

COUNCIL – 14 JULY 2015

SENIOR OFFICER APPOINTMENTS

Report by the Chief Human Resources Officer

Introduction

1. As a result of the current Chief Executive leaving the Council at the end of September 2015, it is necessary for statutory roles to be re-appointed to ensure succession, principally the role of Head of Paid Service.
2. Under the Council's Constitution, the Remuneration Committee has made a recommendation to Full Council as to the appointment of **Head of Paid Service** to succeed the current Chief Executive.
3. If Council accepts this recommendation, it will also be necessary for the Council to appoint a **Monitoring Officer**, as explained in paragraph 11 below. The Remuneration Committee has also followed its Constitutional role in making a recommendation on that eventuality.
4. The appointment of a **County Returning Officer** will also be needed but the responsibility to appoint to this role has been delegated to the Audit & Governance Committee, which will make this determination at its meeting on 16 September 2015.
5. This report therefore sets out the procedural requirements in making such appointments together with the details of the recommendation(s) of the Remuneration Committee.

Context

6. The current Chief Executive will leave the service of the Council at the end of September. It is envisaged that, until the Council determines a future senior management structure, interim arrangements will involve directors taking on the Chief Executive's duties in support of a new Head of Paid Service. Proposals for any new arrangements would then be considered by Cabinet and would form part of the budget to be agreed by Full Council in February 2016.

Head of Paid Service – the role

7. Under the Local Government Act 1989 Section 4, every principal council is required to appoint a person to carry out the functions of 'the head of the paid service'. This Council, along with many others, had appointed its Chief Executive to this role. It is not a statutory requirement that the position be fulfilled by a chief executive officer. Nevertheless, under the Council's

Constitution (the Articles setting out the service areas of senior officers; and the Scheme of Delegation) the Council has linked the Head of Paid Service role to that of the Chief Executive. The appointment of a person other than the Chief Executive to the role of Head of Paid Service would require prior amendment of the Constitution.

8. The purpose of the head of paid service role is to report to Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grades of officers required for the discharge of these functions and the organisation of such officers. **Annex 1** sets out more fully the role of the head of paid service.

Head of Paid Service – recommendation of the Remuneration Committee

9. The Remuneration Committee's recommendation is that Council should appoint the Chief Legal Officer, Peter Clark, as Head of Paid Service. In the view of the Remuneration Committee, Peter Clark's legal perspective and in particular his organisational and compliance experience as Monitoring Officer over many years, aptly fit him to this role. It is the Committee's recommendation that the Chief Legal Officer be appointed as Head of Paid Service in succession to the current Chief Executive. In making this recommendation, the Remuneration Committee also recommends Council to amend the Constitution to de-couple the role of Head of Paid Service with that of the Chief Executive in the Scheme of Delegation and Articles.
10. There is however a statutory restriction that the Head of Paid Service may not also be the Monitoring Officer of the Council. The Remuneration Committee has therefore made a consequential recommendation to Council for the appointment of a new Monitoring Officer. This is in fulfilment of the Council's Constitution (Employment Procedure Rules), whereby Full Council "will approve the appointment of the Head of Paid Service and Monitoring Officer *following a recommendation as to such an appointment by the Remuneration Committee*".

Monitoring Officer – the role

11. Under the Local Government & Housing Act 1988, Section 5, each principal authority is required to appoint a person to be its Monitoring Officer. In short, the role of the Monitoring Officer includes such responsibilities as ensuring the lawfulness and fairness of the Council's decision making; promoting and maintaining high standards of conduct; reporting to Council on any instances of maladministration; and reviewing the Council's Constitution. **Annex 2** sets out the role of the Monitoring Officer.

Monitoring Officer – recommendation of the Remuneration Committee

12. As Monitoring Officer, Peter Clark has been ably supported by Nick Graham (Deputy Head of Law and Culture) who has also functioned as the Council's Deputy Monitoring Officer. In the view of the Committee, Nick Graham therefore has the legal and organisational perspective, and experience, to perform the Monitoring Officer role. The Remuneration Committee therefore recommends Council to appoint the Deputy Head of Law & Culture, Nick Graham, as Monitoring Officer.

Returning Officer

13. A successor appointment is also needed to the role of County Returning Officer for county council elections. This is a matter that has been delegated to the Audit & Governance Committee for decision, under the Council's Constitution, and the Committee will meet on 16 September to consider and determine an appointment.

Legal and procedural implications

14. The legal implications have been identified in this report. It is important to reiterate that the Council must appoint a person to be the Head of Paid Service; and that a Monitoring Officer must similarly be appointed (under the Local Government & Housing Act 1983); that a County Returning Officer must be appointed; and that the Council must have a succession of appointment to ensure continuity and compliance.
15. It is suggested that, in the interests of continuity, Council the appointments recommended in this report take effect on the cessation of the current Chief Executive's last day in office.
16. However, the procedures for appointing a person to the role of Head of Paid Service as a successor to the current Chief Executive do involve a two-stage process. The Constitutional position reflects the statutory requirement under the Local Authorities (Standing Orders) (England) Regulations 2001. In short this requires Council (as the appointer) to inform the Proper Officer of the person it intends to appoint. The Proper Officer must then supply particulars to all members of the executive who shall then have a specified period of time to inform the Leader of the Council and, through him, the Proper Officer, whether they have any objection to the appointment of the person concerned. That done, Full Council will then be informed whether any such objections have been received. At that time, Council may then proceed to make a determination, having regard to the comments received.
17. In practice therefore, Council is being asked at this meeting, and in this report, to notify the Proper Officer of the name and particulars of the persons it wishes to appoint as Head of Paid Service in succession to the current Chief Executive. At its next meeting on 8 September 2015, Council will then be furnished with the outcome of the Cabinet consultation and will be invited to make a formal decision on this appointment and, as necessary, any consequential appointment to the position of Monitoring Officer.

18. In any event, to enable flexibility in terms of who may be appointed to the role of the Council's Head of Paid Service, Council is being asked now to agree to amend the Constitution such that the person appointed as Head of Paid Service need not be the Chief Executive. Similarly, while Council has delegated authority to the Audit & Governance Committee formally to appoint a County Returning Officer, Council is asked to amend the Constitution to de-couple the provision which, in practice, currently limits this to the person appointed as Chief Executive.

RECOMMENDATIONS

19. **Council is RECOMMENDED to agree to:**
- (a) amend the Constitution's Scheme of Delegation and Articles (Officers) to reflect that the role of Head of Paid Service may be performed by any officer legally nominated by Council following a recommendation of the Remuneration Committee;**
 - (b) amend the Constitution's Scheme of Delegation to reflect that the role of Returning Officer may be performed by any officer legally nominated by the Council; AND consequently;**
 - (c) notify the Proper Officer of Council's intention to appoint the Chief Legal Officer as the Head of Paid Service with a view, at its next meeting, to:**
 - (i) receiving the outcome of the proper consultation with members of the Cabinet on this proposal and;**
 - (ii) determining whether to proceed with the specified appointment.**

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