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Overview and Scrutiny Select Committee

Wednesday, 12 April 2023 at 7.30 pm

Council Chamber - Civic Centre

Supplementary Agenda

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Call-in of Decision – Recruitment Process for Appointment of New Chief Executive

Synopsis of report:

To consider a call-in of a decision of Corporate Management Committee held on 23 March 2023.

Recommendation:

That the Committee considers the call-in and any comments and recommendations that it may wish to make on this matter and decides whether to refer the matter back to Corporate Management Committee on 20 April 2023.

1. Context of report

- 1.1 Call-in of a decision is a procedure available to the Overview and Scrutiny Select Committee which prevents implementation of a decision of a Policy Committee until it has been considered further.
- 1.2 A request for a call-in must be signed by at least two Members of the Overview and Scrutiny Select Committee and must be delivered to the office of the Chief Executive before 5.00 p.m. on the fourth working day after the Policy Committee (in this case Corporate Management Committee, which took place on 23 March 2023) has taken the decision.
- 1.3 A call-in dated 28 March 2023 was received from Councillor Rhys Davies and Councillor Siân Williams relating to the establishment of an Appointment Sub-Committee for the recruitment of a new Chief Executive (item 8 of the agenda). The terms of the call-in request are set out in Appendix A.
- 1.5 When a call-in request is received, the Corporate Head of Law and Governance is required to arrange for the subject matter of the call-in to be considered at a time suitable to the subject matter and the urgency of the case.
- 1.6 The desired outcome of the call-in is that the Overview and Scrutiny Select Committee refer the decision back to the decision making Committee or Sub-Committee for reconsideration, setting out in writing the nature of its concerns.
- 1.7 It is recommended that this Committee's comments and recommendations are submitted to the next meeting of Corporate Management Committee on 20 April 2023.

2. Report

- 2.1 Paragraph 12 of the Overview and Scrutiny Procedure Rules in the Council's Constitution provides that at least two Members of the Overview and Scrutiny Select Committee can call-in a decision where they have evidence which suggests that the Policy Committee did not take the decision in accordance with the principles set out in Article 12 (Decision Making). It will be a matter for the Members that have made the call-in to explain why they consider that Corporate Management Committee did not take the decision in accordance with those principles, or if there is evidence that

explicit Council policy or legal requirements have been disregarded. Article 12 of the Council's Constitution is set out at Appendix B.

2.2 The response of Officers to the issues raised in the call-in is set out below.

3 **Chief Executive's response to the issues raised in the call-in**

3.1 *Clarity of aims and desired outcomes*

3.2 *"The officer's report did not explicitly state that the motion only applied to the period up to 4th May, and that a new selection panel might well need to be constituted after the elections. This would be the case if either nominated members were not re-elected or they ceased to be members of the Corporate Management Committee. The officer's recommendation, which was agreed by the committee, contains no reference to the possibility of the sub-committee needing to be reconstituted, in spite of Cllr Don Whyte requesting that it should do so."*

3.3 Whilst the officer's report did not explicitly state that the Appointments Sub-Committee would require reconstitution after the election, it is a statutory requirement for any relevant committee or sub-committee to be reconstituted at the annual meeting of the Council, and as and when it becomes necessary following a planned election, a bye-election, or after changes to political groups.

3.3 The matter was debated at length by the Corporate Management Committee, which at the same meeting, also considered a proposal to create a standing Appointments Sub-Committee. This proposal was considered by the cross-party Constitution Member Working Party, as part of its annual review of the Constitution, with a recommendation to adopt put to the Corporate Management Committee. The proposed Appointments Sub-Committee's membership will not (on agreement of the Council when considering the proposed changes to the Constitution) be restricted to members of the Corporate Management Committee, which addresses the concern raised about changes to the membership of the Corporate Management Committee.

3.4 It is necessary to remind members of the stated aim/desired outcome of the report, as noted in the synopsis – "To agree the procedure to be adopted for the recruitment of a new Chief Executive". There was no lack of clarity with the aims or desired outcome. The anticipated timetable in the report also made clear that most elements of the recruitment process would be taking place after the election.

3.4 This matter was debated at length by the Corporate Management Committee. The aims and desired outcomes of the report were clear, and the practice of reviewing committee arrangements at annual Council remain unchanged.

3.5 *A presumption in favour of openness.*

3.6 *The officer's report was not published until 48 hours before the meeting, which resulted in little time for discussion of the item, in advance of the meeting. No reason has been given as to why this report was delayed.*

3.7 Whilst it would have been preferable to publish the paper earlier, members will have been aware from the length of the agenda, that officers are currently managing particularly demanding workloads. The agenda, advertising the nature of the business to be transacted, was published on 15 March 2023 which is over a week before the Corporate Management Committee met. Members were aware of the

general nature of the business to be transacted and were at liberty to make enquiries of officers during the period between the agenda and report publications.

