



Personnel Sub-Committee

Minutes of a meeting held on 17 November 2011 at 7.30 pm at East Northamptonshire House, Thrapston

Present:

Councillors

Roger Glithero (Chairman)
Wendy Brackenbury
Philip Hardcastle
Steven North
Jeremy Taylor

David Oliver
Sharn Matthews
Mehboob Kassam
Aime Armstrong
Keith Osborne

Chief Executive (DO)
Executive Director (SM)
Solicitor, Northampton Borough Council (MK)
H R Manager (AA)
Democratic Services Manager (KO)

Action

1.0 MINUTES

- 1.1 The minutes of the meeting held on 27 September 2011 were approved and signed by the Chairman.

2.0 APOLOGIES

- 2.1 There were no apologies.

3.0 DECLARATIONS OF INTEREST

- 3.1 David Oliver, Chief Executive, declared a personal interest in item 5 (Section 151 Officer and Finance Manager – Vacancy Options) as he was Acting Section 151 Officer. The Chairman confirmed that he had invited David Oliver to the meeting to advise on the way forward.

4.0. QUESTIONS FROM MEMBERS UNDER COUNCIL PROCEDURE RULE 10.3

- 4.1 Notice had been given of the following question:-

Councillor Steven North (Leader of the Council)

Can the Chairman advise whether the Monitoring Officer has received advice as to whether members' general 'right to know' and aspects of common law outweigh the need for confidentiality in respect of

employment issues. If she has received such advice, can members of this sub-committee be given details of that advice, as well as any other information officers are allowed to disclose on this matter.

The Chairman of the sub-committee asked the Monitoring Officer to respond and the following statement was made:-

The law is fairly established in terms of the common law right for members to inspect documents. Disclosure is required on a "need to know" basis and consequently members do not have a roving commission to access documents. The test here is one of reasonableness i.e. to enable the members to discharge their duties.

A general request to enable members, "to assure themselves that the administration of the council is being carried out appropriately and that the council has not been exposed to unnecessary risk" is not enough according to the legal advice we have had from the Borough Solicitor at Northampton Borough Council (who is also their Monitoring Officer).

It could be argued that disclosure of documents would be permissible if for example the members sat on a relevant committee considering relevant employment issues. In the case of members of this Personnel Sub-Committee the legal advice is that the following reference "To consider and determine matters relating to salaries and conditions of service, and health and safety and employment policies relating to all employees of the Council" from the terms of reference of this committee is enough of a trigger to enable ENDC to put forward a "need to know" argument and thus release information about recent employment issues to this committee, albeit under strict confidentiality controls.

However this disclosure would over-ride the provision of other councillors to attend meetings at which confidential items are discussed (Part 4.1 Procedure Rules paragraph 27 and Part 4.2 Access to Information Paragraph 10.4)) and any other Members present would have to leave the room during this discussion.

5.0 EXCLUSION OF PUBLIC AND PRESS

5.1. RESOLVED:

That the public and press be excluded from the meeting during consideration of the following item of business because exempt information, as defined under paragraph 2 of part 1 of schedule 12A of the Local Government Act 1972, may be disclosed.

(Note: In view of the above answer to the question asked by the Leader of the Council, two councillors who were not members of the sub-committee but were in attendance in the public gallery were asked to leave at a point during the discussion of the following item. The Democratic Services Officer also left the meeting at this point but returned to the meeting when the sub-committee was ready to make decisions)

6.0. SECTION 151 OFFICER AND FINANCE MANAGER VACANCY OPTIONS

6.1. The sub-committee received a report from the Monitoring Officer, following her announcement at the last Policy and Resources Committee (minute 238 refers), asking members to consider options for the appointment of the section 151 Officer both in the short term and the medium to long term, and also options for the appointment of the Finance Manager.

6.2 In relation to the statutory section 151 Officer, the following options were available:-

- Direct employment of an officer who was not already an existing member of staff, by (a) creating a new permanent part-time post or (b) by reorganising the Heads of Service structure to create a new Head of Finance post by either combining the responsibilities of the S151 Officer and Finance Manager (with a additional, lower grade, support post), or redistributing the duties of other existing Heads of Service posts
- Shared service arrangement under section 113 of the Local Government Act 1972 (examples were given to the sub-committee).

6.3 Members noted that the Deputy Section 151 Officer under the LGSS shared service partnership between Northamptonshire County Council and Cambridgeshire County Council could be made available for up to two days a week to provide support. This was considered to be the fastest route available in the short-term.

6.4 In relation to the Finance Manager post, the options would flow from the route chosen from Section 151 Officer options.

6.5 Members noted the risk implications and also the legal implications. The council was required by section 151 of the Local Government Act 1972 to make arrangements for the proper administration of its financial affairs to ensure that one of its officers had responsibility for the administration of those affairs. The officer had to be a qualified accountant and a member of one of a list of professional bodies specified in section 113 of the Local Government Finance Act 1988.

6.6 Members of the sub-committee expressed the view that they felt unable to make an informed decision on the options unless they knew the circumstances surrounding the departure of the former Section 151 Officer and Finance Manager. The relevant information was disclosed to the sub-committee after the two councillors in the public gallery had left the meeting, along with the Democratic Services Manager. Sub-committee members were reminded that the information could not be disclosed to anyone not on the Sub-committee, including other councillors.

6.7 After considerable discussion, members favoured the appointment of a Section 151 Officer in the short term and were minded to pursue the option of a shared service arrangement under section 113 of the Local Government Act 1972. Members fully supported the advice given by SM that this appointment should be confirmed by full council to ensure transparency and accountability.

6.8 It was felt strongly that, for the medium to long term, the council's top management structure would need to be examined to ensure that the most favourable and sustainable option was chosen and that the arrangement was 'fit for purpose'. Members recognised that this would take some time, and noted the advice given by AA that there would need to be consultation before final decisions were made if members chose to pursue options that affected existing staff. Some members of the sub-committee made it clear that it would not wish to see any risk to existing postholders.

6.9 The sub-committee therefore

RESOLVED:

(1) That, for the short term, the option of appointing, for a six-month period, the Deputy Section 151 Officer under the LGSS shared service partnership between Northamptonshire County Council and Cambridgeshire County Council be pursued and that the sub-committee conduct an interview in the week commencing 21 November to enable a verbal recommendation to be made to a special council meeting on 28 November at 7.30pm.

**SM/
AA**

(2) That the options for the medium to long term approach to the appointment of the Section 151 Officer/ Finance Manager be further considered at the next meeting of the sub-committee on 29 November and the officers prepare a paper for submission to that meeting.

SM/DO

Chairman