

17 FEBRUARY 2016

CHIEF EXECUTIVE: MIKE ROBINSON

**COUNCIL GOVERNANCE AND SENIOR MANAGEMENT
ARRANGEMENTS, INCLUDING THE ROLES OF SECTION 151 & MONITORING OFFICERS**

PURPOSE

1. To seek Council's approval for proposals to improve Governance arrangements across the Council, including proposed changes to senior management arrangements within the Commercial and Corporate Services Directorate, affecting the Assistant Directors of Finance & Investment and Organisation and Governance who currently undertake the statutory roles of Section 151 Officer and Monitoring Officer respectively.

SUMMARY OF RECOMMENDATIONS

2. It is recommended that:
 - i) Council agrees the following alterations to the senior management structure within Corporate & Commercial Services.
 - a) The creation of a new post titled Director of Finance, Governance & Support at Strategic Director level;
 - b) The deletion of the post of Assistant Director Organisation & Governance. If deletion is approved, Council will need to designate an alternative post as Monitoring Officer and the current post holder would be potentially redundant;
 - c) The deletion of the post of Assistant Director Finance & Investment. If deletion is approved, Council will need to designate an alternative post as Section 151 Officer. The Assistant Director, Finance and Investment has the right to be considered for the position of Director of Finance, Governance and Support. If unsuccessful, the current post holder would be potentially redundant.
 - ii) Council notes the following impacts of the above decisions:
 - a) Deletion of the two current Assistant Director posts and consequent potential redundancies, and
 - b) Redesignation of Section 151 Officer and Monitoring Officer roles.
 - iii) Council agrees the following designations of statutory roles:
 - Section 151 Officer – Director of Finance, Governance and Support (new post);
 - Monitoring Officer – Head of Legal Services;
 - Returning Officer – Head of Democratic Services; and
 - Electoral Registration Officer – Head of Democratic Services.

iv) Council notes the following designation of role:

- Information Governance Risk Owner – Head of Legal Services.

BACKGROUND

3. During 2014/15 a number of governance concerns were identified in relation to project management, decision-making and record-keeping arrangements. To gain further understanding of these issues, Internal Audit were commissioned to review arrangements across the Council.
4. In tandem with the above, Deloitte, the Council's external auditor produced their ISA260 report as part of the process of producing the Councils Statement of Accounts. This was reported to Corporate Affairs and Audit Committee on 24 September 2015, and provided a "qualified" judgement in relation to the Council's Value for Money arrangements. The qualified judgement related to 3 major concerns:
 - The lack of programme and project management framework within the Council;
 - Weaknesses in relation of Capital Programme Monitoring; and
 - Governance arrangements for the disposal of properties.
5. The ISA260 report also contained a number of further recommendations for improvement in relation to financial and governance processes. A report was subsequently issued by Deloitte on the 9 November, which highlighted a range of further governance issues that they felt had not been addressed during their tenure as External Auditor since 2013.
6. In the main, senior management responsibility for delivering the improvements required resides with either the Assistant Director of Finance & Investment, who is also the Section 151 Officer, or the Assistant Director of Organisation & Governance, who is also the Monitoring Officer.
7. This split of responsibilities is considered a major risk to the delivery of improvements. For example, with Capital Monitoring, the Assistant Director of Finance and Investment has responsibility for the financial element of the process, whilst the Assistant Director of Organisation and Governance has responsibility for other parts such as project monitoring, programme management and performance. This systemic weakness is considered a major contributory factor and a significant risk to making the required improvement.
8. The Governance improvement themes that have been developed require consistent and clear leadership and management direction. At present the Council's ability to ensure this is put at risk due to the split of responsibilities across the themes, which are;
 - Programme Management
 - Project Management
 - Capital Monitoring
 - Revenue Monitoring
 - MTFP processes
 - Balanced Scorecards
 - Asset Disposals
 - Risk Management
 - Decision-making

9. Placement of responsibility in a single area will also provide a consistent and single point of contact for Executive Members, Scrutiny Chairs and the Corporate Affairs and Audit Committee.

