

## **COUNTY COUNCIL - 17 FEBRUARY 2015**

### **CHIEF EXECUTIVE AND HEAD OF PAID SERVICE**

#### **Report of the County Solicitor & Monitoring Officer**

#### **Introduction**

1. The County Council faces very serious funding challenges, with all political parties signalling that they expect to have to make significant spending cuts after the general election. Over recent years local government has delivered enormous savings but it is anticipated that it will be expected to bear much of the brunt of these further cuts, as health and education and others, are protected. In addition, the role and approach of the County Council has changed in recent years, becoming much more about working collaboratively through networks and partnerships with others.
2. The view of the Leader of the Council is that a new operating model is needed to address these issues, in order to enable the Council to continue to deliver the outcomes residents deserve and to ensure value for money for tax payers.
3. The Leader therefore proposes that the traditional model of a Chief Executive and separate Directorates needs to be modernised to reduce costs and embrace a more distributed model of managerial leadership with closer working between officers and councillors.
4. It is considered that removing the paid post of Chief Executive and redistributing its responsibilities, including the statutory role of Head of Paid Service, would achieve both savings and a more streamlined, distributed management structure more fitted to the challenges facing the Council in the future.
5. This report therefore seeks Full Council's approval for the removal of the post of Chief Executive and the consequent dismissal by redundancy of the current postholder, and Head of Paid Service, Joanna Simons.

#### **Context**

6. The budget being considered by Council sets out proposals to protect front line services as far as possible, but the Council needs to develop a new approach in order to deal with the significant financial challenges ahead. One option (that will be debated at Council in March) may be the establishment of some form of unitary government in Oxfordshire, with potential for considerable savings through restructuring the democratic and officer structures. Although there are clearly financial benefits to the unitary

approach, reorganising local government in Oxfordshire would require both local and national government backing.

7. In the meantime, the Leader considers the Council needs to take its own steps to ensure that it has a flatter, lower-cost structure in the future; and that, consequently, adapting priorities and structures to deliver savings and frontline services for the people of Oxfordshire is essential. Building on the partnerships developed by the Council over the last few years would be key to this. This will involve:
  - More joint working in all sorts of ways – in health and social care with the NHS, with schools in the Teaching Schools Alliance, our back office partnership with Hampshire and the new Tri-County arrangements for the economy with Buckinghamshire and Northamptonshire;
  - Going “Digital by Default” to make things easier for the public, and streamlining processes through “Lean” working as the Council has been doing in adult social care;
  - Rationalising the Council’s office bases with public sector partners, and rolling out agile working across the Council;
  - Making the best possible use of contracts and being more commercial in all that the Council does.
8. The Leader considers that delivering this agenda requires a new and more networked approach as to how the Council is managed. He is also very clear that it is no reflection on Joanna Simons that a new approach is now being considered. Cllr Hudspeth has said: “Joanna has steered the Council through some significant challenges in the past ten years and this has left the organisation, and the quality of our services, in a strong position. I am very grateful for the commitment that Joanna has personally brought to the Council.”
9. The traditional model of a Chief Executive and separate Directorates has therefore served the Council well over time. However, the Leader is convinced that the challenges now facing the Council require the authority to adapt and embrace a more distributed model of leadership with decision-making devolved down the organisation and with much closer working between officers and councillors.
10. The example of several authorities, including county councils such as Kent, West Sussex and Wiltshire, has shown that councils can function well with a delegated management structure, buttressed with effective governance arrangements. The statutory posts of Head of Paid Service, Chief Finance Officer and Monitoring Officer would remain, as required by law, and would continue to provide robust and pivotal challenge and safeguards. An effective Leader and Cabinet, with the challenge provided by focused scrutiny arrangements will also continue, as now, to deliver strategic and day to day direction and performance management by the Council.

11. If Council agrees this way forward, detailed proposals about these new arrangements will be developed in the coming weeks and the formal elements will be subject to agreement by Council in due course.

## Proposal

12. It is therefore proposed that the Council should operate without a Chief Executive and that the current postholder be made redundant. Clearly this has organisational implications and these can be addressed through an effective redistribution of responsibilities to senior managers.

## Consequential matters

13. Under the Council's Constitution, the Chief Executive is currently responsible for several functions:
- Head of Paid Service: this is a statutory role and each authority must appoint one of its officers to this role (Section 4 of the Local Government & Housing Act 1989). The head of paid service may be any officer of the Council other than the Monitoring Officer.
  - County Returning Officer: this is a statutory role for the purposes of arrangement of county electoral matters for the County Council (Section 35 of the Representation of the People Act 1983)
  - Responsibilities under the Constitution's Scheme of Delegation, including:
    - Management of areas of service specified in the Articles of the Constitution: e.g. support for councillors; corporate management; promotion of strategic objectives; and oversight of the services currently provided by the Chief Executive's Office
    - Ability to exercise any function of the Cabinet or of a Council committee, with appropriate consultation
    - Overarching authority to assume the powers delegated to all other officers
  - Oxfordshire Safeguarding Children Board (OSCB): *Working Together 2013* is the statutory guidance on inter-agency working to safeguard and promote the welfare of children. A key requirement is for the Council's Chief Executive to appoint an Independent Chair to the Board and to hold that person to account for the effectiveness of the Board.
  - Oxfordshire Lieutenancy: In line with other County Councils and national guidance, the County Council also provides support to the Lord Lieutenant of Oxfordshire and the Chief Executive is currently the (unpaid) Clerk to the Oxfordshire Lieutenancy. Whilst the future appointment is a matter for the Lord Lieutenant, he has indicated that he wishes to maintain this valued connection with the County Council.
14. As regards the future appointment of a **Head of Paid Service**, this is a matter for Full Council to determine, on receipt of a recommendation of the Remuneration Committee and would be the subject of a further report.

