

REPORT TO	DATE OF MEETING
COUNCIL	5 OCTOBER 2016



SUBJECT	PORTFOLIO	AUTHOR	ITEM
APPOINTMENT OF AN INTERIM CHIEF EXECUTIVE AND ESTABLISHMENT OF AN APPOINTMENT AND EMPLOYMENT PANEL FOR STATUTORY OFFICERS	LEADER	S NUGENT	5

1. SUMMARY AND LINK TO CORPORATE PRIORITIES

This report provides details of the appointment process undertaken to recruit an Interim Chief Executive and the current position regarding the role of Section 151 Officer and Head of Paid Service, together with other relevant matters. It also sets out the reasons for the establishment of an Appointment and Employment Panel for Statutory Officers.

The report reflects the Corporate Priority of an “Efficient, Effective and Exceptional Council”.

2. RECOMMENDATIONS

Council is asked to approve;-

1. The appointment of Jean Hunter as Interim Chief Executive, for twelve months.
2. A supplementary estimate in respect of this interim appointment of £20,000 in 2016/17 and £20,000 in 2017/18.
3. The appointment of the Director of Development, Enterprise and Communities as the Councils Head of Paid Service for twelve months.
4. The arrangement whereby the Head of Shared Financial Services will fulfil temporarily the role of Section 151 Officer, pending an interim appointment.
5. Waiving of Officer Employment Procedure Rules, 4I, (2), (3) and 4I, (4) (a) & (b) of the Constitution, in respect of the above.
6. The establishment of an Appointment and Employment Panel for Statutory Officers. This will be a Standing Committee of the Council, [to enable this to happen Standing Order 21 needs to be suspended].

3. DETAILS AND REASONING

1. Appointment of an Interim Chief Executive

A report was considered at the EGM of the Council on 15 September 2016, proposing to establish an Appointment and Employment Panel, with the report setting out the details and rationale for establishing the Panel. The Council, did not however, approve the report.

In respect of the Appointment aspects of the proposed Panel, the Council under its constitution, must give its approval to the most appropriate member body for the selection and appointment of

the Head of Paid Service. The Panel must include at least one member of the Cabinet and reflect the Council's political balance.

As the proposal was not approved and given the urgent need to recruit an Interim Chief Executive, the Task Group agreed to proceed with the recruitment process on an informal basis and report back to Council. The Council is therefore required to waive parts of Officer Employment Procedure Rules of the Constitution.

Following this the Task Group subsequently became the Selection Panel, for the selection process, with interviews being held on 21 and 22 September. The Panel comprised of:-

Councillor P Mullineaux, Leader of the Council
Councillor C Clark, Deputy Leader of the Council
Council M Titherington*, Deputy Leader of the Labour Group
Councillor D Howarth, Leader of the Liberal Democrat Group

*deputising for Councillor P Foster

The Panel was advised by the Chief Executive of Preston City Council.

The unanimous decision of the Panel was to recommend the appointment of Jean Hunter, as Interim Chief Executive.

The Task Group made it very clear, as part of recruiting an Interim Chief Executive, that an experienced Chief Executive was required, who would be able to start managing the range of issues the Council needs to address, with immediate effect.

As part of the recruitment process a procurement exercise was undertaken and research was carried out, to ascertain the level of remuneration within the market, based upon the requirements the Council had specified for the role. As a result of this, the remuneration to be offered to the Interim Chief Executive is considered reasonable and applicable.

The estimated cost of the Interim Chief Executive for the twelve month period is £176,000. This equates to an estimated additional cost, above the salary budget for the previous Chief Executive, of £40,000 [£20,000 in 2016/17 and £20,000 in 2017/18]. This unbudgeted cost will be met from reserves.

It is worth noting at this point, that the previous Chief Executive, [whose employment terminated with effect from 4 October 2016], held three positions in the Council, namely, Chief Executive, Chief Finance Officer [Section 151 Officer] and Head of Paid Service. These three positions now need to be separated out, as the Interim Chief Executive will not fulfil the positions of Head of Paid Service or Section 151 Officer.

As a consequence of separating these roles, there will be other additional costs incurred in relation to the interim arrangements.

