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Tuesday 17 January 2017

Notice of Meeting

Dear Member

Personnel Committee

The **Personnel Committee** will meet in the **Leadership Meeting Room - 1st Floor, Civic Centre 3, Huddersfield, HD1 2TG** at **9.00 am** on **Wednesday 25 January 2017**.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

Julie Muscroft

Assistant Director of Legal, Governance and Monitoring

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

The Personnel Committee members are:-

Member

Councillor David Sheard (Chair)
Councillor Shabir Pandor
Councillor Martyn Bolt
Councillor David Hall
Councillor Terry Lyons
Councillor Nigel Patrick
Councillor Nicola Turner
Councillor Peter McBride
Councillor Graham Turner

When a Personnel Committee member cannot be at the meeting another member can attend in their place from the list below:-

Substitutes Panel

Conservative

B Armer
D Bellamy
L Holmes
B McGuin
K Sims

Green

K Allison
A Cooper

Independent

C Greaves

Labour

G Asif
F Fadia
E Firth
C Scott
M Sokhal
S Ullah

Liberal Democrat

R Eastwood
J Lawson
A Marchington
L Wilkinson

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

This is where Councillors who are attending as substitutes will say for whom they are attending.

2: Minutes of Previous Meeting

1 - 6

To approve the Minutes of the meeting of the Committee held on 17 November 2016.

3: Interests

7 - 8

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

4: Admission of the Public

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

5: Public Question Time

The Committee will hear any questions from the general public.

6: Member Question Time

To consider questions from Councillors.

7: Deputation/Petitions

The Committee will receive any petitions and hear any deputations from members of the public.

A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

8: Returning Officer and Responsibilities for National Elections and Referenda

9 - 12

To consider a recommendation to correct the existing approach of consolidating the (Acting) (Local) Returning Officer fees relating to national elections and referenda into the salary of the Chief Executive.

Contact: Adrian Lythgo – 01484 221000

9: Exclusion of the Public

To resolve that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

10: Update on Human Resources and Industrial Relations and Trade Union Relationships in the New Council

To receive an update on developments in the period since the Personnel Committee on 17 November 2016.

Contact: Rosemary Gibson – 01484 221000

11: Succession planning and managing change

13 - 20

To receive an update on developments in the period since the Personnel Committee on 17 November 2016.

Contact Officer: Adrian Lythgo 01484-221000

12: Arrangements for interim capacity in senior management

21 - 24

To consider the arrangements for the post of Strategic Director for Economy and Infrastructure in 2017/18.

Contact Officer: Adrian Lythgo 01484-221000

13: Health and social care arrangements

25 - 36

To consider the arrangements for the work of the Strategic Director for Adults and Health and his roles with Kirklees Council and the North Kirklees Clinical Commissioning Group in 2017/18.

Contact Officer: Adrian Lythgo 01484-221000

Contact Officer: Steve Copley

KIRKLEES COUNCIL

PERSONNEL COMMITTEE

Thursday 17th November 2016

Present: Councillor David Sheard (Chair)
Councillor Shabir Pandor
Councillor Terry Lyons
Councillor Nicola Turner
Councillor Peter McBride
Councillor Graham Turner
Councillor Bill Armer

Apologies: Councillor David Hall
Councillor Nigel Patrick

In attendance:

Observers: Councillor Julie Stewart-Turner
Councillor John Taylor

1 Membership of the Committee

Apologies for absence were noted on behalf of Councillors Martyn Bolt, David Hall and Nigel Patrick.

Councillors Bill Armer and John Taylor substituted for Councillors David Hall and Nigel Patrick.

Members of the Committee also agreed that Councillor Julie Stewart Turner should be involved in today's meeting because of her involvement in the interviews for the Strategic Directors and Service Directors (*See item 10 below*). The Chair of the Overview and Scrutiny has been invited to "observe" the interviews.

2 Minutes of Previous Meeting

The minutes of the Personnel Committee meeting on 19 September 2016 were approved.

3 Interests

No interests were declared.

4 Admission of the Public

Members resolved to consider items 9 and 10 in private session, as they contain exempt information. The details and reasons are set out at the start of each item.

5 Public Question Time

No questions were received.

6 Member Question Time

No questions were received.

7 Deputation/Petitions

No deputations or petitions were received.

8 Update on Human Resources and Industrial Relations and Trade Union Relationships in the New Council

(Exempt information relating to consultations or negotiations, or contemplated consultations and negotiations, in connection with a labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority. The need to maintain confidentiality around negotiations with the trade unions outweighs the public interest in disclosing the information)

Further to the Personnel Committee on 19 September 2016, the Committee received a verbal update from Jacqui Gedman and Rosemary Gibson on the progress being made in the discussions with the trade unions to try to develop the working arrangements between the management and trade unions in 2016/17.

