

REPORT TO: East Lothian Council

MEETING DATE: 27 June 2023

BY: Executive Director for Council Resources

SUBJECT: Review of Standing Orders: Scheme of Administration

1 PURPOSE

- 1.1 To seek approval of proposed changes to the Scheme of Administration resulting from the review carried out by the Standing Orders Working Group (SOWG).

2 RECOMMENDATIONS

2.1 That the Council:

- (i) approves the proposed changes to the Scheme of Administration, as set out in Appendix 1, which reflects changes agreed by all Members on the Standing Orders Working Group;
- (ii) considers and approves a preferred option from among the following options for the future of the Homelessness Appeals Sub-Committee:
 - (a) maintain the status quo
 - (b) agree a fixed membership for this Sub-Committee, and appoint Members to the Sub-Committee should this be the preferred option
 - (c) abolish this Sub-Committee and implement an appeals process administered by officers (noting that the support of two-thirds of Members would be required to disestablish and remove this Sub-Committee from the Scheme of Administration)
- (iii) considers and approves a preferred option from among the following options for the future of the Employee Appeals Sub-Committee:

- (a) maintain the status quo
- (b) remove medical dismissals and grievances from the remit of the Sub-Committee (noting that as the Discipline and Grievance Policies are collective agreements with the Trades Unions, the support of the Trades Unions to revise the Policies would be required, which would then need to be reported back to Cabinet)
- (iv) agrees to delegate to the Head of Corporate Support to consult on the voting rights of external representatives on the Education Committee, with a report on the outcome of the consultation to be reported to Council in the autumn of 2023
- (v) notes that officers would work with Trades Union representatives on the Joint Consultative Committee (JCC) to ensure the Committee operates effectively in future, and also to consider the frequency of JCC meetings
- (vi) notes that no changes to the call-in process for Cabinet have been proposed.

3 BACKGROUND

- 3.1 At its meeting on 25 April 2023, the Council approved a number of changes to the Council's Standing Orders and Scheme of Delegation. It also noted that a further report on proposed changes to the Scheme of Administration would be submitted to Council in June 2023.
- 3.2 Since the Council meeting on 23 April, the Standing Orders Working Group (SOWG) (comprising Councillors Findlay, Gilbert, McIntosh and Ritchie, and supported by the Head of Corporate Support, the Service Manager – Governance, and the Team Manager – Democratic & Licensing) has met to consider a number of proposed changes to the Scheme of Administration, on the majority of which a consensus has been reached by the Elected Members on the SOWG. These changes are set out in Appendix 1 to the report.
- 3.3 Although there was agreement on most of the proposed changes, Members could not reach an agreed position on a small number of matters, as follows:

Homelessness Appeals Sub-Committee: there were a mixture of views expressed regarding this sub-committee. It was noted that East Lothian Council was now the only council in Scotland which had Elected Member involvement in homelessness appeals, and that the Service Manager for Homelessness had prepared a report on alternative ways of dealing with appeals (which had been shared with the SOWG). The SNP Group had indicated that they would no longer be willing to participate in homelessness appeals. Three options for the future of the Homelessness Appeals Sub-Committee were put forward for the Council to determine: (a)

maintain the status quo; (b) agree a fixed membership for the Sub-Committee, or (c) abolish the Sub-Committee and implement a suitable appeals process administered by officers.

Employee Appeals Sub-Committee: some Members felt that they were not qualified to make decisions on appeals relating to dismissals on medical grounds and proposed that they should only be involved in dismissals relating to conduct matters. Some Members also felt that they should not be involved in staff grievances, as these cases were largely concerned with operational matters and should therefore be dealt with by officers. As there was no clear consensus, the SOWG agreed that the following options should be considered by the Council: (a) maintain the status quo, or (b) remove medical dismissals and grievances from the remit of the Sub-Committee. The Head of Corporate Support had pointed out to the SOWG that as the Discipline and Grievance Policies are collective agreements with the Trades Unions, they would need to be consulted on any proposed changes, with any proposed revisions of the Policies being reported to Cabinet in due course.

- 3.4 During the review, it was requested that the future voting rights of the external representatives on the Education Committee (3 x religious representatives and 1 x Trades Union representative) should be considered. It was noted that a number of Scottish local authorities had already considered this matter and that several had now withdrawn the voting rights of external representatives. Delegated authority to the Head of Corporate Support is sought to consult on this issue with stakeholders (including the external representatives, head teachers, children and young people, and other Scottish local authorities), and to report back to Council in the autumn of 2023.
- 3.5 Over the course of the SOWG meetings, concern was expressed as to the remit, membership and effectiveness of the Joint Consultative Committee (JCC). No consensus was reached on proposed changes to the Scheme of Administration for the JCC; however, the Head of Corporate Support undertook to ensure that officers work with the Trades Union representatives on the JCC to make best use of the Committee, as well as looking at the frequency of meetings.
- 3.6 In addition to the matters outlined above and in Appendix 1, the SOWG reviewed the call-in process for Cabinet, as agreed by Council in June 2022. It was noted that this process had not been called upon to date, but there was general agreement that it remained fit for purpose.
- 3.7 If approved, the proposed changes will be incorporated into the Council's Scheme of Administration, and will take place with immediate effect. The updated Scheme will be published on the Council's website as part of Standing Orders.