- 3.8 All statutory requirements for publishing the agenda and associated reports were met.
- 3.9 *Proportionality (i.e. the action must be proportionate to the desired outcome)*
- 3.10 *Delaying the long-listing meeting for up to a month would not significantly affect the outcome of the appointment, but it would improve the appointment process. The desired outcome – appointment of chief executive, a decision which would affect the future of the Runnymede Council for years to come, should be made in the best way – if at all possible, with the same sub-committee throughout the process.*
- 3.11 The only stage of the appointments process intended to be before the election is the consideration of a longlist of candidates. This stage of the process is to test the quality of the applications that have been received, in order to provide a more manageable list of candidates to undergo pre-member-interview tests and discussions with the executive consultant. This process will not unduly restrict the field of candidates available for consideration of shortlisting after the election. It also enables the executive consultant to make efficient use of the time around the election, when members will understandably be focused on election related activities.
- 3.12 The role of the Chief Executive, as with any officer of the Council, is an apolitical one. The outcome of an election must not influence members' views on whether any given candidate can deliver the requirements set out in the long established job description. Further, extensive due diligence will be undertaken to ensure that the successful candidate is an appropriate individual to be appointed to the role.
- 3.13 With reference to the delaying of the process by one month, this would not be the case. The earliest that the longlisting could take place, due to the election and the annual municipal cycle that depends on committees being constituted on 17 May 2023, would be week commencing 22 May 2023 at the earliest. This would be a delay of two months.
- 3.14 The committee again debated at length the matter of delays to the recruitment process and whilst the concerns of some members were noted, it was the view of a majority of the committee that delaying the recruitment of this key post would be highly undesirable. The Council operating under interim arrangements for a prolonged period would be a challenge for members, staff and eventually the incoming individual.

4. Conclusion

The Overview and Scrutiny Select Committee can:

- (a) Recommend that the Corporate Management Committee proceed as planned; or**
- (b) Recommend a revised timescale be considered so that all aspects of the selection process take place after the local election on 4 May 2023.**

Background papers

None

Appendix A – call in request

Appendix B – article 12 of the constitution (decision making)

Runnymede Borough Council – Call-In Request Form

1. Decision to be called in: (Required)

Corporate Management Committee meeting of the 23rd March 2023. Agenda item 8. Establishment of an Appointment Sub-Committee – Chief Executive.

2. Which of the principles of decision making in Article 12 of the constitution has not been applied? (Required)

Required by Standing Order 27.8 (a) and Section 12(a) of the Overview and Scrutiny Procedure Rules within the constitution – Tick all that applies:

(a) Proportionality (i.e. the action must be proportionate to the desired outcome);	Yes
(b) Due consultation and taking of professional advice from Officers;	
(c) Respect for human rights;	
(d) A presumption in favour of openness;	Yes
(e) Clarity of aims and desired outcomes;	Yes

3. Desired outcome

(a) The Overview and Scrutiny Committee to refer the decision back to the decision making Committee or Sub-Committee for reconsideration, setting out in writing the nature of its concerns.	Yes
(b) The Overview and Scrutiny Select Committee refer the matter to full Council with any comments and recommendations it wishes to make.	

4. Evidence which demonstrates the decision in question was not made in accordance with Article 12 or that Council Policy or legal requirements have been disregarded when the decision was made:

Required by Standing Order 27.8 (a) and Section 12(a) of the Overview and Scrutiny Procedure Rules within the constitution

(e) Clarity of aims and desired outcomes;

The officer's report did not explicitly state that the motion only applied to the period up to 4th May, and that a new selection panel might well need to be constituted after the elections. This would be the case if either nominated members were not re-elected or they ceased to be members of the Corporate Management Committee. The officer's recommendation, which was agreed by the committee, contains no reference to the possibility of the sub-committee needing to be reconstituted, in spite of Cllr Don Whyte requesting that it should do so.

(d) A presumption in favour of openness;

The officer's report was not published until 48 hours before the meeting, which resulted in little time for discussion of the item, in advance of the meeting. No reason has been given as to why this report was delayed.

(a) Proportionality (i.e. the action must be proportionate to the desired outcome);

Delaying the long-listing meeting for up to a month would not significantly affect the outcome of the appointment, but it would improve the appointment process. The desired outcome – appointment of chief executive, a decision which would affect the future of the Runnymede Council for years to come, should be made in the best way – if at all possible, with the same sub-committee throughout the process.

5. Signed: (not required if sent by email)

Sian Williams.....

Rhys Davies.....

6. Dated: 28/3/2023

ARTICLE 12 - DECISION MAKING

12.01 Responsibility for decision making

The Council will issue and keep up to date a record of what Committees, sub-committees, and Officers have responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of the Constitution. If there is a conflict between Part 3 and any other part of this Constitution as to delegations and responsibilities, Part 3 will prevail.

12.02 Principles of decision making

All decisions of the Council will be made in accordance with the following principles:

PRINCIPLES OF DECISION MAKING

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from Officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

12.03 Decision making by Council bodies acting as Tribunals

The Council, a Committee, or an Officer acting as a tribunal or in a quasi-judicial manner will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention of Human Rights. The same applies when the decision maker is determining the civil rights and obligations, or the criminal responsibility, of any person.