2. Head of Paid Service

As explained, the Interim Chief Executive will not fulfil the position of Head of Paid Service. The Constitution refers to the job title of Head of Paid Service, rather than Chief Executive. This is because under normal circumstances the recruitment would be to a permanent Chief Executive, who would also fulfil the role of Head of Paid Service. The Head of Paid Service however, needs to be an employee of the Council and the Interim Chief Executive will not be an employee of the Council. The Head of Paid Service is a residual role having certain responsibilities that can be called upon periodically. The role is responsible for;

- the manner in which the discharge by the authority of its different functions is coordinated;
- the number and grades of staff required by the authority for the discharge of its functions;
- the organisation of the authority's staff; and
- the appointment and proper management of the authority's staff.

It is therefore proposed that the Director of Development, Enterprise and Communities fulfils this role during the interim period.

When the Council recruits a permanent Chief Executive, the postholder will be also the Head of Paid Service.

The Council therefore needs to waive parts of the Officer Employment Procedure Rules, of the Constitution.

3. Section 151 Officer

As explained, the Interim Chief Executive will not fulfil the position of Section 151 Officer. In order to address this matter in the immediate term, with effect from 5 October 2016, it is proposed that the Head of Shared Financial Services fulfils this role on a temporary basis.

There is a capacity issue at a senior level within the Council and it is therefore proposed that the Section 151 Officer arrangement is temporary, pending the appointment of an additional senior level interim role. The precise areas of responsibility for this role are still to be determined, based upon the expertise of the person appointed. It is envisaged however, that the appointee will have overall responsibility for all Financial and Assurance Services responsibilities together with other responsibilities to be agreed by the Interim Chief Executive. This additional interim role is required in order to alleviate capacity at a senior officer level within the Council.

The Council therefore needs to waive parts of the Officer Employment Procedure Rules of the Constitution.

There will be an additional cost of providing this senior officer support. As timings for appointment and the levels of responsibility for the role still have to be determined, it is not currently possible to provide an accurate cost estimate. If the cost cannot be met from within existing budgets, then a supplementary estimate request will be put forward for member approval, in accordance with financial regulations.

4. Governance Committee 21 September 2016

Under normal circumstances the report to the EGM of the Council, regarding the establishment of an Appointments and Employment Panel for Statutory Officers, would have been considered by the Governance Committee, prior to it be reported to Council, however due to constraining timescales this was not possible.

Given the circumstances explained in this report, the Governance Committee were therefore able to have the opportunity to consider the report to the EGM, at the Governance Committee meeting held on 21 September 2016

The Governance Committee resolved;

That Council be recommended to approve the establishment of an Appointments and Employment Panel for Statutory Officers as a standing committee of the Council.

5. Appointment and Employment Panel

As reported to the EGM of the Council on 15 September 2016, The Council does not have a Panel that is responsible for the selection and appointment of a permanent Chief Executive and the two other statutory officers (the Monitoring Officer and the S151 Officer). Nor does it have a Panel that is responsible for fulfilling the role of an Investigating and Disciplinary Committee in accordance with the Model Procedure set out in the Joint Negotiating Committee for Chief Executives Conditions of Service Handbook. The three officers concerned are all entitled to statutory protection by the Regulations that relate to their employment and any disciplinary issues that arise.

The proposal to establish the Panel is timely as, the JNC for Local Authority Chief Executives is about to issue a revised Conditions of Service Handbook. The new Handbook takes account particularly of the new disciplinary procedures required, following the coming into force of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 that replaced the previous Regulations.

5, (a) Appointment Panel

With regard to the appointment aspects of the Panel, the Council must comply with the terms of its Constitution, that full Council shall agree the most appropriate member body for the selection and appointment of a permanent Chief Executive. The Panel must include at least one member of the Cabinet and reflect the Council's political balance.

Following completion of this process the preferred candidate will be recommended to be appointed following approval at a full Council Meeting.

5, (b) Employment Panel [Investigating and Disciplinary Committee – and Appeals Committee]

With regard to the employment aspects of the Panel, an Investigating and Disciplinary Committee of three members including at least one member of the Cabinet needs to be established, drawn from the membership of the Appointment and Employment Panel to deal with the issues raised in this report. This will deal with any disciplinary issues in respect of the three statutory officers in accordance with the JNC for Chief Executives revised Model Disciplinary Procedure and Guidance – England. In addition, in order to respond to any appeals received, short of dismissal, the remaining three members [which should include at least one member of the Cabinet] will form an Appeals Committee.

