

By: Alex King – Deputy Leader
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Leadership

To: Selection and Member Services Committee – 19 November
2010

Subject: **Proposed Amendments to the Constitution**

Classification: Unrestricted

Summary:

This report invites the Committee to decide whether to recommend to the County Council changes to the Constitution in relation to (i) the process for reporting interim senior manager appointments to Members; (ii) the Leader's Oral report to the County Council; (iii) the reallocation of constituency work in the event of illness/absence of a Member; and (iv) proposed amendments to the Personnel Committee Terms of Reference and the Personnel Management Rules

1. Appointment of Interim Senior Managers

(1) At its meeting on 3 November, 2010, the Scrutiny Board considered the process for the appointment of interim senior managers (costing £20,000 or more) and how this differs from the process for appointing Consultants.

(2) Paragraph 11(c) of Contract and Tenders Standing Orders (page 126 of the Constitution) states that:

"being a named individual a 'Consultant' must, by definition, have been sourced via a non-competitive process. All contracts for a Consultant for £20,000 or more must be reported, as a non-competitive procurement, to the Head of Democratic Services within 14 days of the contract being awarded so that s/he may notify Members of the Scrutiny Board."

(3) Paragraph 8 of the Personnel Management Rules (page 47 of the Constitution) states that:

"When a senior manager* ceases to hold that post or is likely to be absent for any length of time, the Group Managing Director, after consultation with the political group leaders, may appoint someone to act temporarily in that capacity and determine the salary to be paid. The temporary appointment shall not extend beyond six months without the approval of the Personnel Committee."

* defined in paragraph 2 of the Personnel Management Rules as Grade M or above

(4) During the summer, an appointment of a senior interim manager was made at a cost of more than £20,000 but was not reported to either to the Scrutiny Board or political group leaders because:

1. The individual was appointed as a result of a competitive process;
2. The individual was not a consultant but an interim manager; and
3. The individual was not temporarily covering an existing senior manager's post.

(5) The Scrutiny Board accepted that, whilst the particular appointment in question did not require notification under either of the parts of the Constitution referred to above, it was not in the spirit of what was intended because elected Members should be made aware of all senior managerial appointments. Accordingly, the Scrutiny Board suggested the following additional sentence (underlined) be added at the end of paragraph 11(c) on page 126 of the Constitution:

"being a named individual a 'Consultant' must, by definition, have been sourced via a non-competitive process. All contracts for a Consultant for £20,000 or more must be reported, as a non-competitive procurement, to the Head of Democratic Services within 14 days of the contract being awarded so that s/he may notify Members of the Scrutiny Board. Similarly, the appointment of an interim senior manager (defined in the Personnel Management Rules as Grade M or above) or equivalent for £20,000 or more for the period of the contract (whether undertaken as a non-competitive procurement or not) must also be reported to the Head of Democratic Services within 14 days of the appointment being made so that s/he may notify Members of the Scrutiny Board."

2. The Leader's Oral Report to the County Council

(1) At each County Council meeting, the Leader of the Council may make an oral report on key issues arising since the last meeting. He may speak for up to 10 minutes, followed by speeches of up to 7 minutes by each of the two political group leaders, with the Leader of the Council having a right of reply for up to 2 minutes (Council Procedure Rule 1.20 applies) .

(2) On occasions, the Leader of the Council has asked for an extension of time to his initial speech, which if agreed to by the Chairman of the Council, is normally applied equally to the two opposition group leaders' speeches. However, the Leader of the Council has stated that he would like more time to respond to the opposition leaders' speeches and has requested that the Constitution be amended so that the length of time for his reply be extended from 2 minutes to 5 minutes.

3. Reallocation of constituency work in the event of illness/absence of a Member

(1) There have been two examples recently of Members not being able to perform their KCC duties for reasons of serious poor health and it is considered that there should be more clarity in the Constitution for Members and the public in relation to dealing with constituency work. Article 2 (2.3)(2)(m) of the Constitution states that Local Members should “represent and support individual constituents in their dealings with the Council”. It is suggested that this statement should be amended as follows:

“...represent and support individual constituents in their dealings with the Council. In the absence of a Member for reasons of ill-health or otherwise, the Member concerned (or, if they are unwilling or unable to do that, the relevant Group Leader) should nominate another Member to act on behalf of the absent Member in relation to representing their constituents.”

(2) In addition, Members are asked to note that suitable relevant wording will be added to the Members' Handbook to cover this important point and Officers will also make it clear on the KCC website if a particular Member's constituency matters are being dealt with by another Member, and arrange for any e-mails to be diverted accordingly.

4. Terms of Reference of the Personnel Committee and the Personnel Management Rules

(1) The proposed Council-wide restructuring has led to an examination of the Terms of Reference of the Personnel Committee and the Personnel Management Rules contained in the Constitution to ensure that these are fit for purpose in terms of the implementation of the revised structure following formal determination by the County Council.

(2) One area where clarification is required is where a senior manager is displaced as a result of not being ‘slotted’ but who then wishes to appeal that decision.

(3) The Terms of Reference of the Personnel Committee (sub paragraph g) currently states:

“through ad-hoc Sub Committees of Members (Panels), hearing and dealing with the final stage of unresolved grievances from Chief and Senior Officers and appeals by such officers against dismissal, transfer or downgrading”.

(4) It is suggested that sub paragraph (g) be amended as follows (underlined section):

“through ad-hoc Sub Committees of Members (Panels), hearing and dealing with the final stage of unresolved grievances from Chief and Senior Officers and appeals by such officers against dismissal (including dismissal as a result of redundancy), assimilation, transfer or downgrading”.

(5) In addition, a new section is proposed in the Personnel Management Rules, to be inserted immediately after paragraph 18, as follows:

“Appeals against dismissal arising from redundancy, assimilation, transfer and downgrading

1. Any appeal against a decision not to 'slot' a senior manager to a post graded M or above, a redundancy, transfer or downgrading must be lodged with the Director for Personnel and Development within ten working days of written confirmation to the officer of the decision and must include a written statement of the grounds on which the appeal is made.

2. Appeals will be heard by the Personnel Committee, or a sub committee of that Committee. As far as is practical such hearings will be arranged within ten working days of an appeal being lodged. If the Appeal is heard by a Panel of members then the quorum of such meeting shall include a Cabinet Member.

5. Recommendations

The Committee is invited to approve the following recommendations for consideration and determination by the County Council:

(1) Paragraph 11 (c) of Contract and Tenders Standing Orders (page 126 of the Constitution) be amended as detailed in paragraph 1 (5) above, in order to deal with the reporting of interim manager appointments to Members of the Scrutiny Board;

(2) Paragraph 1.20 (5) of the Rules applying to Council meetings (page 63 of the Constitution) be amended so that the length of the Leader's reply to the opposition Leaders' speeches on his oral report be extended to 5 minutes;

(3) Article 2 (2.3)(2)(m) (page 5 of the Constitution) be amended as detailed in paragraph 3 (1) above, so that there is clarity about the reallocation of constituency work in the absence of a Member; and

(4) the proposed amendment to sub paragraph (g) of the Terms of Reference of the Personnel Committee (page 26 of the Constitution) as detailed in paragraph 4 (4) above and the proposed addition to the Personnel Management Rules (page 50 of the Constitution) as detailed in paragraph 4 (5) above, to clarify the role of the Personnel Committee in hearing assimilation appeals from senior managers.

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Background Papers: None