

**CITY AND COUNTY OF CARDIFF
DINAS A SIR CAERDYDD****Employment Conditions Committee: 31 July 2007****Report of the Chief Legal and Democratic Services Officer**

Employment Conditions Committee – Future Role

Background

1. The Constitution Committee on the 6th July 2007 received a Report (a copy of which is attached as Appendix A) and resolved to recommend to Council that the terms of reference of the Employment Conditions Committee be as follows:-
 - (a) To consider and determine policy and issues arising from the organisation, terms and conditions of individual employees at Chief Officer level and above (together with any other category of employee specified in Regulation from time to time) where this is necessary.
 - (b) To decide requests for regrading of posts at Chief Officer level and above (together with any other category of employee specified in Regulation from time to time) whether by way of appeal by an employee against a decision to refuse a regrading application or to decide applications for regrading which are supported.
2. The responsibility for the exercise of the functions of the Authority is governed by Regulation. The Constitution and the Scheme of Delegations is drafted in accordance with such Regulation and currently complies with The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 as amended, but they now need to be brought up to date.
3. On the 16th February 2007 the latter Regulations were revoked and The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 came into force.

Issues

4. The earlier Regulations provided that the determination of staff conditions of employment and functions relating to their appointment and dismissal could not be the responsibility of the Executive. The new Regulations merely provide that the Executive shall not have responsibility for the appointment and dismissal of staff (and this includes the setting of individual's salaries). It is understood that Welsh Assembly Government's intention was to clarify the old wording because this could be interpreted as preventing the Executive from considering policy aspects of conditions, appointment and dismissal of staff. It remains that an Executive cannot involve itself in the appointment and dismissal of individuals. In practice, this is only relevant to Chief Officers and above because the power to appoint and dismiss below Chief Officer level is already delegated. This meant that changes to the terms of reference of the Employment Conditions Committee (ECC) are required because before the change in the Regulations, the ECC determined policy in this area. There

will still be a need for a non Executive forum to determine terms and conditions of certain individuals (such as Chief Officers and above) and Constitution Committee agreed that ECC should retain that power.

Proposals

5. The ECC will wish to consider the implications of the Constitution Committees recommendation to Council. The Constitution Committee did not favour the ECC having a formal advisory role. The present speaking role at ECC afforded to the Trades Unions will no longer have much relevance.

Investment for Reform/Benefit to Service User

6. The proposed revision will ensure that decision making is undertaken in accordance with the recent legislation

Council Policies Supported

7. This report supports the Corporate Plan

Advice

8. This report has been prepared in consultation with relevant Corporate Directors and reflects their advice. It contains all the information necessary to allow Members to arrive at a reasonable view, taking into account the following advice.

Legal Implications

9. The ECC is currently one of the Council's standing Committees referred to in the Constitution and changes to the terms of reference of the Employment Conditions Committee will however require the approval of Council.
10. The Council's Scheme of Delegations (incorporating the provisions of the Local Authorities (Standing Orders) (Wales) Regulations 2006 delegates to the Chief Executive and Corporate Directors authority to manage the human resources within there are of responsibility, including the appointment, establishment, salary/grade, training, terms and conditions of employment, health and safety, discipline, suspension, dismissal of staff in accordance with the Council's HR and financial procedures and subject to appropriate consultation as outlined therein, except where redundancy, budgetary or significant effects on employment of existing staff is involved.
11. The appointment and dismissal of Chief Officers and above (and certain others specified in Regulation) cannot be an Executive function nor can the function be delegated to an Officer.

Financial Implications

12. There are no financial implications arising directly from this report

Human Resource Implications

13. The proposed change to decision making in relation to employment policies and procedures will mean that there will be an increase in reports being considered by the Executive Business Meetings. Discussions and consultation on future reports will need to be aligned to timescales for the EBM decision making process

Trade Union Comments

14. The Trade Unions commented on the advantages of the current arrangements eg allowed representation/input by the Unions and engagement with Members at ECC. They would lobby strongly for similar arrangements if EBM were to fulfil the existing ECC role in terms of agreeing new or amending existing employment policies and procedures. They also had concerns that the EBM route would exclude other Council members which they felt was not in the spirit of democracy.

RECOMMENDATION(S)

15. It is recommended that the Committee note:- .
 - (i) the changes required to the terms of reference of the Employment Conditions Committee.
 - (ii) the decision of Constitution Committee on 6 July will be reported to Council in September with the new terms of reference.

KATE BERRY

CHIEF LEGAL AND DEMOCRATIC SERVICES OFFICER

Date: 24th July 2007

The following appendices are attached

Appendix A – Constitution Committee 6 July : Report for: Information and Discussion Employment Conditions Committee – Future Role.

