100A of the Local Government Act 1972 for consideration of

the items below on the grounds that they involve the likely disclosure of exempt information as defined by paragraph 4 of Part 1 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.


The committee will be presented with the conclusions of the public interest tests carried out by the report author and is recommended to confirm the exclusion.

7. Exempt Minutes

To confirm the exempt minutes of the meeting held on 21st June 2016 **(Page 33)**

Chris Walton
Head of Democratic Services
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Martineau Lane
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NR1 2DH

Date Agenda Published: 13th October 2016

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Personnel Committee

Minutes of the Meeting held on 21st June 2016 at 2.00pm in the Conference Room, Ground Floor at County Hall

Present:

Mr C Jordan (Chairman)
Mr G Nobbs
Mr A Proctor
Mrs A Thomas

Substitute members present:

Mr R Parkinson - Hare

Also Present:

Mr G Boyd	Assistant Director, Education (for Item 6 only)
Mrs A Gibson	Executive Director of Resources
Mr R Graham-Leigh	Reward Manager/ Acting Human Resources Manager
Ms K Haywood	Democratic Support and Scrutiny Manager
Mrs A Sharp	Acting Head of Human Resources
Ms J Youngs	Assistant Head of Services – Adult Education (for Item 7 only)

1. Election of Chairman

Mr C Jordan was elected as Chairman for the ensuing year.

2. Election of Vice Chairman

Mrs A Thomas was elected as Vice Chairman for the ensuing year.

3. Apologies

- 3.1 Apologies for absence were received from Mr T Coke (Mr R Parkinson - Hare substituted).

4. Minutes of the Meeting Held on 3rd December 2015

- 4.1 The public minutes of the meeting held on 3rd December 2015 were agreed as a correct record and signed by the Chairman.

5. Declarations of Interests

- 5.1 There were no interests to declare.

6. Pay awards for centrally employed teachers

The annexed report (6) by the Acting Head of Human Resources and Assistant

Director, Education was received.

RESOLVED:

That members adopt option one in the report, and grants delegated powers to Officers to determine annual pay awards for centrally employed teachers.

7. Pay arrangements for Adult Education Tutors

The annexed report (7) by the Acting Head of Human Resources and Executive Director of Community and Environmental Services was received.

To clarify an issue raised in paragraph 6.1 in the report, where the report stated that the proposals would be 'broadly cost neutral', the Assistant Head of Service – Adult Education confirmed that funding for shorter courses had moved from being funded from central government to a full cost model.

RESOLVED:

That the Committee:

- Sign off the proposals endorsed at the December 2015 Committee meeting
- Authorise the Head of Human Resources to sign off the details of the package and to reach a collective agreement with relevant trade unions.

8. Pay Policy Statement

This item was withdrawn from the agenda.

9. Exclusion of Public

9.1 Officers presented the public interest test for the following reports, as required by the 2006 Access to Information Regulations, for the consideration of the Committee as follows:

- Item 11 (National and local pay negotiations) and Item 12 (Managing Director pay review) – These reports set out sensitive information relating to the terms of employment of County Council employees. The release of this information would prejudice possible forthcoming negotiations and would therefore not be in the public interest. This assessment has been reached in light of the guidance provided by the Head of Law.

The Committee **RESOLVED:**

- That the public be excluded while these reports are considered.

10. Exempt minutes

10.1 The exempt minutes of the meeting held on 3rd December 2015 were agreed as a correct record and signed by the Chairman.

11. National and local pay negotiations

- 11.1 The exempt report by the Acting Head of Human Resources was received.
- 11.2 The Committee determined negotiating parameters for the pay review for senior managers and authorised the Head of Human Resources to make a local pay award offer to unions.

12. Managing Director Pay Review

- 12.1 The exempt report by the Acting Head of Human Resources was received.
- 12.2 The Committee determined negotiating parameters for the pay review and authorised the Head of Human Resources to make a local pay award offer to the Managing Director.

The meeting concluded at 2:15pm

CHAIRMAN

Personnel Committee

Minutes of the Meeting held on 11 July 2016 at 2.30pm in the Conference Room, Ground Floor at County Hall

Present:

Mr C Jordan (Chairman)
Mr T Coke
Mr G Nobbs
Mr A Proctor

Substitute members present:

Mrs J Leggett for Mrs A Thomas

Also Present:

Dr W Thomson	Managing Director
Mr R Graham-Leigh	Reward Manager/ Acting Human Resources Manager
Mrs A Sharp	Acting Head of Human Resources

Ms S Whitaker

1. Apologies

- 1.1 Apologies for absence were received from Mrs A Thomas (Mrs J Leggett substituted).

2. Declarations of Interests

- 2.1 There were no interests to declare.

3. Exclusion of Public

- 3.1 Officers presented the public interest test, as required by the 2006 Access to Information Regulations, for the consideration of the Committee as follows:

This report sets out sensitive information relating to the terms of employment of an identifiable County Council employee, release of which at present would prejudice possible forthcoming negotiations and would therefore not be in the public interest. This assessment has been reached in light of the guidance provided by the Head of Law.

The Committee **RESOLVED** that the public be excluded from the meeting under section 100A of the Local Government Act 1972 for consideration of the item below on the grounds that it involved the likely disclosure of exempt information as defined by Part 1, 2 and 4 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighed the public in disclosing the

information.

