

COUNCIL

25 MARCH 2025

REFERENCE FROM HUMAN RESOURCES AND COUNCIL TAX COMMITTEE

A.5 HUMAN RESOURCES COMMITTEE AND ARRANGEMENTS FOR STATUTORY OFFICER AND NON-STATUTORY CHIEF OFFICER APPEALS

(Report prepared by Ian Ford)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To seek Council's approval of the Human Resources & Council Tax Committee's proposed amendments to the Terms of Reference of the Committee to include the determination of Appeals of Chief Officers for recommendation onto Full Council, together with a recommendation to establish a Chief Officer Employment Appeals Sub-Committee and to review the Council's HR Policies and Procedures, to ensure they are consistent with the changes concerning appeals processes.

EXECUTIVE SUMMARY

At its meeting held on 24 February 2025 (Minute 20 refers), the Human Resources and Council Tax Committee ("the Committee") were made aware of the context of Officers seeking to amend the Terms of Reference of the Human Resources Committee.

The Council's Staff Handbook stated "*Employees have a right to appeal against any formal disciplinary decision. The appeals procedure was part of the Disciplinary Policy and Procedures.*" Members were told that the Disciplinary Policy and Procedures issued by Human Resources and last updated in October 2017 stated:-

"15. APPEALS PROCEDURE

15.1 Refer to Appeal Policy"

APPEALS PROCEDURE (Updated August 2012):

"As an employee of the Council, there may be occasions where a formal decision was required to be taken about your employment. Where this occurs, formal policies and procedures will be followed to ensure a fair process is applied. It is essential that any actions or decisions made are based on facts and evidence provided as part of that process.

There may, however, be times where an employee is unhappy with the decision made or action taken. Where this occurs, they have the right to appeal against that decision. The purpose of the Appeals Procedure is to outline the process which will be followed when exercising the right of appeal.

The right of appeal will usually apply where decisions are taken regarding the outcome of a disciplinary or capability hearing, formal grievance or redundancy selection. In all cases, the appeals process will be the same and further advice relating to each specific procedure can be found in the following policies:

- Disciplinary Policy, Rules and Procedure*
- Grievance Procedure"*

Members had also been made aware that in paragraph 2.2 of the Disciplinary Policy and Procedure, the Scope of the Procedure was stated as:

“The procedure applies to all employees of Tendring District Council, with the exception of the Council’s Statutory Officers who are covered by National Employer’s procedures. These are agreements of the Joint Negotiating Committee (JNC) for Chief Executives and Chief Officers of Local Authorities. Cases where an employee’s ability to undertake the job they are employed to do is in question, will normally be dealt with under the Capability Procedure. Human Resources will advise on the best course of action to take in these circumstances.”

Officers had informed Members that, in September 2022, the Handbook for Chief Executives had been updated by the *Joint Negotiating Committee for Chief Executives*. The Conditions of Service for Local Authority Chief Officers had been last updated by the Joint Negotiating Committee in 2017. Further information on both of those documents was contained within the legal requirements section of the Officer report (A.6).

Consequently, there had been a need to review whether the Council had the appropriate decision-making structure in place to accord with appeal requirements for the Chief Executive, Statutory Officers, and Non-Statutory Chief Officers and their deputies, as set out in the relevant Staff Handbooks.

The Committee had also heard that upon undertaking the review, it had been recommended that a Chief Officer Employment Appeals Sub-Committee be established with the Terms of Reference, as set out in Appendix A of the Officer report, following a recommendation from the Human Resources and Council Tax Committee onto Full Council for approval and consequential amendments to the Council’s Constitution.

It had been unanimously RESOLVED that the Human Resources and Council Tax Committee:-

(a) notes the outcome of the review undertaken by the Council’s Monitoring Officer as requested by Full Council;

(b) recommends to Full Council that:

(i) the Human Resources and Council Tax Committee’s Terms of Reference be amended to include the determination of Employment Appeals of Chief Officers, with these functions being delegated to a Chief Officer Employment Appeals Sub-Committee;

(ii) a Chief Officer Employment Appeals Sub-Committee is established with the Terms of Reference as set out in Appendix A of the Officer report (A.6), with the necessary amendments being made to the Council’s Constitution, to be highlighted in the reference report to Full Council;

(iii) political proportionality would not apply to the Employment Appeals Sub-Committee, on the basis that it is not a committee which meets regularly; and

(c) authorises the Head of People to undertake a review of the Council’s Human Resources Policies and Procedures, in consultation with the Head of Paid Service, to ensure they are up to date and consistent with the appeal process for Chief Officers as set out.

The Monitoring Officer, having been fully involved in all aspects of this matter, has no further comments to add to this report.

RECOMMENDATIONS

That Council, having considered this reference report from the Human Resources Committee, formally approves that –

- (a) the Human Resources and Council Tax Committee’s Terms of Reference be amended to include the determination of Employment Appeals of Chief Officers, with these functions being delegated to a Chief Officer Employment Appeals Sub-Committee;**
- (b) a Chief Officer Employment Appeals Sub-Committee is established with the Terms of Reference as set out in Appendix B to this report (A.5), with the necessary amendments being made to the Council’s Constitution; and**
- (c) political proportionality will not apply to the Employment Appeals Sub-Committee, on the basis that it is not a committee which meets regularly.**

BACKGROUND PAPERS FOR THE DECISION

Published Minutes of the meeting of the Human Resources and Council Tax Committee held on 24 February 2025.

APPENDICES

Appendix A = Report (A.6) of the Director (Governance) and Monitoring Officer submitted to the meeting of the Human Resources and Council Tax Committee held on 24 February 2025.

Appendix B = Chief Officer Employment Appeals Sub-Committee Terms of Reference