

<b>23 January 2013</b>		<b>ITEM: 10</b>
<b>Council</b>		
<b>JOINT APPOINTMENTS COMMITTEE</b>		
<b>Report of:</b> Fiona Taylor, Head of Legal & Democratic Services		
<b>Wards and communities affected:</b> None	<b>Key Decision:</b> Non-key	
<b>Accountable Head of Service:</b> Fiona Taylor, Head of Legal & Democratic Services		
<b>Accountable Director:</b> Graham Farrant, Chief Executive		
<b>This report is public</b>		
<b>Purpose of Report:</b> This report informs the Council of the review undertaken by the Constitution Working Group in respect of the Joint Appointments Committee.		

## **EXECUTIVE SUMMARY**

Further the decision of the Council on 28 November 2012 to establish a Joint Appointments Committee (Minute No.93 refers), the Constitution Working Group have met to review the joint appointment arrangements in accordance with the terms of reference for the joint committee and have considered whether to make any further recommendations to the Council.

The Constitution Working Group met on 9 January 2013 and considered the joint appointment arrangements and their comments and recommendations, together with details of the consequential amendments that are required to be made to the Constitution by the Monitoring Officer, are hereby presented for consideration.

### **1. RECOMMENDATIONS:**

- 1.1 That the Constitution Working Group recommend that the terms of reference of the Joint Appointments Committee be approved, as set out at Appendix A to the report.**
- 1.2 That the consequential amendments required to be made to the Constitution as a result of the creation of the Joint Appointments Committee, as set out in paragraphs 3.8 to 3.10, be noted.**

### **2. INTRODUCTION AND BACKGROUND:**

- 2.1 At its meeting on 28 November 2012, the Council agreed to establish a Joint Appointments Committee for the purpose of interviewing and making an appointment of all relevant staff at Chief Officer and Deputy Chief Officer level**

in respect of those posts serving both Thurrock Council and the London Borough of Barking & Dagenham jointly under any shared service or other arrangement.

- 2.2 In doing so, the Council agreed to the terms of reference for the Joint Appointments Committee and requested that the Constitution Working Group review the joint appointment arrangements in accordance with the terms of reference and that any recommendations they may have to be brought to the meeting of the Council on 23 January 2013.
- 2.3 The Constitution Working Group met on 9 January 2013 and considered the terms of reference and sought clarification of the consequential amendments to the Constitution that would be required following the creation of this committee. The terms of reference for the Joint Committee are attached to the report at **Appendix A**.

### **3. ISSUES, OPTIONS AND ANALYSIS OF OPTIONS:**

- 3.1 The Working Group considered the arrangements in place under which officers were currently shared with other local authorities, such as those in place for both the Chief Executive and the Head of Legal & Democratic Services. The Group also discussed the options available to local authorities by which officers could be shared across authorities.
- 3.2 The Joint Appointments Committee was recognised as a selection panel to facilitate any appointments at Chief Officer and Deputy Chief Officer level that the Council may seek to make jointly with another local authority, under a shared service or other arrangement. It was noted that the mechanisms of actually sharing services would be outside of the remit of the Joint Committee.
- 3.3 In considering the terms of reference for the Committee, the Working Group suggested that this should not be limited to the London Borough of Barking & Dagenham and queried whether this could be achieved by removing the specific references to this authority. However, the Group noted that a problem with this suggestion would be, for the sake of clarity, transparency and good governance, the need to specify which local authority the Joint Appointments Committee had been established with and who had created a reciprocal arrangement with the Council.
- 3.4 The respective constitutions of each of the local authorities who agree to establish a Joint Committee must be specific in this regard, given that each of local authorities have effectively agreed to delegate some of their functions to this joint body.
- 3.5 At its meeting, the Working Group were of the view that no further recommendations were required in respect of the terms of reference for the Joint Appointments Committee. However, when reviewing the draft report, a minor amendment was suggested by a member of the Working Group. This concerns when a decision on any appointment is to be confirmed by each of the constituent councils appointment committee members. It was recognised

that the Chair of each respective body/delegation may need to exercise a casting vote in the event of any deadlock within that body/delegation. This has been amended in the wording of the terms of reference included at Appendix A to this report.