4. Management Review

The Committee considered a report of the Managing Director which noted the savings required in the Resources directorate and recommended the deletion of the post of Executive Director of Resources, which would incur severance costs of over £100,000. The determination of the number and responsibilities of Chief Officers was reserved to the Council, on the advice of the Managing Director. Where severance costs over £100,000 were proposed, the Managing Director must consult the members of the Personnel Committee and refer the matter to full Council for decision.

The Managing Director clarified a number of areas including the timing, cost, payback period and the interim arrangements and explained that the proposal would contribute to the overall savings target of the Council.

RESOLVED (by 4 votes to 0 with one abstention) to:

- a) **Recommend Full Council** to consider the report of the Managing Director and to agree that the post of Executive Director of Resources be deleted with effect from 18 September 2016.
- b) Note that a review will be undertaken by the Managing Director, to establish an operating model for Resources functions within the spending limits agreed for the 2016/17 budget
- c) Note the interim management arrangements for the functions currently reporting to the Executive Director of Resources.

The meeting concluded at 2.50pm

CHAIRMAN

Terms of Reference of the Personnel Committee

Report by the Managing Director

This report proposes a series of drafting changes to the Committee's terms of reference as written in the Council's constitution, in order to remove existing inconsistencies and clarify the Committee's role and operating arrangements. This is essentially a tidying-up exercise, and the changes will not materially affect the role or way that the committee operates.

Members are recommended to approve draft revised Terms of Reference, which would be considered by the Constitution Advisory Group for recommendation to the Policy and Resources Committee, and referral to Full Council for approval and amendment of the Council's Constitution.

1 Background

- 1.1 The Terms of Reference of the Personnel Committee are set out in the Council's Constitution, Part 4.1. Recently it has become apparent that some of the functions set out in the Terms of Reference are inconsistent with other parts of the Constitution. The Terms of Reference document therefore needs to be updated.
- 1.2 Importantly, the changes proposed do not affect the actual practice of decision-making by the Personnel Committee, but bring the Terms of Reference document into line with the reality. No changes to the business and decision-making of the Personnel Committee will result.
- 1.3 The Terms of Reference are attached at Appendix 1, showing the proposed changes and summarising the reasons, which are explained in more detail below.

2 Reasons for proposed changes

- 2.1 In this section the present wording of each Clause in the Terms of Reference is set out, followed by explanatory comments and whether any change is proposed.

Clause 1

1: Except to the extent delegated to Chief Officers in accordance with the Officer Employment Procedure Rules set out in Part 6.4 of the Constitution, to determine the terms and conditions on which staff hold office (including procedures for their dismissal).

- 2.2 No change to clause 1 is proposed. This is the function which in practice forms virtually all the business of the Committee. It includes setting of policies on terms and conditions for all employees (within statutory frameworks), and the grading of senior officer posts.

Clause 2

2. To be responsible for the appointment of the Head of Paid Service, statutory and non-statutory Chief Officers and Deputy Chief Officers (all as defined in the Local Government and Housing Act 1989). This power includes the establishment of ad hoc Appointment Panels to carry out this function.

- 2.3 No change is proposed in relation to the remit to appoint the Head of Paid Service (the Managing Director), as this accords with the relevant arrangements in Part 6.4 Officer Employment Procedure Rules, para 3:

3. Appointment of Head of Paid Service

(a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by an Appointment Panel appointed for this purpose by the Personnel Committee. The Appointment Panel must interview all qualified applicants for the post or select a short list of such qualified applicants and interview those included on the short list. The Panel must be politically balanced but will not count in the overall allocation of seats to political groups because of its ad-hoc nature.

[underlining added]

- 2.4 However, in relation to the setting up of panels to appoint Chief Officers and Deputy Chief Officers, the Head of Law has advised that these arrangements are not consistent with the arrangements set out in Part 6.4 (para 4) of the Constitution, which are:

4. Appointment of Chief Officers and Deputy Chief Officers

(a) An Appointment Panel will appoint chief officers and deputy chief officers. The Panel will be appointed for this purpose by the Managing Director in consultation with the Group Leaders and must be politically balanced. The Panel may comprise or include some or all the members of the Personnel Committee.

- 2.5 The Head of Law has advised that Part 6.4 (4) should take precedence as it is more specific, and also deals with the important question of political balance. So Clause 2 of the Terms of Reference should be amended to be consistent with Part 6.4 (4).
- 2.6 It is therefore proposed that that the wording of clause 2 relating to appointments of statutory and non-statutory Chief Officers and Deputy Chief Officers should be deleted, but the wording relating to appointing the Head of Paid Service, by establishing appointment panels, should remain.

Clause 3

3. To be responsible for taking disciplinary action in respect of the Head of Paid Service, in accordance with the procedures required by the Officer Employment Procedure Rules.

2.7 No change is proposed to clause 3.

Clause 4

4. To designate an officer as Head of Paid Service (subject to approval by the full Council) and to provide staff etc. for that officer.

2.8 The remit to designate the Head of Paid Service is not consistent with Part 3.1 of the Constitution (Functions and Powers of the Full Council), which defines the Managing Director as the Head of Paid Service:

"(g) Appointment of Head of Paid Service

Confirming the appointment of the Managing Director, who shall also be the Head of Paid Service."

