1 Executive Summary
1.1 This report seeks Council approval to update the part of the Constitution that sets out the rules for the employment of Council officers. The changes reflect areas for development arising out of the recent first phase of the Corporate Restructure and to allow the changes to take effect in the second phase, which commences this month.

2 Recommendations
2.1 For the reasons set out in the report, Council is recommended to agree the amended Officer Employment Procedure Rules (the Rules) set out in Appendix 1 to have immediate effect.

2.2 To agree that the Director, Human Resources & Organisational Development will provide guidance for members on their involvement in the processes covered by these Rules and to design appropriate training for members.

2.3 Council is asked to note that the Director, Legal & Governance will make the amendments and publish the updated Constitution on the Council’s website as soon as reasonably practicable.

3 Background
3.1 All local authorities are required by law to adopt mandatory standing orders in their constitutions that relate to the employment of officers. These rules date back to 1993 (and are currently found in the Local Authorities (Standing Orders)
Regulations 1993/202 as amended and the Local Authorities (Standing Orders) (England) Regulations 2001/3384 as amended) and set out mandatory rules for the involvement of councillors in the employment of officers.

3.2 In summary, the Rules set out the following legal requirements:

3.2.1 All matters relating to the employment of officers are delegated by law to the Chief Executive, unless a legal exception applies – as set out below;

3.2.2 The appointment of the Chief Executive (as head of paid service) is a decision that must be approved by full Council;

3.2.3 The appointment of other chief officers or deputy chief officers may be member (sitting as a committee) or officer level decisions;

3.2.4 All proposed appointments of chief officers or deputy chief officers are subject to a process whereby Cabinet members may object to the appointment of an individual and this needs to be considered by the appointing committee or officer (but can’t overturn a decision);

3.2.5 Disciplinary action and dismissal of chief officers and deputy chief officers may be member (sitting as a committee) or officer level decisions;

3.2.6 Specific rules for taking disciplinary action against or the dismissal of the head of paid service, chief finance officer and monitoring officer.

3.2.7 Specific rules for the appointment of mayoral and political assistants.

3.3 Chief Officers include statutory director posts and those reporting to the Chief Executive. Deputy Chief Officers are those reporting to Chief Officers. Clerical staff are excluded from these definitions.

4 Key Considerations & Proposals

4.1 Following the adoption of the new corporate structure in April, the Council has undertaken an ambitious and successful programme of recruitment to its senior management team. In addition to the appointment of Althea Loderick as Chief Executive, five out of six appointments have been made to Corporate Director posts, leading to the creation of a strong permanent corporate management team for the first time in a number of years.

4.2 The successful process has identified areas where it is sensible to update the Rules.

4.3 This intensive recruitment campaign has involved member panels for each recruitment process and a significant impact on members’ time and availability for other tasks. The current rules require all Chief Officer and Deputy Chief Officer appointments to be made by member panels. It is appropriate to have member involvement in decision making at Chief Officer and Chief Executive level. However, the new structure would require over 30 additional posts to be appointed by members. This would create a disproportionate burden on members’ time and resources.

4.4 It is therefore proposed that the rules are amended so that only posts graded at SMR (D) and above are member level appointments. This includes all posts graded as Directors or Corporate Directors, which would be the appropriate
level for direct member involvement. In addition, members can be involved in recruitment processes as stakeholders and consultees rather than decision makers.

4.5 Therefore members would appoint the following posts:

4.5.1 Chief Executive (with full Council approval)
4.5.2 Corporate Directors
4.5.3 Executive Director oneSource and oneSource Directors (via the oneSource Joint Committee)
4.5.4 The following Director posts:

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<th>Directorate</th>
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<tr>
<td>Inclusive Economy &amp; Housing</td>
<td>Planning &amp; Development</td>
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<td>Resources:</td>
<td>Council Tax &amp; Benefits</td>
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<td>Strategic Investment</td>
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<td>People, Policy &amp; Performance</td>
<td>Change &amp; Programme Management Office</td>
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<td>Adults &amp; Health</td>
<td>Commissioning Health &amp; Social Care</td>
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<td>Operations</td>
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<td>Public Health (n.b. joint appointment with health bodies)</td>
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<td>Children &amp; Young People</td>
<td>Service Improvement</td>
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<td>Education, Inclusion &amp; Achievement</td>
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<td>Brighter Futures</td>
<td>Early Years &amp; Children’s Health</td>
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4.6 The Council is fortunate in moving towards a permanent senior management structure but it is also considered appropriate to include provisions for the arrangements for interim or fixed term engagements. This will ensure transparency and openness in the use of interims for the first time in the Constitution.

4.7 The second change is to update the provisions relating to disciplinary action, including dismissal. It is proposed that members are only involved in disciplinary action against Chief Officers i.e. the Chief Executive, Corporate Directors, the Executive Director of oneSource and the Monitoring Officer. This would be a proportionate level of involvement given the direct accountability of corporate directors to the Executive and Council. It also takes into account the considerable amount of time and resources that can be involved in disciplinary action, which can far exceed the involvement in recruitment, and the amount of
4.8 The final amendment is to update the provisions relating to disciplinary action against the head of paid service (Chief Executive), the chief finance officer (Corporate Director, Resources) and monitoring officer (Director, Legal & Governance). Specific statutory rules apply to these posts that provide additional protection because of their statutory functions to prevent the Council from unlawful expenditure or unlawful action. These mandatory rules were updated recently to provide for the involvement of the “independent persons” appointed by the Council. The amended rules reflect the new statutory provisions.

4.9 If the Rules are approved, the Monitoring Officer will amend the Constitution accordingly and make all consequential changes, including to the terms of reference of the Chief Officer Appointment Committee.

5 Policy Implications & Corporate Priorities

5.1 The new rules promote transparency in the appointment of senior officers in the Council and the use of interims.

6 Consultation

6.1 The Mayor has been consulted with Cabinet members following the recent recruitment campaigns.

7 Implications

7.1 Financial Implications

7.1.1 The changes do not have financial implications.

7.2 Legal Implications

7.2.1 The body of the report contains the legal implications. The Rules combined with the Council’s Recruitment Policies ensure that the statutory requirement to appoint all officers on merit under s.7 of the Local Government & Housing Act 1989 is met.

7.3 Equalities Implications

7.3.1 The amendments reflect statutory requirements. All recruitment processes comply with the Council’s policies and procedures which ensure non-discriminatory treatment on unlawful grounds.

7.4 Other Implications relevant to this report:

7.4.1 The report notes the human resources implications. The guidance provided by the Director of Human Resources & Organisational Development will be non-constitutional.

8 Background Information used in the preparation of this report

8.1 None.