**Consequential amendments**

- 3.6 At its meeting on 28 November, the Council authorised the Monitoring Officer to make any consequential amendments to the Council’s Constitution, as may be required following the decision to establish the Joint Committee, following a review by the Constitution Working Group. The Working Group requested that the consequential amendments required be brought to the attention of the Council and as such, these are set out in paragraphs 3.8 to 3.10.
- 3.7 It is considered that no amendments will be required to Chapter 1, Article 3 which covers public participation in meetings. The Constitution only lists those meetings that are subject to public participation, in the form of asking questions or presenting petitions to meetings. The Constitution Working Group agreed that it was not considered appropriate to have public participation at a meeting of the Joint Appointments Committee, particularly given that the Committee would be dealing with the recruitment and selection of staff.
- 3.8 The Working Group noted that Chapter 5, Article 8, will be required to be amended to reflect that the Joint Appointments Committee has been established by the Council for the effective discharge of its functions. This will require an addition to the table at Rule 1.1, as set out below:

(f)	Joint Appointments Committee	Eight Councillors, four to be appointed by Thurrock Council	Four members, two from each Council
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- 3.9 An amendment will also be required to the terms of reference of the General Services Committee. There is a need to recognise both the existence of the Joint Appointments Committee and acknowledge its functions in relation to the appointment of all relevant staff at Chief Officer and Deputy Chief Officer level in respect of those posts serving both authorities jointly under any shared service or other arrangement. The required amendments are shown in bold text below.
  - 1. To advise the Council on the appointment or dismissal of, or the arrangements for the appointment or dismissal of, the Head of the Paid Service, ***insofar as this does not fall within the remit of the Joint Appointments Committee;***
  - 2. To appoint or dismiss or make arrangements for the appointment or dismissal of Directors, the Chief Finance Officer or the Monitoring Officer, ***insofar as this does not fall within the remit of the Joint Appointments Committee***

3.10 Minor amendments will also be required to Rules 1.1, 1.2 and 4.1 of the Officer Employment Procedure Rules, which can be found at Chapter 10 of the Constitution. These are set out below, with the required additions highlighted by the bold text.

1. *Responsibility for the Discharge of Employment Functions*

1.1 *The final decision on the appointment or dismissal of the Head of Paid Service / Chief Executive or on the appointment of any Statutory Chief Officers/Directors shall be by resolution of Council on the recommendation of the General Services Committee, **insofar as this does not fall within the remit of the Joint Appointments Committee.***

1.2 *The appointment and dismissal of, and taking disciplinary action against, any Chief Officer/Director shall, except where required to be by resolution of Council under Rule 1.1 above, be conducted by the General Services Committee, **insofar as this does not fall within the remit of the Joint Appointments Committee.***

4. *Notification Procedure for Appointment/Dismissal of Head of Paid Service and Chief Officer/Directors*

4.1 *In this Rule, “decision-maker” means, in relation to appointments or dismissals, the Council or, where the General Services Committee, **a Joint Appointments Committee**, a Sub-Committee or Officer is discharging the function of appointment or dismissal on behalf of the Council, that Committee, Sub-Committee or Officer as the case may be.*

**4. REASONS FOR RECOMMENDATION:**

4.1 This report details the review undertaken by the Constitution Working Group at its meeting on 9 January 2013, as requested by the Council at its meeting on 28 November 2012.

**5. CONSULTATION (including Overview and Scrutiny, if applicable)**

5.1 This report has been circulated to members of the Constitution Working Group prior to its publication and any further comments have been incorporated therein.