2.9 The role of the Managing Director as Head of Paid Service is also clearly set out in Article 8 - Officers.

2.10 Since the Constitution has been approved by Full Council, the designation of the Head of Paid Service has been effected by Full Council, not the Personnel Committee.

2.11 In relation to ".and to provide staff etc for that officer", this has never in practice been the responsibility of the Personnel Committee. The Council has a statutory duty to provide adequate staff and resources to certain statutory officers, but that duty is discharged through Full Council's responsibilities in Part 3.1 - Functions and Powers of the Full Council:

"Approving or adopting the Policy Framework [and] the Budget..." ... "The Budget includes the allocation of financial resources to different services and projects..."

2.12 It is therefore proposed that clause 4 be deleted.

Clause 5

5. To designate an officer as the Monitoring Officer and to provide staff etc. for that officer.

2.13 The Monitoring Officer is designated in Article 8 - Officers, as the Head of Law. Again, it is therefore the Full Council which has designated that role. In relation to the provision of staff etc, the comments above apply equally here.

2.14 It is therefore proposed that clause 5 be deleted.

Clause 6

To make arrangements for the proper administration of the Council's financial affairs including the appointment of the Chief Finance Officer.

- 2.15 In relation to arrangements for the administration of financial affairs, Clause 6 conflicts with the role of the Chief Finance Officer as set out in Article 8:

"Have responsibility for the administration of the financial affairs of the Council and be the Section 151 Officer."

and also with the more detailed description of that role in Part 7.7 - Financial Regulations:

"The Executive Director of Finance is responsible for the proper administration of the County Council's financial affairs and for setting and monitoring compliance with agreed standards of financial administration and management ..." etc

- 2.16 Clause 6 is also inconsistent in this respect with the role of the Audit Committee in Part 4.1.
- 2.17 In practice the Personnel Committee does not appear ever to have made such arrangements.
- 2.18 In relation to the appointment of the Chief Finance Officer, see comments on clause 2 above about the appointment of Chief Officers: the setting up of appointment panels for that purpose is the responsibility of the Managing Director.
- 2.19 It is therefore proposed that clause 6 be deleted.

Clause 7

7. To designate the Council's "Proper Officers".

- 2.20 Part 6.3 - Proper Officer Provisions covers these matters, so again it is Full Council which effects these designations, not the Personnel Committee. The Personnel Committee has never in practice discharged this function.
- 2.21 It is therefore proposed that clause 7 be deleted.

Note to the Terms of Reference

NOTE: The procedures for taking disciplinary action in respect of Chief Officers, Deputy Chief Officers, the Chief Finance Officer and Monitoring Officer are set out in the Officer Employment Procedure Rules.

- 2.22 This statement is correct, but should not form part of the Terms of Reference as it says nothing about any role for the Personnel Committee. Part 6.4 - Officer Employment Procedure Rules make clear that disciplinary matters in respect of all staff other than the Managing Director are the responsibility of the Managing Director as Head of Paid Service.
- 2.23 The Note is not part of the Terms of Reference and should be deleted.

3 Other considerations

- 3.1 Recommended changes to the Terms of Reference would be referred to the Constitution Advisory Group, which would make recommendations to the Policy and Resources Committee, which in turn would recommend the revised document to Full Council for approval.

- 3.2 The changes proposed will improve clarity and transparency in respect of the Council's decision-making, because they bring the Terms of Reference document into line with the reality.
- 3.3 There are no financial or other implications.
- 3.4 No other course of action is recommended, as the changes proposed are necessary in order that the responsibilities and delegated powers of the Personnel Committee are properly described in the Constitution.

4 Recommendation

- 4.1 Members are recommended to endorse the draft revised Terms of Reference document at Appendix 1.


Background Papers

The Council's Constitution is available on the Council's website at:

<https://www.norfolk.gov.uk/what-we-do-and-how-we-work/policy-performance-and-partnerships/policies-and-strategies/corporate/norfolk-county-council-constitution>

Officer Contact

If you have any questions about matters contained in this paper please contact:

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APPENDIX 1

Norfolk County Council Constitution PART 4.1 COMPOSITION AND TERMS OF REFERENCE OF COMMITTEES 4.1 PERSONNEL COMMITTEE

COMPOSITION:

5 Members of the Council, to include the Leader of the Council

TERMS OF REFERENCE:

[Existing wording, with change proposals in *bold italics*.]

1. Except to the extent delegated to Chief Officers in accordance with the Officer Employment Procedure Rules set out in Part 6.4 of the Constitution, to determine the terms and conditions on which staff hold office (including procedures for their dismissal).

No change proposed.

2. To be responsible for the appointment of the Head of Paid Service, statutory and non-statutory Chief Officers and Deputy Chief Officers (all as defined in the Local Government and Housing Act 1989). This power includes the establishment of ad hoc Appointment Panels to carry out this function.

Delete the words ", statutory and non-statutory Chief Officers and Deputy Chief Officers (all as defined in the Local Government and Housing Act 1989)" as the clause conflicts with the appointment process for these officers set out in Part 6.4.

3. To be responsible for taking disciplinary action in respect of the Head of Paid Service, in accordance with the procedures required by the Officer Employment Procedure Rules.