PROPOSAL

10. Members noted a report at the Council meeting of 6 January which, amongst other things, made reference to this review and to the formal consultation that was underway with the current Assistant Directors. Formal consultation with the individuals concerned has been in relation to a proposal which maximises the potential to ensure that issues are resolved.
12. The proposal consulted upon, was to create a new senior management post at Director level with responsibility for Finance and Governance matters across the Council. The proposal was for the post to replace the current posts of Assistant Director of Finance & Investment and Assistant Director of Organisation & Governance. For clarity, this proposal is not to be taken as a criticism of the performance of the individuals, but rather is a response to the discovered systemic weaknesses in corporate governance which require rectification in the interests of the Council.
13. As these posts currently fulfil the statutory roles of Section 151 Officer, Monitoring Officer and Returning Officer (the designation of each requiring Council approval), it was proposed that as part of the restructure these roles would be re-assigned as outlined below.

Role	Responsible Officer	Deputy
Section 151 Officer	Director, Finance & Governance	Heads of Finance
Monitoring Officer	Executive Director, Corporate & Commercial Services	Head of Legal Service
Returning Officer	Chief Executive	Head of Democratic Services

14. Consultation regarding the proposals commenced on the 8 December 2015 and concluded on 21 January 2016. The issues raised and the management response to these is summarised in the table below.

Post	Impact
A consultee proposed that the Monitoring Officer should be the most senior legal professional employed by the Council	Accepted – original proposal amended to recommend that Head of Legal Services is assigned Monitoring Officer.

A consultee proposed that the Returning Officer should be an officer with experience of planning and running elections	Accepted – original proposal amended to recommend that Head of Democratic Services is assigned Returning Officer
A consultee noted that the Information Governance Risk Owner required assigning	To be assigned to Head of Legal Services
A consultee noted that the Electoral Registration Officer requires assigning	To be assigned to Head of Democratic Services
A consultee's Union put forward an alternative proposal that the post of Executive Director of Corporate and Commercial Services has failed to effectively co-ordinate the services within the directorate and that a structural change which addressed this problem would be a more appropriate approach.	The proposal was considered but rejected as it was not an appropriate solution that would, in any way, address the fundamental issues. It is clear that such collective and co-ordinated approach has not had sufficient impact, in this area, largely due to key responsibilities being split across two Assistant Directors. Leaving those responsibilities split cannot therefore address the systemic and procedural issues which the division of responsibility creates.
A consultee proposed that direct reports should be included in the consultation process	Direct reports have now been consulted on proposals, and those consultations have been concluded.

IMPACT ASSESSMENT

15. An impact assessment was undertaken as part of the development of the proposals and is attached to this report at Appendix 1. The IA found that there were no concerns that the proposals could have a disproportionate adverse impact on a group or individuals because they hold a protected characteristic.

OPTION APPRAISAL/RISK ASSESSMENT

16. Other senior management configurations are not considered adequate to address the issues and risks facing the Council. The option presented will have a significant positive impact on the Council's ability to improve finance and governance arrangements to address the weaknesses highlighted in this report. Conversely, the 'do nothing' option will not assist the Council in resolving its corporate governance issues.

FINANCIAL, LEGAL AND WARD IMPLICATIONS

17. The proposed new senior management structure represents an annual reduction in costs estimated at £80,000 per year. A further review aimed at strengthening the management layer below Director will take place before any assessment of the sustainability of this saving can be made.
18. On 11 December 2015, the Assistant Director, Organisation & Governance challenged the legality of the process on legislative, contractual and constitutional grounds, and maintained this view thereafter. On 4 January 2016, the Monitoring Officer raised the same issue, and maintained this view until 18 January 2016, when the Monitoring Officer deferred their role in the matter to the Deputy Monitoring Officer.
19. Advice received from the Head of Legal Services, Leading Counsel, and Bevan Brittan confirms that the process adopted to date, and the process to present this proposal for Council to consider, meets all legislative, contractual and constitutional requirements. In addition, the Chief Finance Officer has sought appropriate advice in respect of the lawfulness of the process. The Chief Finance Officer's view, based on the advice received, is that provided no decision to dismiss has yet been made the Council has not, from a local government law perspective, acted unlawfully but must follow the requirements of the 2001 Regulations so that the dismissal is made by the Council. The Chief Finance Officer's understanding is that the Council does fully intend to comply with this.

RECOMMENDATIONS

20. It is recommended that:
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REASONS

21. In order to successfully address the finance and governance issues raised as a result of the reports of Internal Audit and the annual report from external audit, and to ensure the Council's corporate governance arrangements are fit for purpose.

BACKGROUND PAPERS

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