The report highlighted:-

- The progress made in the discussions between the management and trade union sides to-date

- The trade unions and their agreement to adopt and use e-mail in their communications with the management side from 21 November 2016 onwards, following a recent pilot period, and subject to some guiding principles and parameters. Progress to be checked and shared with the Personnel Committee in due course.

- The progress made in the discussions to-date about the proposal to introduce some changes by 1 April 2017, as proposed and supported at the Personnel Committee (14 July), which will see the total number of trade union representatives for UNISON, GMB and UNITE, plus the formal time off that is allocated to them for their trade union duties, being based on some new ratios based on 1:1000 for the total number of members that they have working in Kirklees in 2016/17. Further details on the development and implementation of this proposal – or a slightly revised proposal – will be shared with the Personnel Committee in due course.

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- Questions raised by the trade unions about the appeal process, and the removal of the former process which allowed appeals to be escalated to a member appeal panel for determination. It was noted that representatives from the management and trade union will review these issues in an attempt to find a way forward.

RESOLVED: - That the Committee agrees to receive this progress report, and ask for a further progress at the next meeting.

9 Succession Planning and Managing Change

(Exempt information relating to particular employees. The public interest in maintaining the exemption, which would protect the rights of the individual under the Data Protection Act 1988, outweighs the public interest in disclosing the information and providing greater openness in the council's decision making)

Following a report at the Personnel Committee on 19 September 2016, Adrian Lythgo provided a report on progress with the process and timetable to complete the review of the senior management structure. The report focused on:-

- The appointment, following member interviews, of the following Strategic Directors from 1 April 2017

- Sarah Callaghan – Strategic Director for Children and Families
- Richard Parry – Strategic Director for Adults and Health
- Jacqui Gedman – Strategic Director for Economy and infrastructure
- Jacqui Gedman - Deputy Chief Executive – Effective from 9 November 2016 onwards

- The Strategic Director posts which will not come in to being until the planned and full implementation of the structure in April 2017. Cllr Sheard also asked the Committee to note that the member interview panel had highlighted differential and specific development needs in each case reflecting the change in nature of the Strategic Director roles from those required by the candidates for their existing roles.

- The feedback and questions raised in the consultation exercise with the Assistant Directors about the creation of the new Service Director posts

- The proposed process and timescales to fill the Service Director posts from December 2016 onwards

- The need in the future to consider the roles of senior managers in completing the design of the overall management structure of the council.

- The specific costs associated with the secondment for one Director, as agreed by the Chief Executive in accordance with the delegation from the Personnel Committee, to implement the senior management review.

Adrian Lythgo answered questions on the content of the report, along with its appendices. This provided more information on:-

- The proposed senior management structure of the council

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- Information of the role profiles of the Service Director posts
- A summary of the feedback from the consultation with the current Assistant Directors about the proposed structure and the roles and responsibilities of the new Service Directors.

The Committee also received a deputation consisting of Paul Holmes, UNISON, and Lyle Singleton, UNITE, and also received a copy of a letter and report from Paul Holmes, which explained the reasons why, following the adoption of the collective agreement by the management and trade union sides, Paul Holmes believed that the trade unions should have been invited to nominate a "trade union observer" to observe the member panels for the interviews for the Strategic Directors and Service Directors. The question had arisen prior to the recent interviews for the posts of Strategic Director and had been determined by the member interview panel on 9 November 2016.

Adrian Lythgo explained that he had asked for the matter to be brought direct to the Personnel Committee for consideration, as an exception to using the process of the Central Negotiating Team and/or Employee Relations Sub Committee, because UNISON felt that those who would normally deal with these issues were involved in the decisions that had been taken to date. Adrian Lythgo also made it clear that the management side did not necessarily agree with this view.

Adrian Lythgo clarified that the Personnel Committee was being asked to consider the deputation due to the specific and unique circumstances of the points raised.

Jacqui Gedman, on behalf of the management side, responded to these issues raised in the deputation.

Members of the Committee discussed the issues with Paul Holmes, Jacqui Gedman and Adrian Lythgo, before asking everyone to leave the meeting in order that the committee could make a decision in private.

Following on from all of the above, Adrian Lythgo also reported on his plans to leave Kirklees Council in February 2017, and his recommendation on how the post and role of Chief Executive should be filled.

The Personnel Committee considered the information available from the recent interviews for the posts of Strategic Directors and Deputy Chief Executive as part of their decision in determining the Council's response.