No change proposed.

4. To designate an officer as Head of Paid Service (subject to approval by the full Council) and to provide staff etc. for that officer.

Delete entire clause, as it conflicts with full Council responsibilities.

5. To designate an officer as the Monitoring Officer and to provide staff etc. for that officer.

Delete entire clause, as the Monitoring Officer is designated elsewhere in Constitution.

6. To make arrangements for the proper administration of the Council's financial affairs including the appointment of the Chief Finance Officer.

Delete entire clause, as it conflicts with remit of Chief Finance Officer, and with the appointment process set out in Part 6.4.

7. To designate the Council's "Proper Officers".

Delete entire clause, as Proper Officers are defined in Part 6.3.

NOTE: The procedures for taking disciplinary action in respect of Chief Officers, Deputy Chief Officers, the Chief Finance Officer and Monitoring Officer are set out in the Officer Employment Procedure Rules.

The Personnel Committee has no role in these matters, which fall to the Head of Paid Service. This Note is not part of the Terms of Reference and should be deleted.

Appointments and disciplinary action relating to senior officers

Report by the Managing Director

This report proposes revised wording of Part 6.4 of the Council's Constitution, which sets out arrangements for the appointment and discipline of officers. The changes are to improve clarity, to bring the wording into alignment with the Council's organisation structure, and to improve efficiency in recruitment and appointment.

Members are recommended to endorse the draft revised wording of Part 6.4 of the Constitution at Appendix 1, for consideration by the Constitution Advisory Group, recommendation to the Policy and Resources Committee, and then referral to Full Council for approval.

1. Background

- 1.1. Arrangements for the appointment of, and disciplinary action in respect of, the council's officers are set out in Part 6.4 of the Council's Constitution.
- 1.2. The wording has remained largely unchanged since the Constitution was introduced following legislation in 1989. The Council's officer structure has changed since then, and the wording does not reflect the modern situation. The wording therefore needs revision.
- 1.3. The most pressing issue is that it is no longer clear which senior posts are subject to appointment by Member appointment panels, and what criteria should determine which new or changed posts should be subject to those arrangements as the organisation evolves.
- 1.4. Also affected is the wording relating to disciplinary matters.
- 1.5. This report proposes revised wording, for recommendation to the Constitution Advisory Group. Recommended changes by the CAG would be put to Policy and Resources Committee, for ratification by full Council.
- 1.6. The relevant parts of Part 6.4 are at Appendix 1, showing both present and proposed wording.
- 1.7. A structure chart showing senior officers is at Appendix 2.

2. The statutory provisions

- 2.1. Regulations⁽¹⁾ require that all local authorities must set out their arrangements for the appointment and discipline of staff.
(1) The Local Authorities (Standing Orders) (England) Regulations 2001.

- 2.2. There is no legal requirement that any appointment to an officer post must be made by Members. The regulations provide only that:
- generally, Members cannot make appointments to posts - that is the responsibility of the Head of Paid Service
 - but for certain posts, that general rule is disappplied, and the local authority must set out its arrangements for appointments to those posts. Those posts are:
 - the Head of Paid Service
 - statutory and non-statutory Chief Officers as defined in the regulations
 - Deputy Chief Officers as defined in the regulations
 - Political Assistants.
- 2.3. The statutory definitions of Chief Officer and Deputy Chief Officer can be summarised as follows:

Statutory Chief Officers	<p>These are mandatory appointments with responsibility for:</p> <ul style="list-style-type: none"> • Children's Services • Adult Social Services • Fire • Public Health • Finance (the section 151 officer) <p>Some of these must be directly accountable to the Head of Paid Service, others do not have to be.</p>
Non-statutory Chief Officers	Any other post accountable directly to the Head of Paid Service (apart from secretarial etc)
Deputy Chief Officer	Any post reporting to a Statutory or Non-statutory Chief Officer (apart from secretarial etc)

- 2.4. The Monitoring Officer is a statutorily-required post, but is not a 'chief officer' or 'deputy chief officer' in its own right. However it is likely to fall into one of those categories by virtue of being at second- or third-tier in the organisation, as it has always been in this Council.

3. Difficulties arising from the present wording

- 3.1. Experience in recent years has shown that:
- the wording of Part 6.4 is not consistent with the statutory definitions of Chief Officer and Deputy Chief Officer, making the definition of which posts are intended to be covered unclear

- the wording no longer reflects the reality of the council's organisation structure
- there are no clear criteria to determine which future posts should be covered by the arrangements for Member appointments
- there are opportunities to improve efficiency and streamline recruitment processes. The opportunity should be taken to review the number of posts which require a Member appointment panel, so that the right balance is struck between proper member involvement in appointing the most senior posts, and the most cost-effective recruitment processes.

