

# Public Document Pack

6. **Proposed Amendments to the Constitution – Recommendations from Cabinet Member for Policing and Equalities 15 January 2024 (Pages 3 - 6)**

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**Agenda Item 6**  
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**Council – 16 January 2024**  
**Recommendation from Cabinet**  
**Member for Policing &**  
**Equalities**  
**15 January 2024**

**Coventry City Council**  
**Minutes of the Meeting of Cabinet Member for Policing and Equalities held at**  
**10.30 am on Monday, 15 January 2024**

Present:

Members:                      Councillor AS Khan (Chair)  
                                      Councillor P Male (Shadow Cabinet Member)  
                                      Councillor P Akhtar (Deputy Cabinet Member)

Employees (by Service Area):

Law and Governance:        Julie Newman (Chief Legal Officer), U Patel

Human Resources:            S Newing (Chief People Officer)

**RECOMMENDATION**

**Public Business**

**8.        Proposed Amendments to the Constitution**

The Cabinet Member considered a report of the Chief Legal Officer which sought approval to proposed amendments to the Constitution in relation to changes to the Council's policies and procedures that specifically relate to employment, namely Disciplinary, Enabling Attendance, Capability, Grievance and Collective Disputes.

It was proposed that Appeal Hearings specifically in relation to employment, be delegated to the Chief Executive (or Nominated Officer) so that Members would no longer directly hear Appeals for employees or the trade unions as part of these processes as set out in Part 3J and part 2M of the Constitution.

The Constitutional Advisory Panel at its meeting on 2 January 2024 considered and approved the following proposed changes to the Constitution:

- a) Amendments to the Appeals Committee Procedure Rules as set out in Part 3J of the Constitution and
- b) Amendments to the Scheme of Functions Delegations to Employees as set out in Part 2M of the Constitution.

Every employee must have a right to an appeal against an outcome in a process, as that is natural justice. Where appropriate, all the City Council's policies offered that right, namely, Disciplinary, Enabling Attendance, Capability, Grievance and Collective Disputes policies. This appeal right reached elected Members following a dismissal or alternative action short of dismissal, or for the grievance and collective disputes policies, as a fourth-tier challenge. This was above and beyond best practice as contained in the ACAS guidance which is based on three stages.

A fourth tier resulted in a lengthy and protracted process and a delayed outcome. There was no legal requirement for it, nor did the option reduce the number of cases that were submitted to tribunal.

Between 2018 and 2023 (to date), a total of 20 appeals were heard by Members. During this 6 year period, members did not reinstate or change the outcome of appeal submitted on behalf of either the trade unions or employees.

Any employment related matter would be dealt with internally using existing resources. In relation to the Collective Disputes Policy, again there was sufficient internal resource but also the ask in these cases as to the type of issue and involvement for Members was in relation to terms and conditions, which is the responsibility of officers.

Dismissal cases could result in Members giving evidence at Employment Tribunals and potentially having a wider involvement than they were aware of at the start of the appeal. The proposed changes would also prevent difficult positions if Council decisions had been taken which may result in an appeal, meaning Members would not be brought into a position of conflict.

Other authorities for example, Solihull and Wolverhampton had already adopted this approach as at the last Peer Review, it was suggested informally as something to be considered. Birmingham and Brighton had both also been recently advised to alter their practice so that Members no longer heard appeals. This, therefore, was a timely review in light of the City Council's Peer Review in January 2024.

The amendments to the Constitution would be to delegate the responsibility of employment Appeals to the Chief Executive (or Nominated officer), thus removing the need for Members to be part of the Appeals process for the following policies:

- Disciplinary
- Enabling attendance
- Capability
- Grievance
- Collective dispute

In addition, Part 3J of the Constitution would need to be amended to reference that employment Appeals were delegated to the Chief Executive (or nominated officer).

Employment appeals would be heard at Director or Chief Executive level, dependant on the case and the level of the hearing officer, and the Appeal would always be heard by a more senior officer.

Employee relations statistics would be reported to the Cabinet Member for Strategic Finance and Resources bi-annually and shared with trade union colleagues.

The Constitutional Advisory Panel agreed that the proposed amendments, as detailed in Appendices A and B to the report, should be recommended to the Cabinet Member for Policing and Equalities for approval.

Having considered the report, Members requested further clarity as to the type of appeals members may still be required to hear and noted that member appeals would still be required where there is a right of appeal against decisions made by the City Council, for example, Social Services Home Care Charges appeals.

**RESOLVED that the Cabinet Member for Policing and Equalities recommends that Council approves Recommendations (1) and (2) below:**

- (1) The proposed amendments to the Appeals Committee Procedure Rules (Part 3J of the Constitution) as detailed in Appendix A to the report with immediate effect.**
- (2) The amendments to the Scheme of Functions Delegated to Employees (Part 2M of the Constitution) as detailed in Appendix B to the report with immediate effect.**

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