RESOLVED – That the Personnel Committee unanimously agreed to approve and support the following recommendations:-

(1). That the appointment of the Strategic Directors from 1 April 2017 be noted, recognising the differential development needs for the roles, plus the appointment of Jacqui Gedman to the position of Deputy Chief Executive from 9 November 2016.

(2). That, having considered the feedback from the consultation process with the current Assistant Directors, the Service Director role descriptions be agreed as a basis for conducting interviews to those posts. Members of the Personnel Committee also acknowledged the feedback surrounding the posts of Service Director for Quality and Performance and Service Director for Customer Transformation and Public Affairs, but agreed that both of these posts should be advertised and filled as planned. The Committee agreed the need to maintain capacity at a Service Director level.

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- (3). That the approach to recruiting to vacant Service Director posts is approved, namely, internal advertisements, followed by external advertisements for any posts that cannot be filled.
- (4). That the legal requirements under regulation 10 of the maternity legislation in relation to redundancy that are likely to be applicable to one of the candidates are noted.
- (5). That, in response to the deputation and representations made by UNISON at today's meeting, the Committee unanimously agreed that there should be no "trade union observers" at any member panel interviews for the posts of Chief Executive, Strategic Director or Service Director.
- (6). That, following on from (5) above, Jacqui Gedman and Rosemary Gibson be asked to provide a report for the next Personnel Committee on the procedures for dealing with disputes between representatives of the management and trade union sides in 2017/18.
- (7). That the plans of Adrian Lythgo, Chief Executive, to leave the service of Kirklees Council in February 2017, be noted
- (8). That the post of Chief Executive be offered to Jacqui Gedman, the current Deputy Chief Executive, on an acting up basis for a 12 month period following the departure of Adrian Lythgo.
- (9). That the Council be recommended to approve the appointment described in (8) above and this officer becoming the head of the paid service (including the roles of Electoral Registration Officer and Returning Officer)

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KIRKLEES COUNCIL			
COUNCIL/CABINET/COMMITTEE MEETINGS ETC			
DECLARATION OF INTERESTS			
Personnel Committee			
Name of Councillor			
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



Name of meeting: Personnel Committee
Date: 25 January 2017

Title of report: (Acting) (Local) Returning Officer Fees
 – National Elections and Referendums

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan ?	Not Applicable
Is it eligible for "call in" by Scrutiny ?	Not Applicable
Date signed off by <u>Director</u> & name	Adrian Lythgo – insert date
Is it signed off by the Assistant Director - Financial Management, Risk, IT and Performance?	Debbie Hogg – Not Applicable
Is it signed off by the Assistant Director – Legal, Governance & Monitoring?	Julie Muscroft – insert date
Cabinet member portfolio	Not Applicable

Electoral wards affected: None
Ward councillors consulted: No
Public or private: Public

1. Purpose of report

1.1 To consider a recommendation to correct the existing contractual approach of consolidating the (Acting) (Local) Returning Officer fees relating to national elections and referenda into the Chief Executives salary, to treat them in future as separate payments.

2. Key points

2.1 The Representation of the People Act 1983 (Section 27(1)) has the effect of making the office of (Acting) (Local) Returning Officer totally distinct from the role of Chief Executive and the provision serves to emphasise the independence of this role.

2.2 The role of (Acting) (Local) Returning Officer at Parliamentary, District, Parish and Police Commissioner Elections and at any referendum held in the Kirklees area has a personal responsibility outside the jurisdiction of the Council and this personal

responsibility means that the (Acting) (Local) Returning Officer is answerable to the courts as an independent statutory officer.

- 2.3 The (Acting) (Local) Returning Officer is responsible for ensuring the proper conduct of an election/referendum in accordance with the law; this includes responsibility for all expenditure incurred for the purpose of conducting the election.

The Government is responsible for funding all national elections/referenda. In practice the Government provides advance funding (75%) for services/supplies and for (Acting) (Local) Returning Officer fees. The total amount allocated to each voting area is calculated by the Government prior to the electoral event and is based upon a range of factors including previous expenditure, electorate size; postal vote numbers; inflation and combination with other polls etc.

The Council is responsible for funding local elections; however, when a local election is combined with a national election any costs attributable to both elections is shared.

Following the election/referendum the (Acting) (Local) Returning Officer is required to submit a claim and supporting evidence to the Government to account for expenditure. All claims are audited by the Cabinet Office - Election Claims Unit. On settlement, additional funding will be provided by the Government if the spend is in excess of the advance payment or if the total spend is less than the advance payment, money will be paid back to the Government by the (Acting) (Local) Returning Officer.