Not consistent with the statutory definitions of Chief Officer and Deputy Chief Officer

- 3.2. Part 6.4, paragraph 4 states, "An Appointment Panel will appoint chief officers and deputy chief officers. ... A list of Chief Officers and Deputy Chief Officers for the purposes of this paragraph is annexed".
- 3.3. However the list does not include all posts covered by those statutory definitions. That is because
 - Part 6.4 was written when 'Chief Officers' were Heads of Department, and 'Deputy Chief Officers' comprised a well-defined tier in local government. But now, the Deputy Chief Officer organisational level no longer exists, and some statutory Chief Officers are not in charge of departments (our Chief Fire Officer and Director of Public Health).
 - the organisation's structure is now much flatter, and relatively junior posts fall into the definition of 'Deputy Chief Officer'
 - as a result of these changes, posts can be Chief Officers or Deputy Chief Officers statutorily, but not organisationally. This is hard to understand, and shows that relying on those terms no longer makes sense in the context of our present structure.
 - it is not appropriate for Members to take appointment decisions for relatively junior posts. To do so would defeat the purpose of the regulations, which are intended to ensure that Members are involved only in appointing senior posts, and so would leave the Council open to criticism.
- 3.4. So the list does not comprise all posts which are 'Deputy Chief Officers' under the statutory definition, as it is clear that the intention was never that all such posts should be appointed to by Members, and that would not be appropriate. This is confusing and makes the arrangements unclear.

Lack of clear criteria

- 3.5. In the absence of the statutory definition, no criteria are provided to determine whether a post should be included on the list. There should be clear criteria, and the terms "Chief Officers" and "Deputy Chief Officers" should be used only if the statutory definition is intended.

- 3.6. The list has been updated over the years by removing deleted posts, and adding new posts which are of broadly equivalent weight, scope and degree of Member interface to those already on the list. The Monitoring Officer has advised which posts should be included. This has enabled the list to be updated.

An opportunity to improve efficiency

- 3.7. The list of posts reserved to Members to appoint now numbers 29. The extent of organisation change in recent years, the setting up and servicing of Member appointment panels has meant a considerable investment of Member and officer time.
- 3.8. In reviewing the scope of the appointment provisions, and the definitions of which posts should be Member appointments, it is therefore sensible to take the opportunity to review past practice in light of current realities.
- 3.9. It is also important to take account of candidates' experience of selection processes involving Member panels, and in particular anecdotal feedback that it can feel an onerous and lengthy process, and more so than experienced with other employers. This may impact on our ability to attract high quality candidates.

4. Other Local Authorities' practice

- 4.1. There is mixed practice amongst other Shire Counties. Of 17 Authorities surveyed, 8 limit member appointments to the Head of Paid Service and statutory and non-statutory Chief Officers. See Appendix 3.

5. Proposed Changes

- 5.1. It is recommended that Part 6.4 be amended to define the senior posts which are formal member appointments (in addition to the Head of Paid Service) as:

- statutory chief officers
(5 posts)
- any other posts which are formally part of the County Leadership Team
(1 post in the present structure):
- the Monitoring Officer (as long as the post is at third tier or higher and therefore may be appointed by Members)
(1 post).

- 5.2. Posts covered in the present structure would be:

Executive Director of Childrens Services
Executive Director of Adults Social Services
Executive Director of Community and Environmental Services
Executive Director of Finance
Director of Public Health
Chief Fire Officer
Head of Law and Managing Director of nplaw

- 5.3. The revised wording would make very clear the basis on which appointments could be made by Members. Relatively junior posts would be excluded from Member appointment as envisaged in the regulations, and the revised wording should remain valid as the organisation changes in future.
- 5.4. This does not prevent Members from being involved in future appointment processes for other roles, but that would not be in a decision-making capacity. For example, senior Members had the opportunity to meet candidates and provide feedback in the selection process for the new Head of Communications post.
- 5.5. A proposed list of posts for which such informal arrangements would be appropriate is provided as part of the Appendix to the revised version of Part 6.4, at Appendix 1.

6. Alternatives

Option 2 - no change

- 6.1. Leaving the present wording is not recommended for the reasons given above.

Option 3 - all posts at Scale P

- 6.2. Another option is to clarify the wording to include all those on the senior management grades of Scale P and above. This would cover the same number of posts as at present, but would have the advantage of clearer wording.
- 6.3. Wording in paragraph 4 of Part 6.4 would read:

An Appointment Panel will appoint statutory chief officers, non-statutory chief officers, and those posts falling within the statutory definition of deputy chief officer which are evaluated through job evaluation at Scale P or above on the Council's senior management grades.

- 6.4. This option has drawbacks, and so is not recommended:

- it would rely on job evaluation outcomes to determine which posts are appointed by Members. This may be seen as a technical and opaque approach.
- posts on other senior grades, such as on NHS grades, would not be covered, unless the wording allowed for a judgement to be made based on organisational position - which is likely to raise new questions of definition, consistency and clarity
- some future posts could be on Scale P but at 4th tier, so would not be covered. This may seem inconsistent.
- the relatively large number of posts covered would not allow the efficiencies offered by Option 1.

Option 4 - Statutory Chief Officers only

- 6.5. This is not recommended as not all County Leadership Team posts are statutory chief officers.

7. Implications for disciplinary and dismissal provisions

- 7.1. In addition to appointment arrangements, Part 6.4 also sets out arrangements for disciplinary action and dismissals regarding senior posts. The same issues about clarity and definition apply. However in this case there is no list of which posts are meant.
- 7.2. The Member involvement is considerably less; it is the responsibility of the Managing Director as Head of Paid Service to take disciplinary action in respect of all other officers, and Member involvement is limited to where action in relation to the Head of Paid Service, Monitoring Officer and the Section 151 Finance officer.
- 7.3. The proposed revised wording in paragraphs 6 and 7 reflects the clarified definitions of senior officers. The opportunity has also been taken to clarify which procedure would apply for the Head of Paid Service, Chief Finance Officer and Monitoring Officer (which have a special statutory process) and other senior officers, for whom the Council's normal disciplinary procedure would be followed.

