

Report of:	Leader of the Council
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Extraordinary Council
11 March 2021
Interim Management Arrangements and Future Options

1 Purpose of Report

- 1.1 To consider the options available to the Council following the resignation of the Managing Director and to agree Interim arrangements pending a course of action being determined.

2 Recommendation(s)

- 2.1 That Council approves the following interim arrangements with effect from 11 March 2021:
- (i) That, in accordance with Section 4 of the Local Government and Housing Act 1989, the Deputy Managing Director is designated Head of Paid Service and is appointed as Interim Managing Director; and
 - (ii) That, in accordance with sections 8 and 35 of the Representation of the People Act 1983, the Head of Governance and Corporate Services is appointed as the Local Returning Officer and local Electoral Registration Officer.
- 2.2 That the Interim Managing Director be authorised to exercise all delegated powers of the role of Managing Director as set out in the Constitution, including the Proper Officer functions delegated to the Managing Director (but excluding the Proper Officer functions and Delegations connected with the role of Electoral Registration Officer and Returning Officer).
- 2.3 Subject to the Council giving agreement at 2.1, that the Deputy S151 Officer and Chief Accountant, undertakes the role of interim Head of Finance and is appointed as Interim Section 151 Officer.
- 2.4 That the Interim Managing Director in accordance with the role of Head of Paid Service is delegated the authority, within existing resources, to put in the necessary interim arrangements for the Head of Environment & Healthy Lifestyles,

and at service manager and below, to ensure business continuity and the resilience of the management structure.

- 2.5 That the Council makes a formal approach to Stafford Borough Council in relation to the Stafford Borough Council Chief Executive acting as a Joint Chief Executive for a period of 12 months ,with effect from the retirement of the Interim Managing Director, to enable a Business Case for a Joint Chief Executive, and further shared services, to be developed between Stafford Borough Council and the Council.
- 2.6 That subject to a positive outcome to 2.5 above a report is submitted to both Councils detailing the rationale and terms and conditions for the proposal to share a Chief Executive on an initial 12-month interim basis.
- 2.7 In the event that the sharing of a Chief Executive is not possible, the Head of Human Resources is authorised to commence the recruitment process for the Managing Director post and a budget of £30,000 is set aside for the appointment of a recruitment agency specialising in the recruitment of senior management posts in the public sector. The nature of the recruitment (permanent/ interim) and intended timeline to be agreed with the Group Leaders of the Council.
- 2.8 That the Head of Human Resources, in consultation with the Leader of the Council, is authorised to finalise the necessary arrangements in relation to the above recommendations.

3 Key Issues and Reasons for Recommendations

Key Issues

- 3.1 The Managing Director left the Council with effect from 28 February 2021. The Council is required to have a Head of Paid Service, an Electoral Registration Officer and a Local Returning Officer with the previous Managing Director having undertaken all these roles.
- 3.2 There is no legal requirement to have a Managing Director or Chief Executive and hence a number of options exist to fill that role but still ensure compliance with the requirement to have the three statutory roles stated in paragraph 3.1 above. The report has looked at each option in detail and each has financial, capacity and resilience issues.
- 3.3 An independent Management Review was undertaken in 2019/ 2020 that indicated that a review of the management structure of the Council was necessary in order to improve its resilience and ensure capacity was aligned with the priorities of the Council as reflected in its Corporate Plan.
- 3.4 The Council faces material deficits in its budget for 2022-23 and 2023-24 and amongst other initiatives being considered is the further sharing of services with Stafford Borough Council.
- 3.5 The report therefore proposes that a formal approach is made to Stafford Borough Council to share their Chief Executive on an initial 12 month interim basis, following the retirement of the Interim Managing Director, in order to allow the development of a Business Case for the further sharing or integrating of services

together with other opportunities for further collaboration between Stafford Borough Council and the Council.

- 3.6 In order that the Council can maintain business continuity, pending the outcome of such discussions, and in particular due to Local Elections taking place in May 2021, a number of interim appointments are recommended.
- 3.7 In the event that the sharing of a Chief Executive is not possible, a recruitment process for a Managing Director should be implemented as soon as practically possible by the Council.

Reasons for Recommendations

- 3.8 The Council needs to have an interim management structure in place to oversee the delivery of corporate priorities and is required to have an officer designated as Head of Paid Service and to have an Electoral Registration Officer and Local Returning Officer.