APPENDIX A

CITY AND COUNTY OF CARDIFF DINAS A SIR CAERDYDD

CONSTITUTION COMMITTEE

Report for: Information and Discussion

Employment Conditions Committee – Future Role

Background

1. At the last meeting of the Committee I reported that the responsibility for the exercise of the functions of the Authority is governed by Regulation. The Constitution and the Scheme of Delegations is drafted in accordance with such Regulation and currently complies with The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 as amended.
2. On the 16th February 2007 the latter Regulations were revoked and The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 came into force.
3. The earlier Regulations provided that the determination of staff conditions of employment and functions relating to their appointment and dismissal could not be the responsibility of the Executive. The new Regulations merely provide that the Executive shall not have responsibility for the appointment and dismissal of staff (and this includes the setting of individual's salaries). It is understood that Welsh Assembly Government intended to clarify the old wording because this could be interpreted as preventing the Executive from considering policy aspects of conditions, appointment and dismissal of staff. It remains that an Executive cannot involve itself in the appointment and dismissal of individuals. In practice, this is only relevant to Chief Officers and above because the power to appoint and dismiss below Chief Officer level is already delegated. This means changes to the terms of reference of the Employment Conditions Committee (ECC) will be required because currently, the ECC policy in this area. There will still be a need for a non Executive forum to determine terms and conditions of individuals and ECC could retain that power.

Issues

4. There are options as to the future role of the ECC. It is currently a Council Committee and appointments so it are proportionate to the political balance of the Council.
5. The current terms of reference of the ECC are as follows:-
 - (a) To consider and determine policy and issues arising from the organisation, terms and conditions of the Council's employees, and to agree the introduction of new or amended employment procedures, following consultation with trade unions or employees as appropriate.

- (b) To decide proposals for reorganisation of the Council's employee establishment which involve the creation of new posts, the deletion or regrading of existing posts and redundancies.
- (c) To decide requests for regrading of posts whether by way of appeal by an employee against a decision to refuse a regrading application or to decide applications for regrading which are supported.

6. The options for the future include the following:

- Retain the Committee with only that element of (a) that relates to individuals at Chief Officer level and above and (c)..
 - Retain the Committee with that element of (a) that relates to individuals at Chief Officer level and above; and (c) together with a *consultative or advisory role* in respect of the remaining elements of (a) and (b) and any other employment matters referred by the Executive.
 - Abandon the Committee altogether and transfer that element of (a) that relates to individuals at Chief Officer level and above and (c) to another Committee, for example to Appointments Committee
7. If the second option was chosen illustrative the terms of reference of ECC follow. The terms (c) and (d) follow the same concept as agreed for Schools Sub Committee
- (a) To consider and determine policy and issues arising from the organisation, terms and conditions of individual employees at Chief Officer level and above (together with any other category of employee specified in Regulation from time to time) where this is necessary.
 - (b) To decide requests for regrading of posts at Chief Officer level and above (together with any other category of employee specified in Regulation from time to time) whether by way of appeal by an employee against a decision to refuse a regrading application or to decide applications for regrading which are supported.
 - (c) As part of a consultation process to receive and consider reports and information before any decision of the Executive on all matters (not otherwise delegated) related to proposals on policy and issues organisation, terms and conditions of the Council's employee or the introduction of new or amended employment procedures, following consultation with trade unions or employees as appropriate.
 - (d) As part of a consultation process to receive and consider reports and information before any decision of the Executive on all matters (not otherwise delegated) related to proposals for reorganisation of the Council's employee establishment which involve the creation of new posts, the deletion or regrading of existing posts and redundancies.

Legal Implications

8. The Local Government Act 2000 and the Local Authority Constitution (Wales) Direction 2002 requires the authority to keep its Constitution up to date.
9. The ECC is currently one of the Council's standing Committees referred to in the Constitution and changes to the terms of reference of the Employment Conditions

Committee will however require the approval of Council and a Report will be put to next Council.

10. The Council's Scheme of Delegations (incorporating the provisions of the Local Authorities (Standing Orders) (Wales) Regulations 2006 delegates to the Chief Executive and Corporate Directors authority to manage the human resources within there are of responsibility, including the appointment, establishment, salary/grade, training, terms and conditions of employment, health and safety, discipline, suspension, dismissal of staff in accordance with the Council's HR and financial procedures and subject to appropriate consultation as outlined therein, except where redundancy, budgetary or significant effects on employment of existing staff is involved.
11. The appointment and dismissal of Chief Officers and above (and certain others specified in Regulation) cannot be an Executive function nor can the function be delegated to an Officer.

Financial Implications

12. There are no financial implications arising directly from this report

RECOMMENDATIONS

1. The Committee note the changes required to the terms of reference of the Employment Conditions Committee.
2. Retain the Committee with the functions and new role as a *consultee or advisor* as outlined in this report.

Kate Berry
Chief Legal and Democratic Services Officer
Date: 2nd July 2007