4 POLICY IMPLICATIONS

4.1 None

5 INTEGRATED IMPACT ASSESSMENT

5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

6.1 Financial – none

6.2 Personnel – none

6.3 Other – none

7 BACKGROUND PAPERS

7.1 East Lothian Council Standing Orders

7.2 Report to Council in April 2023: 'Review of Standing Orders'

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AUTHOR'S NAME	Lel Gillingwater
DESIGNATION	Team Manager - Democratic & Licensing
CONTACT INFO	lgillingwater@eastlothian.gov.uk x 7292
DATE	29 May 2023

Appendix 1

Proposed Changes to the Scheme of Administration

Audit and Governance Committee

Section B (Membership and Attendance)

Add: with the approval of the Council, the Committee may co-opt up to two independent members to provide appropriate technical expertise.

Chief Officer and Head Teacher Appointments Sub-Committee

General

Reference to Depute Chief Executive will be changed to Executive Director.

Reference to the appointment of Chief Officers will be updated to reflect that these are *permanent* appointments, as the Chief Executive has delegated authority to appoint to Acting Executive Director and Head of Service posts (in consultation with the Council Leader and relevant Cabinet spokesperson) and Acting Director of Health and Social Care (in consultation with the Chief Executive of NHS Lothian, the Council Leader, Provost and Convener of the IJB), when the postholder is likely to be absent for more than two months, or if the post is vacant.

Section A (Remit and Powers) and Section B (Membership and Attendance)

Amend: replace 'Depute Chief Executive' with 'Executive Director'

Section B (Membership and Attendance)

Amend:

4. As regards the appointment of Jointly Accountable Chief Officers, the Appointments Sub-Committee will consist of the Council members and partner members of the [Integration Joint Board \(IJB\) and the Chief Executives of East Lothian Council and NHS Lothian \(or their representatives\)](#). The Sub-Committee will be advised by the ~~Chief Executives of the organisations involved, HR advisers from those organisations~~ [Service Manager – People & Council Support](#) and, where appropriate, an independent external adviser. Note: only Councillors who have undertaken the Council's Recruitment and Selection training will be eligible to participate in the appointment of Jointly Accountable Officers.
5. As regards the appointment of Head Teachers, the Appointments Sub-Committee will consist of ~~two~~ [at least one](#) Elected Members ~~(including preferably~~ [the Convener or Depute Convener of the Education Committee, or a Ward Member, who will chair the panel](#) ~~(Chair) and; however, where possible two Elected Members will be sought~~ ~~usually~~, at least one from the Ward in which the vacancy arises), ~~two~~ [one or two](#) Parent Council members from the school to which the appointment is being made* and two officers nominated by the Depute Chief Executive (Resources and People Services). Where the appointment relates to a Roman Catholic school, a representative

of the Roman Catholic Church (who sits on the Education Committee) will be appointed to the panel in addition to those groups listed above. Where there is a Roman Catholic Church representative vacancy on the Education Committee, the appointment process will proceed in the absence of such a representative. All Councillors who have undertaken the Council's Recruitment and Selection training will be eligible to take part in the appointment of Head Teachers.

For Depute Head Teacher appointments, one Elected Member will be sought to participate in the recruitment process, but the Elected Member will not form part of the quorum and the panel may go ahead without their involvement.

* Where only one Elected Member is participating there will only be one Parent Council member participating. Should there be no Parent Council member(s) interested in participating in the process, the Parent Council may nominate a representative to participate on their behalf from outwith the Parent Council, but their nominee must have undertaken the Council's Recruitment and Selection Training for Head Teacher Appointments. Should the Parent Council decline the offer to participate, the recruitment process will continue in their absence.

In the event of a shared Headship, one Parent Council member from each school will be eligible to participate.

Education Committee

Name of Committee

Amend: Education and Children's Services Committee (new title to be reflected throughout the Scheme of Administration)

Section A (Remit and Powers)

Amend:

1. The development, determination and review of policy and associated matters relating to children, including education, children's social work and broader services for children and young people
2. The promotion of children's and young people's development and wellbeing as outlined in the Children and Young People's (Scotland) Act 2014
3. Matters relating to Children's Rights as determined by the United Nations Convention on the Rights of the Child
4. Meeting statutory requirements for strategic planning and reporting for education and children's services planning in accordance with the Education (Scotland) Act 2016 and Children and Young Peoples (Scotland) Act 2014
5. Matters relating to the statutory responsibilities of the Chief Education Officer and the Chief Social Work Officer with regard to education and the care and protection of children and young people
6. Determining the annual review of the Scheme of Devolved School Management
7. Determining catchment areas for primary and secondary schools

8. Determining school roll numbers for primary and secondary schools

Section B.2 (Membership and Attendance)

Amend: The membership of the Education and Children's Services Committee shall include a Convener and, if desired, a Depute Convener. It shall also include religious representatives and a trades union representatives, who shall have ~~full~~ voting rights only on matters relating to Education...

Local Review Body (Planning)

Section F.2 (Reporting Arrangements)

Amend: Minutes shall be presented to the ~~Council~~ Planning Committee for noting.

Planning Committee

Section E.3 (Meetings)

Amend: In addition to the representations outlined above, Community Councils will be given the opportunity to address the Committee, ~~where~~ whether or not they have ~~made a request to do so~~ submitted a written representation on the planning application under consideration.