4 Relationship to Corporate Priorities

- 4.1 The appointment of a permanent Head of Paid Service is central to the delivery of the Corporate Plan and the management of the business of the Council.

5 Report Detail

Background

- 5.1 Members will be aware that the Managing Director submitted his resignation and is no longer an officer of the Council. The departure was subject to a settlement agreement that reflected the contractual obligations of the Council. The Managing Director post replaced the previous Chief Executive role and is also designated as the Head of Paid Service.
- 5.2 The Head of Paid Service is a statutory post as determined by the Local Government & Housing Act 1989.
- 5.3 In accordance with the Act and as reflected in the Council's constitution:
- (i) The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
 - (ii) The Head of Paid Service may not be the Monitoring Officer. For the purposes of Good Governance, the Head of Paid Service is preferably not the Chief Finance Officer.
 - (iii) Overall corporate management and operational responsibility (including overall management responsibility for all Officers).

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- (iv) Provision of professional advice to all parties in the decision-making process.
 - (v) Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions.
- 5.4 The roles of Returning Officer and Electoral Registration Officer place personal statutory responsibilities on the officer undertaking these roles and are separate from their duties as an officer of the Council. The office holder must have a good working knowledge of the electoral process and the law regulating it.
- 5.5 The Electoral Registration Officer is the person with the statutory responsibility for the creation and maintenance of the register of electors and the absent voters' lists. This person takes responsibility for publishing a revised electoral register and issuing monthly alteration notices.
- 5.6 The Returning Officer is responsible for the organisation and undertaking of parish and district elections, local polls, and referendums. The Returning officer is also the Acting Returning Officer for UK Parliamentary Elections.
- 5.7 The designation of Head of Paid Service, and the appointment of Electoral Registration and Returning Officers, is a Full Council decision however the roles do not necessarily need to be at Chief Executive/Managing Director level and do not need to be held by the same officer.

Interim arrangements

- 5.8 As set out above, the Council is required by statute to have both a Head of Paid Service, an Electoral Registration Officer, and a Returning officer. Given the resignation of the Managing Director and the absence of a lead-in time to determining a replacement, it is necessary to put in place interim arrangements until such time that a permanent solution can be implemented.
- 5.9 Bob Kean, is currently denoted by the Managing Director to be his deputy and it is therefore proposed that he is designated Interim Managing Director and Head of Paid Service, and this position is reviewed at the end of June 2021, in advance of his intended retirement in mid-July.
- 5.10 In accordance with the Constitution it is preferable that the Head of Paid Service is not the Section 151 Officer. Consequently, to enable the Interim Managing Director to undertake this role, it is proposed that the Deputy Section 151 Officer and Chief Accountant, acts as the interim Head of Finance and is appointed as the Section 151 Officer pending a further report to Council as appropriate.
- 5.11 The appointment of the Returning Officer is of pressing priority with local Elections taking place on 6 May 2021. It is proposed that the Head of Governance and Corporate Services is appointed to this role for the local elections and until clarification is provided in relation to the permanent appointment of Head of Paid Service. The postholder has experience of managing elections having had responsibility for the service since 2011.

Management Structure

- 5.12 The appointment of Bob Kean as the Interim Managing Director creates an opportunity to review the options for the replacement of the Managing Director post and the Management Structure of the Council.
- 5.13 The last Management Restructure was undertaken in 2017 and this included a reduction in the number of Heads of Service from 6 to 5 with the duties of the Head of Environmental Health being re-allocated to other Heads of Service. The restructure was effectively financially driven and formed part of the Financial Recovery Strategy following the closure of Rugeley Power station. In determining the Management structure of the Council it is necessary to consider not only the financial challenges facing the Council but also the need to provide expertise, capacity and resilience to deliver the Corporate Plan and in particular the Council's response and recovery from the ongoing impact of COVID 19.
- 5.14 The Council is likely to face similar financial pressures this time. The Budget considered by Council at its meeting on the 10 February 2021 showed that an ongoing deficit of some £1.8 million potentially exists in 2023-24 and hence the Council will need to consider all potential saving options going forward once the true deficit is identified.
- 5.15 However, an independent Management Review by the West Midlands Employers Organisation in 2019/2020 highlighted that the main area of concern in relation to Management was around "longer-term resilience, resources are stretched and this will have a long-term effect if it continues "
- 5.16 The review, reflecting the range of different organisational structures across the West Midlands, was inconclusive with regard to the terms and conditions of the current structure.
- 5.17 The Council was assessed as having a flat structure of Managing Director (Tier1), Heads of Service (Tier2) and Service Managers with other West Midland authorities tending to have Tier 2 posts at Strategic / Executive / Corporate Director / Assistant Director level with Tier 3 posts referred to as Heads of Service.
- 5.18 The review did indicate that the structure would benefit from a refresh to align service areas to key priorities, enabling a visible reflection of strategic direction, and not purely financially driven. In particular the Corporate Plan was seen as key in determining the level of strategic and operational support required at Management level and how structures are linked to priorities.
- 5.19 In light of the above, and the forthcoming retirement of two Heads of Service, the Managing Director was asked to undertake a Management Restructure in March 2020 (pre the first lockdown).

