

Subject:	Procedures for Appointment of Assistant Directors
Date of Meeting:	18 November 2008
Further Meeting:	Council 4 December 2008
Report of:	Director of Strategy & Governance
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Wards Affected:	All

FOR GENERAL RELEASE

The Chairman of the meeting has been consulted and is of the opinion that this item should be considered at the meeting as a matter of urgency.

The special circumstances for non-compliance with Council Procedure Rule 23, Access to Information Rule 5 and Section 100B(4) of the Local Government Act as amended (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) are that a review of the Employment Procedure Rules (which deal, amongst other things, with the appointment of Senior Officers) was planned for a review as part of the 6 month review of the Constitution. However, it has become apparent that, given the likelihood of some appointments needing to be made before then, it is necessary for the appointment of Assistant Directors to be considered by the Governance Committee at this meeting before being submitted to Council for a decision.

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The involvement of Member in officer appointments is regulated by legislation, the Local Authorities (Standing Orders) (England) Regulations 2001. The regulations require some appointments to be made by Members, others by Officers and in some areas give local authorities a discretion on how they deal with appointments. This report looks at the position where the Council has some discretion and proposes changes to the procedures for the appointment of Assistant Directors to allow for Member involvement . It also proposes minor changes to clarify administrative arrangements associated with the process.

2. RECOMMENDATIONS:

- 2.1 That the Governance Committee recommends to Council that:

- (i) the changes to the Officer Employment Procedure Rules set out in paragraphs 3.3 and 3.4 be agreed;
- (ii) that the Head of Law be authorised to amend the Constitution to give effect to the changes; and
- (iii) that the changes come into force with immediate effect.

2.2 That full Council approves the recommendations under 2.1

3. RELEVANT BACKGROUND INFORMATION

3.1 The Local Authorities (Standing Orders) England Regulations 2001 (“the Regulations”) impose some statutory procedural requirements regarding the appointment of officers at various levels of the organisation. In summary:-

- The appointment of the Chief Executive has to be approved by Full Council.
- The appointment of Directors and Assistant Directors can be designated as a Member function or an Officer function by the Council.
- The appointment of Officers below Assistant Director is automatically a function of the Chief Executive or his/her Officer nominee

3.2 The Council’s constitution, as it currently stands, provides different procedures depending on the seniority of the officers concerned.

(a) Appointment of Chief Executive

The appointment of the Chief Executive is reserved to Full Council, as required by law

(b) Appointment of Officers below Assistant Director level

The appointment of Officers below Assistant Director is a function of the Chief Executive and the Chief Executive has designated all ADs and all line managers as authorised nominees who can carry out appointments.

(c) Appointment of Directors

In relation to Directors, the constitution provides three alternatives:

- (i) Appointment by a Committee or Sub-Committee, which must include a member of the Cabinet;
- (ii) Appointment by the Chief Executive on the recommendation of a Member Selection Panel; or

- (iii) Appointment by the Chief Executive if the appointment is on acting/interim basis.

In practice, permanent appointments have usually been made by the Chief Executive on the recommendations of a Member Selection Panel drawn from different parties. This procedure applies also to the appointment of the Monitoring Officer and the Chief Finance Officer (if they are not Directors) and is generally thought to have served the Council well.

(d) Appointment of Assistant Directors

The appointment of Assistant Directors is the responsibility of the Chief Executive or his nominee. The Chief Executive has designated relevant Directors as his nominees, subject to the agreement of the Chief Executive. This means the appointment can be made by a Director with the agreement of the Chief Executive.

- 3.3 It is clear from the above that, unlike the appointment of Directors, Members do not have any input regarding the appointment of ADs. This is not in line with the practice in most local authorities. It is therefore proposed that the rules that apply to the appointment of Directors be extended to apply to the appointment of Assistant Directors.
- 3.4 Administrative arrangements associated with the selection process are not set out in the Officer Employment Procedure Rules. Although these are usually resolved informally, there are times where greater clarity and consistency would be helpful. For the avoidance of doubt, it is proposed that these are incorporated into the rules by providing as follows:
 - (1) Where there is a Member Selection Panel involved, it should consist of 4 Members appointed to reflect the political composition of the Council (currently 2 Conservative, 1 Labour and 1 Green).
 - (2) That the Director of Strategy & Governance appoints Members of the Selection Panel in accordance with the wishes of the relevant Group Leader/Convenor.
 - (3) That the Panel includes at least one Member of the Cabinet (as one of the 4 Members.)
 - (4) That the Panel is chaired by a Member of the Group that has the largest number of seats in the Council.
 - (5) That the Panel endeavours to reach a decision by consensus as far as possible. If there is no consensus, the matter shall be put to a vote. If there is an equality of votes, the Chairman shall have a casting vote.
 - (6) The Director of Strategy & Governance be authorised to take all steps necessary or incidental to supporting the appointments process.

- 3.5 The above proposals are aimed at extending member involvement and clarifying some procedural parts. They do not preclude any further consideration of the Officer Employment Rules as part of the 6 months review or by other means.

4. CONSULTATION

- 4.1 The Leader of the Council and the Chairman of the Governance Committee were consulted and their views incorporated into the report.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 It is not anticipated that there are significant costs arising from the proposals in this report. The proposals simply allow Members to be part of the selection process and they are unlikely to result in expenditure over and above what the current procedures require. Any incidental costs will be met from within the existing resources.

Finance Officer Consulted: Nigel Manvell Date: 14.11.08

Legal Implications:

- 5.2 These are incorporated into the body of the report.

Lawyer Consulted: Abraham Ghebre-Ghiorghis Date: 14.11.08

Equalities Implications:

- 5.3 There are no equalities implications arising from this report.

Sustainability Implications:

- 5.4 There are no sustainability implications arising from this report.

Crime & Disorder Implications:

- 5.5 None arising from this report.

Risk and Opportunity Management Implications:

- 5.6 The proposals, by providing for Member involvement, will provide more accountability and transparency.

Corporate / Citywide Implications:

5.7 The proposals will support the principle of open and effective City leadership by extending member involvement to the appointment of ADs and clarifying some of the processes.

SUPPORTING DOCUMENTATION

None.

Background Documents

The Constitution of Brighton & Hove City Council, in particular, the Officer Employment Procedure Rules.

