

Confidential and Legally Privileged

Proposed Senior Management Restructure - Constitutional Issues

1. This note deals with some constitutional points arising from the proposed senior management restructure, particularly in relation to the appointment of the Head of Paid Service.

Statutory Position of Head of Paid Service

2. The Council has a statutory duty under Section 4 Local Government and Housing Act 1989 to:
 - (a) designate one of its officers as the head of its paid service;
 - (b) provide that officer with such staff, accommodation and other resources as are, in their opinion, sufficient to allow their statutory duties to be performed.
3. The head of paid service has a duty, where they consider it appropriate to do so, to prepare a report to the council setting out their proposals in respect of the following matters:
 - The manner in which the discharge of the different functions of the council is coordinated;
 - The number and grades of staff required by the council for the discharge of its functions;
 - The organisation of the council's staff; and
 - The appointment and proper management of the council's staff.
4. Under statutory rules incorporated in the council's constitution the appointment and dismissal of, and taking disciplinary action against staff, other than specified senior officers, must be discharged on behalf of the council by the head of paid service or by an officer nominated by him.
5. The role of head of paid service may be discharged by any officer, other than the monitoring officer.

Constitutional Position

6. Responsibility for confirming the appointment of the head of paid service is reserved to full Council (Part 3 – Paragraph 1.9 of the Constitution). Any change would also involve amending the Constitution, which is likewise reserved to the Council (Part 3- Paragraph 1.4) An interim appointment could, if necessary, be made by a Corporate Director in consultation with the Leader under the emergency powers provisions of the Officers' Scheme of Delegation.
7. Appointment of the statutory directors for Children's Services and Adult Care and Public Health are not specifically reserved to full council, but details of the

holders of these offices are set out in the Constitution so any changes require approval by full council under paragraph 1.4 of the Constitution.

Background

8. In November 2011 as part of a senior management restructure involving the dismissal of the Chief Executive on the grounds of redundancy, the statutory role of head of paid service was designated to the Service Director Human Resources and Organisational Development. The reasons for this were that this position aligned closely with the role of head of paid service and provided appropriate checks and balances together with the Monitoring Officer and Section 151 Officer within the corporate leadership team.
9. This arrangement was reviewed in November 2013 when Council agreed that the role of head of paid service should sit with the then three corporate directors on a rotational basis with each corporate director taking on the responsibility for 4 months. The reasons for this change was to reflect statutory guidance on the council's safeguarding responsibilities and to further strengthen the organisational leadership role of the corporate directors. The arrangement provided that oversight of the work of the chair of the Local Safeguarding Children's Board (LSCB) would be undertaken by the other two corporate directors when the Corporate Director with statutory responsibility for children's services was discharging the duties of the head of paid service.

Options

10. There are various options open to the Council in the designation of the Head of Paid Service role under the proposed leadership model. These include:
 - a. Maintain the current practice of rotating the role between the corporate directors for an agreed period, which could be for the whole or part of a year;
 - b. Designate one of the corporate directors as the head of paid service until such time as this is reviewed by the Council;
 - c. Appoint the head of paid service annually at the Council's AGM ;
 - d. Designate a post other than one of the corporate directors (and the Monitoring Officer) to be the head of paid service e.g. the Associate Director People and Business, in line with the arrangements operated previously as outlined in 8 above.
11. It will be for the Leader to propose the option that best meets the objectives of the proposed senior management structure. As already stated any proposal will be subject to the approval of full Council.