8. Other considerations

- 8.1. Changes to the Constitution require agreement from the Constitution Advisory Group, Policy and Resources Committee and full Council.
- 8.2. The Council's Pay Policy Statement, which is not part of the Constitution, will also require revision to reflect the revised arrangements. This will be referred to Full Council separately as part of the annual update of the Statement.

9. Recommendation

- 9.1. Members are recommended to endorse the draft revised wording of Part 6.4 of the Constitution at Appendix 1, for consideration by the Constitution Advisory Group, recommendation to the Policy and Resources Committee, and referral to Full Council for approval.

Background Papers

The Council's Constitution is available on the Council's website at:


<https://www.norfolk.gov.uk/what-we-do-and-how-we-work/policy-performance-and-partnerships/policies-and-strategies/corporate/norfolk-county-council-constitution>

Officer Contact

If you have any questions about matters contained in this paper please contact:

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Proposed changes to Part 6.4

Deleted text shown as double-strike-through. New text shown as bold italics.

These rules incorporate the standing orders required by Regulation 3(1) and Part ~~IV~~ of Schedule 1 and Regulation 6/Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001.

1. RECRUITMENT AND APPOINTMENT (GENERAL)

1.1 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 any existing councillor or officer of the Council; or of the partner of such persons. Every member and senior officer of the Council must disclose to the Managing Director any relationship known to him/her to exist between himself/herself and any person whom he/she knows is a candidate for an appointment under the Council. The Managing Director or Chief Officer must bring any such disclosure to the attention of the Chairman of the Personnel Committee.

(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.

1.2 SEEKING SUPPORT FOR APPOINTMENT

(i) Subject to paragraph (iii) 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) Subject to paragraph (iii) no councillor will seek support for any person for any appointment with the Council.

(iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

2. RECRUITMENT OF HEAD OF PAID SERVICE AND ~~CHIEF~~ SENIOR OFFICERS

For the purposes of this Part of the Constitution, a list of senior officers is provided in Part A of the Appendix. The senior officers listed are those which:

- a) are statutory chief officers for the purposes of regulation 3 of Schedule 1 Part IV of the 2001 regulations, or*
- b) are non-statutory chief officers or deputy chief officers for the purposes of that regulation, and are also:*

- i. members of the County Leadership Team, or**
- ii. the Monitoring Officer.**

Where the Council proposes to appoint the Head of Paid Service or a ~~chief~~ **senior** officer and it is not proposed that the appointment will be made exclusively from among their existing officers, the Head of Human Resources and Organisational Development will:-

- (a) draw up a statement specifying:
 - (i) the duties of the officer concerned; and
 - (ii) any qualification or qualities to be sought in the person to be appointed;
- (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.

3. APPOINTMENT OF HEAD OF PAID SERVICE

(a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by an Appointment Panel appointed for this purpose by the Personnel Committee. The Appointment Panel must interview all qualified applicants for the post or select a short list of such qualified applicants and interview those included on the short list. The Panel must be politically balanced but will not count in the overall allocation of seats to political groups because of its ad-hoc nature.

4. ~~APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS~~ SENIOR OFFICERS

(a) An Appointment Panel will appoint ~~chief officers and deputy chief officers~~ **senior officers**. The Panel will be appointed for this purpose by the Managing Director in consultation with the Group Leaders and must be politically balanced. The Panel may comprise or include some or all the members of the Personnel Committee.

~~(b) A list of Chief Officers and Deputy chief officers for the purposes of this paragraph is annexed to this Appendix.~~

5. OTHER APPOINTMENTS

(a) ~~OFFICERS BELOW DEPUTY CHIEF OFFICER~~ The appointment of officers ~~below deputy chief officer~~ **other than as provided above, and** (other than assistants to political groups), is the responsibility of the head of paid service or his/her nominee, and may not be made by councillors. In this respect ~~he she~~ has arranged for ~~chief officers~~ **heads of department** to exercise this function in respect of such staff within their Department (see para 12 of the table below).

It may be appropriate in some cases for Members to meet candidates in an informal environment. It may also be appropriate in limited circumstances, for

the relevant Committee Chairman to speak with the ~~Chief Officers~~ **head of department** about the person specification prior to the post being advertised.

A list of posts for which such informal arrangements would be appropriate is provided in Part B of the Appendix.

(b) ~~ASSISTANTS TO POLITICAL GROUPS~~ The recruitment of assistants to political groups will be carried out in accordance with the Council's proper processes but appointments will be made in accordance with the wishes of the political group to which the post has been allocated.

