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| Classification | Item No. |
| Open | |

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| Body: | Employment Panel |
| Date: | 30 th September 2021 |
| Title of report: | Performance and Development Framework for the Chief Executive |
| Report by: | Director of People and Inclusion |
| Decision Type: | Non Key Decision |
| Ward(s) to which report relates | All |

Executive Summary:

This report sets out the proposed performance and development framework for the annual assessment of the Chief Executive. It has been developed with reference to the 'Joint Guidance on Appraisal of the Chief Executive' included within the Joint Negotiating Committee (JNC) for Local Authority Chief Executives National Salary Framework and Conditions of Service Handbook and with guidance from an external advisor.

Recommendation(s)

The Employment Panel is asked to approve the proposed performance and development framework for the annual assessment of the Chief Executive for a period of upto three performance cycles in the first instance (i.e. to no later than May 2024).

Key considerations

1. Introduction

Regular performance appraisal of all employees is a fundamental aspect of good organisational management. This is no less important with a Local Authority's Chief Executive. The JNC for Local Authority Chief Executives handbook includes specific guidance to support this process which is appended below. It should be noted that a regular process of appraisal is a contractual obligation on the part of both the Chief Executive and the council.

Approval of the performance and development framework for the annual assessment of the Chief Executive is included within the Terms of Reference for the Employment Panel and this report sets out that framework for the Panel's consideration and approval.

Broadly speaking, any effective performance appraisal approach must contain three core elements:

1. Looking back over the previous period (usually 12 months) to review performance, in particular with reference to previously set objectives
2. Looking forward over the coming period (usually 12 months) to agree performance objectives. – These should be SMART (Specific, Measurable, Achievable, Realistic and Time-bound)
3. Agreeing personal and professional development goals and activities to support the development of skills and expertise in the context of the role.

Once set it is important that agreed objectives (both for performance and development) are reviewed regularly.

2. Proposed Performance and Development Framework for the Annual Assessment of the Chief Executive

In accordance with the guidance appended the Council has sought the advice of the Regional Employers Organisation (North West Employers) to develop a proposal for the Chief Executive's Performance and Development Framework. Subject to the approval of this framework the Chief Executive of North West Employers will act as an independent expert facilitator and provide overall oversight of the process.

In considering this proposal it is important to remember that the Chief Executive is employed by the council as a whole, not by the controlling group. However, the exact format of the process is a local decision.

Box 1: proposed Framework

1. Gathering feedback.

It is important that the Chief Executive is able to reflect on the views of colleagues, external peers and direct reports as part of the appraisal process. 360° feedback will be an important tool to support this. A recent 360° exercise has taken place as part of work to support the Executive Team and the Chief Executive will use this to support his appraisal preparations. In future years, to ensure this position is up-to-date, North West Employers will support this via their established

and tested 360° tool. (A similar approach will also be used to support the appraisal of other Executive team members).

2. Input from group leaders.

The independent facilitator will meet with the Leader of the largest opposition group to gather feedback and input into the process. This will span the three areas considered above (i.e. performance over the previous year, suggestions for future priorities and personal and professional development). Written feedback will also be sought from the other group leaders.

3. Feedback discussions with the Chief Executive and Leader

To support their preparations for the appraisal discussion the independent facilitator will meet individually with the Chief Executive and Leader. During this meeting the facilitator will provide feedback from engagement with other group leaders.

4. The Performance Appraisal Discussion

The independent facilitator will meet together with the Chief Executive and Leader to facilitate the formal appraisal discussion. They will also support the completion of relevant appraisal paperwork confirming delivery against previously agreed objectives, setting out the SMART performance objectives for the future period and personal and professional development goals.

5. Sharing the outcomes

Once agreed by the Leader and Chief Executive a copy of the completed appraisal will be shared, confidentially, with other group leaders.

6. Regular review

The Leader and Chief Executive will regularly review progress against both performance and development objectives at each of their one-to-one meetings. A formal mid-point review will also take place, supported by the independent facilitator half-way through the cycle.

Ordinarily the above process will begin at the very start of the municipal year with objectives agreed by the end of June for a period of twelve months. - However, given the Council's new constitution and the consideration of these formal arrangements for the first time, it has taken a little time to develop these proposals. Therefore, subject to the Employment Panel's agreement, the proposal is that the above process commences with immediate effect with the aim of agreeing an initial set of objectives for the nine-month period October 2021 to June 2022. The cycle would then repeat following the May 2022 election.

It is important that this process is regularly reviewed. The suggestion, therefore, is that it is agreed initially for a period of up-to three performance cycles and reviewed by no later than May 2024. An earlier review may take place if national guidance is revised or at the request of either the Leader or Chief Executive.

Community impact/links with Community Strategy

The Chief Executive is the Council's most senior officer and has overall responsibility for the delivery of the Council's contribution to the Community Strategy. A strong approach to performance appraisal will act to assure the effective delivery of this role.

Equality Impact and considerations:

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.

| Equality Analysis |
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| No equality impacts have been identified. The proposal has been developed with reference to national guidance and the engagement of an independent expert facilitator will ensure a fair and equitable process. |

**Please note: Approval of a cabinet report is paused when the 'Equality/Diversity implications' section is left blank and approval will only be considered when this section is completed.*

Assessment of Risk:

The following risks apply to the decision:

| Risk / opportunity | Mitigation |
|---|--|
| Failure to conduct this process would be a potential breach of the contractual obligations on the part of both the chief executive and the employing council. | The development of a clear and robust process agreed by members and the Chief Executive. |

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| Delivery without external input or the involvement of all group leaders would risk accusations of partiality and not align with the Chief Executive's employment on behalf of the Council as a whole. | Engagement of an independent expert facilitator and the involvement of all group leaders |
| The fast paced nature of changes means objectives may become out of date | Regular review by the Chief-Executive and Leader. |

Consultation:

The proposed independent facilitator (Chief Executive of North West Employers), the Leader and Chief Executive have been consulted on these proposals.