**6. IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT**

6.1 The proposals for joint working under any shared service or other arrangement have the potential to unlock new ways of delivering the council's corporate policies and priorities. To facilitate the appointment of relevant staff

at Chief Officer and Deputy Chief Officer level in respect of those posts serving both authorities, it is essential that good governance is followed.

## **7. IMPLICATIONS**

### **7.1 Financial**

Implications verified by: **Sean Clark**  
 Telephone and email: **01375 652010**  
**sclark@thurrock.gov.uk**

There are no financial implications arising from this report.

### **7.2 Legal**

Implications verified by: **David Lawson**  
 Telephone and email: **(01375) 652087**  
**David.lawson@bdtlegal.org.uk**

Local authorities may make arrangements for the discharge of their functions through a joint committee pursuant to the Local Government Act 1972. The number of members of the joint committee, their term of office, and the area within which the joint committee shall exercise authority must be fixed by the appointing authorities.

### **7.3 Diversity and Equality**

Implications verified by: **David Lawson**  
 Telephone and email: **(01375) 652087**  
**David.lawson@bdtlegal.org.uk**

There no direct diversity implications noted in this report. However both local authorities are under a statutory duty to ensure that statutory equality duties are properly implemented.

### **7.4 Other implications (where significant) – i.e. Section 17, Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental**

None identified at this stage.

## **BACKGROUND PAPERS USED IN PREPARING THIS REPORT (include their location and identify whether any are exempt or protected by copyright):**

- Minutes of the Council meeting on 28 November 2012, to be found in the Council & Democracy section of the Council's website at [www.thurrock.gov.uk/democracy](http://www.thurrock.gov.uk/democracy)

**APPENDICES TO THIS REPORT:**

- Appendix A – terms of reference for the Joint Appointments Committee

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## Appendix A

<b>5.</b>	<b>JOINT APPOINTMENTS COMMITTEE</b>	
<b>Appointed by:</b> The Council under section 102 of the Local Government Act 1972	<b>Number of Elected Members:</b> Eight (4 to be appointed by each Council)	
<b>Chair and Vice-Chair appointed by:</b> The Council (to alternate between the two authorities)	<b>Political Proportionality:</b> The elected Members shall be appointed in accordance with Political Proportionality or otherwise agreed	
<b>Quorum:</b> 4 members, 2 from each Council	<b>Co-opted Members to be appointed by Council:</b> None	
<p>Functions determined by Council:</p> <p>In respect of staff employed in posts serving Thurrock Council and the London Borough of Barking and Dagenham Council jointly under a shared service or other arrangement:</p> <ol style="list-style-type: none"> <li>To be responsible for the selection and appointment of all relevant staff at Chief Officer and Deputy Chief Officer level, as detailed in the Employment Rules in Chapter 10.</li> <li>To agree a short-list of candidates drawn from a long-list of candidates submitted by the Chief Executive or any appointed consultants.</li> <li>To interview the agreed short-list of candidates and agree the appointment of the preferred candidate.</li> <li>To make recommendations to the respective Councils for confirmation of the appointments of the Chief Executive, Directors, the Section 151 Officer and the Monitoring Officer.</li> <li>The Chair of the Joint Appointments Committee shall not exercise a casting vote.</li> <li>Following a meeting of the joint appointments committee an indicative vote shall be taken by the committee of all members present. The decision on appointment shall be confirmed by each constituent councils appointment committee members <u>and the chair of each body/delegation shall exercise a casting vote in the event of any deadlock within that body/delegation</u>. Where this does not result in an agreed decision the two constituent council groups should separately reconsider the matter and if no subsequent agreement can be reached, they should refer the matter back to the two authorities relevant appointments committees, namely the General Services Committee in Thurrock Council and the JNC Appointments Committee in the London Borough of Barking &amp; Dagenham, for alternative arrangements to be considered.</li> <li>The meetings of the Joint Appointments Committee shall be conducted in accordance with the constitutional provisions of each authority.</li> </ol>		
<b>Functions determined by Statute</b>		