
**Cabinet Member for Policing and Equalities
Council**

15 January, 2024
16 January, 2024

Name of Cabinet Member:

Cabinet Member for Policing and Equalities – Councillor AS Khan

Director approving submission of the report:

Chief Legal Officer

Ward(s) affected:

None

Title:

Proposed Amendments for the Constitution

Is this a key decision?

No

Executive summary:

The Constitutional Advisory Panel, at its meeting on 2 January, 2024, considered 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 is proposed that Appeal Hearings are delegated to the Chief Executive (or Nominated Officer) so that Members no longer directly hear Appeals for employees or the trades unions as part of these processes. (As currently set out in Part 3J and part 2M of the Constitution).

The Advisory Panel agreed with the proposed amendments. This report seeks approval from the Cabinet Member for Policing and Equalities and Council to the proposed amendments.

Recommendations:

The Cabinet Member for Policing and Equalities is requested to recommend 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

Council is recommended to approve Recommendations (1) to (2) above and authorise the Chief Legal Officer to make any necessary amendments to the Constitution.

List of Appendices included:

The following appendices are attached to the report:

Appendix A – Details of the proposed amendments to the Appeals Committee Procedure Rules (Part 3J)

Appendix B – Details of the proposed amendments to the Scheme of Functions Delegated to Employees (Part 2M)

Background papers:

N/A

Other useful documents

N/A

Has it or will it be considered by Scrutiny?

No

Has it or will it be considered by any other Council Committee, Advisory Panel or other body?

Yes - Constitutional Advisory Panel – 2 January, 2024

Will this report go to Council?

Yes – 16 January, 2024

Report title: Proposed Amendments for the Constitution

1. Context

- 1.1 The Council's Constitution sets out how the Council carries out its business and makes decisions. It is a living document and is reviewed and updated from time to time to ensure that it meets changing legislative requirements and reflects changes in practise within the Council.
- 1.2 The Constitutional Advisory Panel at its meeting on 2 January, 2024 considered proposed changes to the Constitution. These were:-
 - a) Amendments to the Appeals Committee Procedure Rules as set out in Part 3J of the Constitution
 - b) Amendments to the Scheme of Functions Delegated to Employees as set out in Part 2M of the Constitution

2. Options considered and recommended proposal

2.1 Employment Policy Appeals - Background

Every employee must have a right to an appeal against an outcome in a process, as that is natural justice. Where appropriate, all the of City Council's policies offer that right namely, the Disciplinary, Enabling Attendance, Capability, Grievance and Collective Disputes policies. This appeal right reaches 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 is above and beyond best practice as contained in the ACAS guidance which is based on three stages.

A fourth-tier results in a lengthy and protracted process and a delayed outcome. There is no legal requirement for a fourth stage, nor does the option reduce the number of cases that are submitted to Tribunal.

Between 2018-2023 (to date) a total of 20 Appeals have been heard by Members. During this 6 year period, Members have not reinstated or changed the outcome of Appeal submitted on behalf of either the trade unions or employees.

There is sufficient resource to resolve these matters internally, for example the Grievance Policy has been revised and does now ask about resolution, and places emphasis on early conclusion/resolution. In relation to the Collective Disputes Policy, again there is sufficient internal resource, but also the ask in these cases as to the type of issue and involvement for Members is in relation to terms and conditions, which is the responsibility of Officers.

Dismissal cases can 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 prevent difficult positions if Council decisions have been taken which might result in an Appeal, meaning Members are not brought into a position of conflict.

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

2.2 Proposed Amendments

The amendments to the Constitution would be to delegate the responsibility of employment Appeals to the Chief Executive (or Nominated Officer), removing the need for Members to 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 are delegated to the Chief Executive (or nominated officer).

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**, should be recommended to the Cabinet Member for Policing and Equalities for approval.

3. Results of consultation undertaken

- 3.1 The proposed amendments have been considered by the Constitutional Advisory Panel to which all Group Leaders were invited to attend.

4. Timetable for implementing this decision

- 4.1 It is proposed that following Council approval, the amendments to the Constitution be implemented immediately.

5. Comments from Chief Operating Officer (Section 151 Officer) and Chief Legal Officer

5.1. Financial Implications

There are no specific financial implications arising from the recommendations within this report.

5.2. Legal Implications

There are no specific legal implications. The named policies need to ensure that a fair procedure is in place and that ACAS guidance has been followed. The proposed amendments do both of these things by having an appeal hearing chaired by the Chief Executive or their nominee.

6. Other implications

6.1. How will this contribute to the One Coventry Plan?

<https://www.coventry.gov.uk/strategies-plans-policies/one-coventry-plan>

Not applicable.

6.2. How is risk being managed?

There is no direct risk to the organisation as a result of the contents of this report.

6.3. What is the impact on the organisation?

The impact on the organisation is that employment policies and procedures will be completely managed by Officers

6.4. Equalities / EIA?

An EIA is not required as employees will continue to be able to access an independent Appeal and the change applies to all employees equally.

Monitoring and reporting on protected characteristics for employment policies already takes place, there is a legal obligation to publicly report on this information under the Equality Act. Commitment has been given this information will be shared with the relevant Cabinet Member once a quarter.

6.5. Implications for (or impact on) climate change and the environment?

None

6.6. Implications for partner organisations?

None

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Councillor A S Khan	Cabinet Member for Policing and Equalities	-	02/01/24	02/01/24

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