Legal Implications:

Failure to conduct this process would be a potential breach of the contractual obligations on the part of both the chief executive and the employing council. The process outlined aligns with the guidance contained within the JNC for Local Authority Chief Executives handbook.

Financial Implications:

None. North West Employers will support this process within the terms of the Council's annual membership subscription.

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Background papers:

Please include a glossary of terms, abbreviations and acronyms used in this report.

| Term | Meaning |
|--------------------------|--|
| JNC for Chief Executives | Joint Negotiating Committee for Chief Executives |
| NWEO | North West Employers Organisation |

APPENDIX: JOINT GUIDANCE ON APPRAISAL OF THE CHIEF EXECUTIVE

(Taken from the: JOINT NEGOTIATING COMMITTEE for LOCAL AUTHORITY CHIEF EXECUTIVES NATIONAL SALARY FRAMEWORK & CONDITIONS OF SERVICE HANDBOOK)

1. INTRODUCTION

This guidance is intended for use by senior elected members and the chief executive when agreeing a process for appraising the performance of the chief executive. The focus of this process should be on clarifying what the chief executive is expected to achieve and on identifying any continuing developmental needs which, if met, would maintain a high level of performance. The process of setting objectives should be by agreement and the result should be to identify objectives which are relevant and challenging but achievable.

The process should not become complex. At all times it needs to focus clearly on a few basic issues: what the chief executive's job is; what has been done well; what could have been done better; the major issues over the next year; and what developmental needs the process clearly identifies.

2. RESPONSIBILITY FOR APPRAISAL

The responsibility for appraising the chief executive lies with senior elected members. It is a contractual obligation on the part of both the chief executive and the employing council to engage in a regular process of appraisal.

It will be for local decision in the light of local circumstances whether the appraisal should be carried out by a small committee representing all political groups or by a senior representative or representatives of the controlling group. Whichever approach is adopted, those conducting the appraisal need to bear in mind at all times that the chief executive is employed by the council as a whole, not by the controlling group, and is therefore required to serve all of the council.

3. AIMS OF APPRAISAL

- To identify and clarify the key objectives, priorities and targets of the council and appropriate timescales for their achievement over the next (e.g. twelve) months
- Agree what the chief executive should personally achieve over the next (e.g. twelve) months and identify required standards of performance, in order to deliver the council's key objectives, priorities and targets. Wherever possible standards of performance should be expressed in ways which can be monitored objectively
- Discuss positive achievements over the past (e.g. twelve) months and identify reasons for good performance
- Discuss instances over the past (e.g. twelve) months where targets have not been met, identifying the factors preventing the achievements of agreed goals
- Discuss developmental requirements. The chief executive will have strengths and weaknesses and the parties should identify the professional development necessary to equip the chief executive with the requisite skills to meet the council's objectives. The parties should be proactive and anticipate future

developmental needs in the context of the council's changing priorities. This discussion could lead to the design of a formal programme of continuous professional development (CPD). Equally this discussion may lead to agreement on changes to the working relationship between leading members and the chief executive. It should not be assumed that it is only the chief executive who may need to adjust his / her approach to the working relationship

Appraisal should be set in the context of the council's objectives, priorities and targets, generally expressed in corporate plans. Appraisal targets when taken as a whole should be related to agreed targets for the council as a whole.

4. THE APPRAISAL CYCLE

Appraisal should take place on a predetermined date, at least annually, backed up by regular monitoring meetings at which targets can be reviewed or continuing relevance. A formal system of appraisal should not prevent the continuous review of progress and performance.

5. KEY ELEMENTS OF THE APPRAISAL PROCESS

- Continuous two-way monitoring of performance against objectives
- Preparation for an appraisal interview
- An appraisal interview where recent and current performance, future objectives and development needs are discussed
- Agreement on action required from either party to ensure required performance is achievable
- A continuing process of informal discussion regarding performance

6. THE APPRAISAL INTERVIEW AND FRAMEWORK

- Both parties should be well informed and prepared for the interview
- The process should be two-way
- The interview should be free from interruptions, and notes should be taken when necessary
- The parties should concentrate as far as possible on established facts rather than unsubstantiated opinions
- Targets which are realistic and capable of being monitored should be agreed
- Any agreed personal development plans should be implemented within the agreed timescale
- The chief executive should be given a reasonable opportunity to correct any shortfalls in performance
- A date for the next review should be agreed

7. EXTERNAL ASSISTANCE

External assistance in facilitating the appraisal process can be helpful in providing an independent perspective.

Within the local government 'family', it may be sought from the Local Government Association or by contacting the Employers' Secretary or from the appropriate Regional Employers' Organisation or ALACE or SOLACE. Alternatively such assistance may be available from commercial sources, such as consultancy firms.

Such assistance from the aforementioned organisations may take the form of them either directly participating in the process for which a fee may be requested to cover staff time or the recommendation of, for example, a suitably experienced recently retired senior officer or other independent individual.

Note: If external assistance is sought, it must have the agreement of both sides.

8. OTHER MATTERS

The detailed content of appraisal interviews should normally be treated as confidential to the participants, unless both parties agree that it would be helpful for the targets agreed for the ensuing period to be shared more widely. However, it may be useful to report to an appropriate committee meeting that an appraisal interview has taken place.

This may be useful in acting as a reminder that the chief executive and members need to ensure that chief officers are in their turn appraised.

It should, however, not be assumed that the process for appraising the chief executive should be followed in precise detail for other staff. There is a fundamental difference between elected members appraising the chief executive and managers appraising subordinates. The principles, nevertheless, are the same.