The Council is able to vary the Model Procedure, in so far as the parties locally agree to any such variations. The main variation that the Council would introduce is an initial filter stage in the Procedure, whereby the Leader, Head of HR and Monitoring Officer would consider the severity, relevance or otherwise of any complaint or allegation relating to the conduct or capability of the Chief Executive or any other substantial concern (or for any of the other two statutory officers, the Chief Executive would be part of the Panel, rather than the Monitoring Officer),. This initial filter would decide whether the complaint or allegation should proceed to the first stage of the Model Disciplinary and Guidance Procedure.

If there is a conflict of interest or other identified general issue regarding the positions named above, then the Deputy Leader, Deputy Monitoring Officer and a HR Adviser, would fulfil the necessary role on the Panel.

It should be noted that the Council already has something similar to this initial filter stage in place.

The Governance Committee on 27th January 2016, considered the changes to the statutory Dismissal Procedure for Protected Officers, following the introduction of the Local Authorities

(Standing Orders) (England) (Amendment) Regulations 2015. The issues in the report to the Governance Committee were then reported to the Council Meeting on 30th March 2016 as part of the Cabinet report.

The two key issues that the Regulations required the Council to agree were the need to have an Independent Person Panel as part of the process and, if the recommendation from the Investigation and Disciplinary Sub Committee was for dismissal, then this recommendation would need to be approved by way of a vote by elected members at a full Council meeting in the light of the views of the Independent Person Panel and any submission by the statutory officer concerned. Nothing fundamental has changed in our new approach with regard to these requirements.

Any other aspects of the Governance Committee Report are now superseded by the new Model Disciplinary Procedure and Guidance.

The flow chart at Appendix A, illustrates the key stages in the proposed JNC for Chief Executives revised Model Disciplinary Procedure.

6. Membership of Appointment and Employment Panel

It is proposed that the Appointment and Employment Panel will comprise of 6 elected members, including 2 Cabinet members and it will be politically proportionate. Those Councillors allocated to the Appointment and Employment Panel, will be confirmed as part of the review of the members of Committees.

7. Pay Policy 2017/18

The Pay Policy for 2017/18 will be revised to reflect the interim arrangements the Council now needs to have in place.

8. Constitution

Following approval of this report, the Constitution with regard to Officer Employment Procedure Rules will be reviewed accordingly.

FINANCIAL	<p>Regarding the appointment of an Interim Chief Executive there are estimated additional costs of £40,000 (£20,000 in 2016/17 and £20,000 in 2017/18), to be funded from Reserves.</p> <p>The Interim Chief Executive will not fulfil the position of Section 151 Officer and as a consequence of separating these roles, there will be other additional costs incurred in relation to fulfilling this role on an interim basis. The timings for appointment and the levels of responsibility for the role have still to be determined and therefore it isn't currently possible to provide an accurate cost estimate. If the cost cannot be met from within existing budgets, then a supplementary estimate request will be put forward for member approval, in accordance with financial regulations</p> <p>Regarding the Investigating and Disciplinary Committee, if as part of the model procedure, an independent investigator is commissioned, this will incur costs associated with the investigation undertaken.</p>
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LEGAL	<p>With regard to the appointment of a permanent Chief Executive/Head of Paid Service the Constitution states;-</p> <p>“Full Council shall agree the most appropriate panel for the selection and appointment of that position. That panel must include at least one member of the Cabinet and reflect the Council’s political balance”.</p> <p>With regard to the introduction of an Investigating and Disciplinary Sub-Committee together with the way of dealing with complaints against protected officers, this is in accordance with the relevant legislation – namely the Local Authorities [Standing Orders] [England] [Amendment] Regulations 2015.</p> <p>The appointment of a Head of Paid Service and Chief Finance Officer/S151 officer, for an interim period are essential requirements. Failure to ensure that these roles are fulfilled could lead to the council being challenged for failing to meet its statutory duties by virtue of S4 of the Local Government and Housing Act 1989 and S114 of the Local Government Finance Act 1988. Should these roles be unfulfilled, the council could be challenged by way of a Judicial Review, and could also be at risk of the DCLG invoking their powers.</p>
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RISK	None identified
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THE IMPACT ON EQUALITY	No adverse impact for equality issues arising from this report.
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OTHER (see below)

<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Crime and Disorder</i>	<i>Efficiency Savings/Value for Money</i>
<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>