6. DISCIPLINARY ACTION IN RESPECT OF THE HEAD OF PAID SERVICE, CHIEF FINANCE OFFICER AND MONITORING OFFICER:

~~(a) No disciplinary action in respect of the Council's head of paid service, its monitoring officer or its chief finance officer, except action described in paragraph (b), may be taken by the Council, or by a committee, a subcommittee, a joint committee on which the Council is represented or any other person acting on behalf of the Council, other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001.~~

~~(b) The action mentioned in paragraph (a) is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the date on which the suspension takes effect.~~

~~(c) In paragraph (a), "chief finance officer", "disciplinary action", "head of the authority's paid service" and "monitoring officer" have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 and "designated independent person" has the same meaning as in regulation 7 of those Regulations.~~

~~(d) In addition, any proposal to dismiss the Head of Paid Service must (i) follow the procedure in para 7(a) below but with the substitution of the body proposing the dismissal for the reference to the Head of Paid Service and (ii) be approved by the full Council.~~

Any disciplinary action in respect of the Head of Paid Service, Chief Finance Officer and Monitoring Officer will comply with the 2001 Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

7. DISCIPLINARY ACTION IN RESPECT OF ~~CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS~~ SENIOR OFFICERS

(a) The Head of Paid Service will be responsible for taking disciplinary action in respect of ~~Chief Officers and deputy Chief Officers~~ **senior officers (as listed in the Appendix)** (including their dismissal).

(b) The Council's Disciplinary Procedure will apply, except in the case of disciplinary action in respect of the Chief Finance Officer or Monitoring Officer. The Head of Paid Service will consult the Head of HR and Organisational Development and the Head of Law as to any disciplinary process or proposed disciplinary action relating to senior officers.

~~In the case of disciplinary action in respect of deputy Chief Officers he will first consult the relevant Chief Officer.~~

~~(b) Notice of dismissal of a senior officer must not be given by the Head of Paid Service until:-~~

~~(i) The Head of Paid Service has notified the Head of Human Resources and Organisational Development of the name of the person who he wishes to dismiss and any other particulars which the Head of Paid Service considers are relevant to the dismissal;~~

~~(ii) The Head of Paid Service is satisfied that any objection received within that period is not material or is not well founded.~~

8. DISCIPLINARY ACTION IN RESPECT OF OTHER STAFF

Disciplinary action against or the dismissal of other staff will only be taken by the Head of Paid Service or his nominee. In this respect he has arranged for ~~chief officers~~ **heads of department** to exercise these functions in respect of such staff within their Departments (see para 15 of the table below).

Councillors will not be involved in disciplinary action against or the dismissal of any officer below deputy chief officer except (a) where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action or dismissals or (b) in the case of political assistants (where such action will be taken after consultation with the relevant Group Leader).

[For clarity in this Draft, Section 9 OFFICERS DELEGATED POWERS IN RESPECT OF STAFFING MATTERS is not shown, as that section is not directly affected]

Appendix to Part 6.4

Part A

Senior Officers for the purposes of Part 6.4 of the Constitution

***Executive Director of Childrens Services
Executive Director of Adults Social Services
Executive Director of Community and Environmental Services
Executive Director of Finance
Director of Public Health
Chief Fire Officer
Monitoring Officer***

This list will be updated from time to time to reflect changes to posts.

Part B

Members may be informally involved in appointments to the following posts

Lead Officers responsible for:

Adult Social Work and Health:

- **Early Help and Prevention**
- **Social Work**
- **Commissioning**
- **Service Delivery**

Children's Services:

- **Education**
- **Children's Social Work**
- **Early Help**
- **Quality and performance**

Environment and Transport:

- **Highways**
- **Transport**
- **Cultural Services**
- **Environment**
- **Planning**
- **Economic Development**

Corporate Resource Management:

- **Property**
- **Procurement**
- **Budgeting and Financial Management**
- **Information Technology and Management**
- **Pensions Management and Treasury**
- **Human Resources and Organisational Development**
- **Corporate Planning, Performance and Intelligence**
- **Communications**

~~ANNEX TO PART 6.4~~

~~PART A – CHIEF OFFICERS~~

Department	Post Title
	Managing Director
Children's Services	Executive Director of Children's Services
Community & Environmental Services	Executive Director of Community & Environmental Services
Finance	Executive Director of Finance
Adult Social Services	Executive Director of Adult Social Services