15. As regards the appointment of a **County Returning Officer**, this is the sole responsibility of Full Council.
16. As regards the future structure of directorates and establishments, following the redundancy of the Chief Executive, this is a matter for Cabinet (under the Officer Employment Procedure Rules).
17. It is therefore intended that a report drawing together all of these consequential changes and appointments, together with arrangements for OSCB oversight, and support for the Lord Lieutenant, will be brought to Council for approval.

### **Statutory Procedure**

18. Before notice of redundancy can be given to the Chief Executive and Head of Paid Service, the Council must comply with the Local Authorities (Standing Orders)(England) Regulations 2001. These are also replicated in the Council's Constitution under the Officer Employment Procedure Rules.
19. In essence, Council may not give notice of dismissal to the Chief Executive and Head of Paid Service (through redundancy in this case) unless the Proper Officer (myself as County Solicitor and Monitoring Officer in this case) has notified every member of the Cabinet of:
  - (a) The name of the person to be made redundant and the particulars of relevance to the dismissal;
  - (b) The period within which the Cabinet and Leader of the Council may object.
20. The decision to give notice may then be made by Council if neither the Leader nor the Cabinet Members have raised any objections within the relevant period; or if they have, that the Council is of the view that any such objection is not material or well-founded.
21. The notice to Cabinet Members was duly given. Under the Council's Officer Employment Procedure Rules, there is a statutory requirement for the Leader to summarise the views of Cabinet Members in response to this proposal. All of the Cabinet have responded and are, on balance, supportive of this proposal. However, two Cabinet Members did express reservations and in summary these are as follows:
  - (a) Councillor Judith Heathcoat has reservations about making the decision to abolish the post of Chief Executive without sufficient level of detail with regards to the governance arrangements that are proposed to be put in place to reflect any necessary changes to the management structure.
  - (b) Councillor Hilary Hibbert-Biles shares the reservations of Councillor Heathcoat and in addition has concerns with regards to the loss of an Officer as the single lead for the Council.

22. Nonetheless, overall, the view of the Cabinet, duly reported by the Leader, is that there are no formal objections to this proposal. Therefore, the Leader recommends Council to accept the proposal to abolish the role of Chief Executive.

## **Financial, staff and legal implications**

### ***Financial***

23. The redundancy will, of course, require a severance payment. Whilst this would normally not be a matter of public record until the accounts are produced, the Chief Executive is conscious of the public interest in this matter and, mindful of this, in the interest of openness and transparency, has requested that the financial details of this proposal are set out in full in this report.
24. Joanna Simons has worked in local government for 38 years, 27 of which have been as a senior manager. Under the Council's agreed Redundancy Policy she will receive compensation for the loss of her employment of £151,147. This is calculated in accordance with the statutory calculation taking into account years of service and age and is based on one and a half times the statutory weeks payable on actual pay, which is the same for all Oxfordshire County Council staff.
25. As a member of the Local Government Pension Scheme (LGPS), Joanna Simons has contributed throughout her employment in accordance with the Regulations, and currently her pension contribution is 12.5% of her salary. The LGPS Regulations require that an employee over the required age and with sufficient service who is made redundant will receive early payment of his/her pension. There is no enhancement made to this pension in accordance with the Council's Retirement and Pensions Policy. The cost of the early payment of the pension falls to the Council and is estimated to be £422,796, which is a contractual requirement. This sum will be reimbursed directly into the Oxfordshire LGPS Fund; it is not a direct payment to the Chief Executive.
26. The saving envisaged in ceasing to operate the specific post of Chief Executive is £250,000 per annum and this will be built into the base budget from 2016/17 as part of the Service and Resource Planning process next year.

### ***Staffing***

27. The Council is not required to operate with a Chief Executive. However the Council is required to appoint to the statutory roles of Head of Paid Service and County Returning Officer. The Leader is confident that the redistribution of managerial roles currently listed in the Constitution, can be accommodated within existing staffing resources.

## ***Legal***

28. The legal implications of the proposal to operate without a Chief Executive have been addressed elsewhere in this report. In summary, it rests with Full Council to determine the dismissal of the Chief Executive and the Head of Paid Service, in accordance with the Local Authorities (Standing Orders)(England) Regulations 2001. If the decision is taken to delete the post of Chief Executive, a future report to Council will deal with the consequential legal appointments of the positions of Head of Paid Service and the County Returning Officer, together with any additional issues of delegation requiring Council's approval.

## **RECOMMENDATIONS**

29. **Council is RECOMMENDED to:**
- (a) note that no objections from Cabinet Members have been received, and so agree the removal of the post of Chief Executive from the Council's organisational structure;**
  - (b) agree the dismissal by redundancy of the current Chief Executive and Head of Paid Service, Joanna Simons, on the terms outlined in this report; and, in consequence,**
  - (c) ask the Remuneration Committee to submit recommendations to Council as to the appointment of a Head of Paid Service;**
  - (d) agree to receive a further report, following decisions by Cabinet under paragraph 16 above, detailing other consequential appointments, delegations and organisational matters, for Council consideration;**
  - (e) authorise the County Solicitor to make any consequential amendments to the Constitution as a result of these decisions;**
  - (f) thank Joanna Simons for her dedicated service to the Council as Chief Executive over the last ten years.**

**PETER CLARK**

County Solicitor and Monitoring Officer

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Background papers: none.

February 2015