- 2.4 The performance of the (Acting) (Local) Returning Officer is monitored by the Electoral Commission and (Acting) (Local) Returning Officer fees can be withheld or reduced, if after investigation his/her performance be assessed as inadequate. The Council does not have a role in assessing the performance of the (Acting) (Local) Returning Officer.
- 2.5 Traditionally a proportion (46.5%) of these (Acting) (Local) Returning Officer fees are paid back into the election staffing budget or for some national elections/referenda as a direct payment to the Deputy Returning Officer (with full delegated powers) (DRO), who is the Electoral Services Manager who works under direction of the (Acting) (Local) Returning Officer having the main responsibility for the planning, co-ordination and administration of these electoral events. At present the remaining 53.5% of these fees are paid back into the Council's budget for national elections/referenda, currently specified as being part of the Chief Executive's contract.
- 2.6 Precedent for the existing contractual approach was set by a previous Chief Executive and this was carried forward to the current Chief Executive (Adrian Lythgo) on his appointment.
- 2.7 The decisions of a (Acting) (Local) Returning Officer may, on an election petition, be reviewed by the High Court. Where an election petition complains of the conduct of the (Acting) (Local) Returning Officer, he is deemed to be a respondent to that petition (not the Council) and may, as a party to a petition, be personally liable for costs should the court so determine.

- 2.8 The current approach of consolidating the (Acting) (Local) Returning Officer fees into the Chief Executives role/salary presents an ambiguous situation in terms of provision of any clear demarcation of the role and responsibility of the (Acting) (Local) Returning Officer and those of the Chief Executive. It effectively risks making the Council responsible for the conduct of the election. This is not the intention of primary legislation.
- 2.9 The administration and combination of elections/referenda has become more and more complex and the frequency of elections/referenda has increased. Any cross constituency boundaries created as a result of the on-going boundary review will create further complexities. Elections and referenda are now often subject to intensive scrutiny by a range of stakeholders and as such the potential for election petitions may also increase.
- 2.10 The Council has no jurisdiction or responsibility over the running of elections. The factors detailed above may have created an environment which presents risk to the Council; in respect of its ability to demonstrate independence and impartiality from the role of (Acting) (Local) Returning Officer should an election petition be submitted.

3. Implications for the Council

- 3.1 The reversal of the existing approach will correct the contractual irregularity and eliminate any associated risk to the Council. There are no financial cost implications to the Council, as a result of this change.

4. Consultees and their responses

- 4.1 Sharon Salvanos, Electoral Services Manager/Deputy Returning Officer:

The impact of the recommendation in this report is that the Council will be reinforcing the statutorily separate nature of the administration of the election process at arm's length from the Council. It will also result in the Chief Executive/Acting Chief Executive receiving separate election fees to their Council salary for all UK Parliamentary, European and non-district elections, and for any national referenda.

The consolidation of national (Acting) (Local) Returning Officer fees into the Chief Executive's salary is highly unusual and, in the opinion of the Electoral Services Manager, incorrect.

The current approach creates a perception of risk to the Council; in respect of its ability to demonstrate separation from the role of (Acting) (Local) Returning Officer should the conduct of the (Acting) (Local) Returning Officer be questioned or if an election petition be submitted.

The role and responsibilities of the (Acting) (Local) Returning Officer is an entirely separate employment and is distinct from the duties as an employee of the Council and as such could not have been evaluated as part of the existing Chief Executives grade nor should it be incorporated into the Chief Executive's role or remuneration. The employment contract should only confirm that the Chief Executive will hold the statutory independent position of the (Acting) (Local) Returning Officer.

We are not aware of any other Local Authority, certainly within West or South Yorkshire that has taken this approach to national (Acting) (Local) Returning Officer fees. There are some differences across the region in that some (Acting) (Local) Returning Officer

Returning Officers also receive fees for their role as Returning Officer for district and parish elections. The Returning Officer for the Kirklees voting area receives no fee for district or parish elections.

5. Next steps

- 5.1 Agree to the recommendation and the revised arrangements to be separated from the contract of employment for the Acting Chief Executive and any future appointments to the role of Chief Executive.

6. Officer recommendations and reasons

6.1 That Council approve the recommendation in this report, which is that:

- In future the Chief Executive/Acting Chief Executive will receive-separate election fees to their Council salary for all national elections and/or referendums.
- A proportion (46.5%) of which will be paid back into the election staffing budget or as a direct payment to the Deputy Returning Officer (with full delegated powers) as detailed in 2.5 above.

This is for the reasons explained in the report in particular relating to the separation of the two roles.

7. Cabinet portfolio holder's recommendations

7.1 Not applicable

8. Contact officer and relevant papers

Adrian Lythgo
Chief Executive
Adrian.lythgo@kirklees.gov.uk

9. Assistant Director Responsible

Not applicable

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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