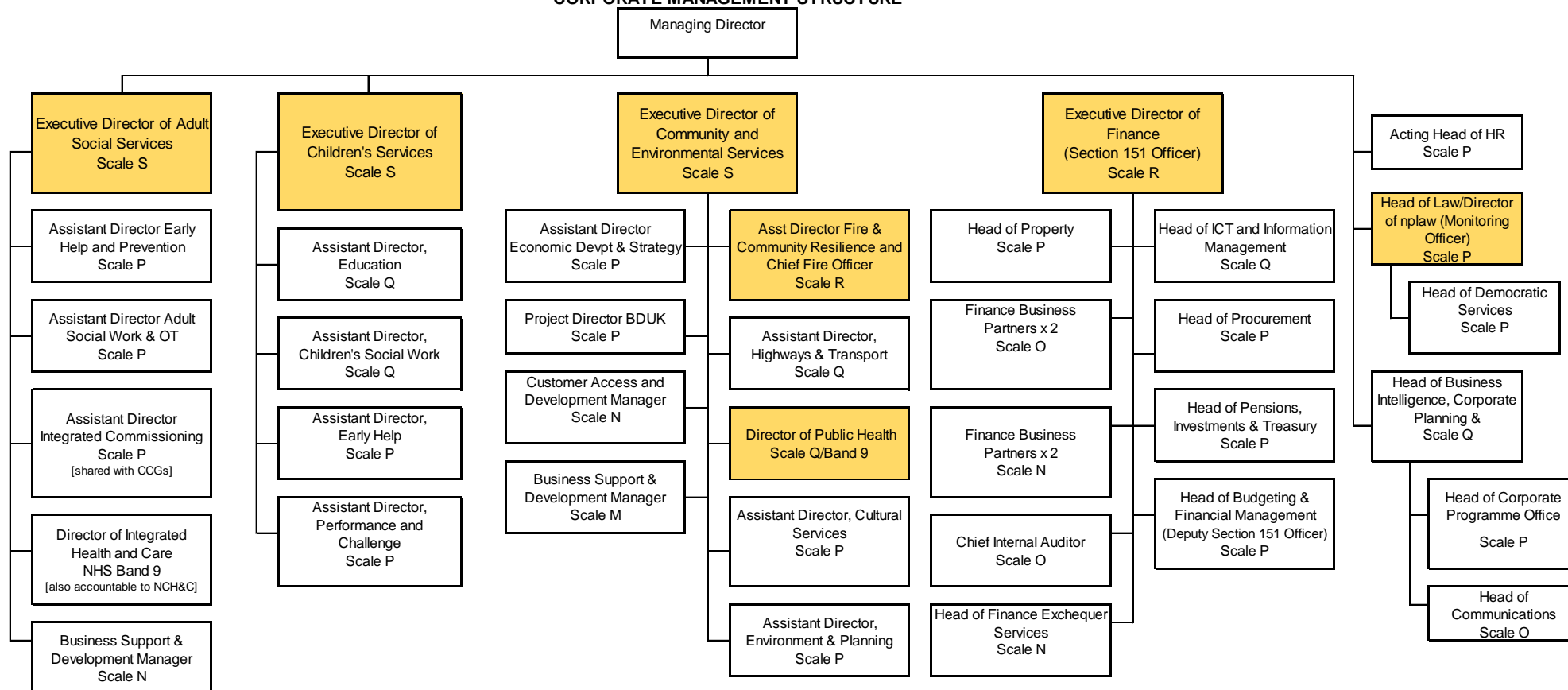
~~PART B - (POSTS FALLING WITHIN THE DEFINITION OF DEPUTY CHIEF OFFICER AND IN WHOSE APPOINTMENT IT IS PROPOSED MEMBERS BE FORMALLY INVOLVED)~~

Department	Post Title
Community & Environmental Services	Director of Public Health
Resources	Head of Business Intelligence, Performance & Partnerships
Resources	Head of Human Resources and Organisational Development
Resources	Head of Law
Resources	Head of Democratic Services
Finance	Head of ICT & Information Management
Resources	Head of Programme Management Office
Finance	Head of Procurement
Community & Environmental Services	Assistant Director Environment & Planning
Community & Environmental Services	Assistant Director Highways & Transport
Community & Environmental Services	Assistant Director Cultural Services
Community & Environmental Services	Assistant Director Economic Development & Strategy
Community & Environmental Services	Assistant Director Community Safety & Chief Fire Officer
Community & Environmental Services	Project Director BDUK
Adult Social Services	Assistant Director Adult Social Work & Occupational Therapy
Adult Social Services	Assistant Director Early Help and Prevention
Adult Social Services	Director Integrated Health & Care
Adult Social Services	Assistant Director Integrated Commissioning
Children's Services	Assistant Director Education
Children's Services	Assistant Director Children's Social Work
Children's Services	Assistant Director Early Help & Prevention

Children's Services	Assistant Director – Performance & Challenge
Finance	Head of Pensions, Investment & Treasury
Finance	Head of Budgeting & Financial Management
Finance	Head of Property

Appendix 2

NORFOLK COUNTY COUNCIL CORPORATE MANAGEMENT STRUCTURE



Present

29 of the posts shown are presently listed as Member-appointed posts (excluding the Managing Director).

Proposed



Shaded boxes denote proposed Member-appointed posts (7 excluding the Managing Director).

Statutory definition of Chief and Deputy Chief Officers

All 39 posts shown, plus 18 direct reports to the Chief Fire Officer and the Director of Public Health, fall within the statutory definitions of Chief or Deputy Chief Officer.

Other Shire Counties' Practice

	Members involved in decision making		
Local Authority	Head of Paid Service	Chief Officers	Deputy Chief Officers
Cornwall	Yes	Yes	No
Cumbria	Yes	Yes	No
Devon	Yes	Yes	Yes
Durham	Yes	Yes	No
East Sussex	Yes	Yes	Yes
Essex	Yes	Yes	Yes
Hampshire	Yes	Yes	Yes
Hertfordshire	Yes	Yes	Yes
Kent	Yes	Yes	Yes
Lancashire	Yes	Yes	No
Lincolnshire	Yes	Yes	No
Northampton	Yes	Yes	No
Northumberland	Yes	Yes	Yes
Suffolk	Yes	Yes	No
Surrey	Yes	Yes	Yes
West Sussex	Yes	Yes	No
Wiltshire	Yes	Yes	Yes