Options for appointing Head of Paid service

- 5.20 There are a number of options in relation to the permanent appointment of an Head of Paid Service however these also need to be set in the context of the impending retirement of the Head of Finance (Deputy Managing Director / Section 151 Officer and if confirmed Interim Managing Director) and the Head of Environment & Healthy Lifestyles(Retiring 30 May 2021). The retirement of both

post holders in quick succession will create significant capacity issues at senior management level at a difficult time for the Council when it is still managing the effects of the pandemic and has key projects to deliver in the next 12-18 months. However, this also extends the potential for looking more widely at the senior management structure of the Council to ensure that it is fit for the future.

Direct Replacement of Managing Director - External Recruitment

- 5.21 This option is the most straight forward in that recruitment could commence immediately utilising existing Job Descriptions etc. However, there is an issue whether in the current climate the authority would be able to recruit a suitable candidate to that post on the current salary.
- 5.22 Lichfield District Council are currently recruiting to their Chief Executive post, the closing date for applications was the 26 February 2021. The post's salary falls within a range of four incremental points between £111,770, rising to a maximum of £118,568, inclusive of Returning Officer duties for District and Parish elections. This compares to the Managing Director's salary of £106,868 and an average Returning Officer fee of approximately £4,751 for District Council elections.
- 5.23 Lichfield is a smaller authority than Cannock and does not have its Housing Stock and benchmarking undertaken as part of the Management Review indicated that the salary for the post of Managing Director is at 94% of the "mean" average of the comparator groups of District Councils.
- 5.24 In order to recruit a new Managing Director an external recruiting agency/consultant would be required and a budget of in the region of £30,000 set aside. The recruitment timetable including potential notice period for this option is likely to be between 6 to 9 months.
- 5.25 This option does not provide a speedy resolution for the Council's senior management structure. Even if the recruitment process is successful, it will take time to appoint to the Managing Director post and there will be a further delay in any potential restructuring of the senior management team and permanent recruitment to the two impending vacancies until the new appointment could determine their requirements. This option will not deliver a saving at Managing Director level; it will incur a cost in recruitment and there may be an increased salary cost should it be deemed that the current salary is insufficient to attract suitable candidates. Savings could be achieved through a wider restructuring but this is only likely to be achieved if there is a reduction in senior management posts and this would conflict with the findings of the independent management review which indicates a lack of capacity at senior level.

Designate an existing Head of Service to be the Head of Paid Service

- 5.26 There is no legal requirement to have a Managing Director post and the Head of Paid Service role could be designated to an existing post.
- 5.27 Two of the Councils within the comparator group of the review undertaken by the West Midlands Employers Organisation have adopted this model whereby an Executive Director (s) fulfil this role. The proposal is not currently applicable to this Council with the structure consisting of a "flat" structure whereby Heads of Service report directly to the Managing Director.

- 5.28 A Deputy Managing Director role exists, but this is not a standalone post and is appointed to at the discretion of the Managing Director, rather than by full Council. This position is currently occupied by Head of Finance whose role is shared with Stafford Borough Council and he is also the statutory Section 151 officer. Whilst this arrangement has been workable in the current structure, combining the full Head of Paid Service role with one of the existing Heads of Service posts would be a stretch when they are all currently operating at maximum capacity.
- 5.29 In order to adopt this model, the Council would have to undertake a Management Restructure and create an Executive Director model. This would be in line with the options indicated in the Management Review recommendations whereby the proposal was to reduce the Tier Two (Heads of Service) to a smaller more strategic team with two levels of Service Manager at Tier three and Four, albeit with a Managing Director post still in place.
- 5.30 The option may provide financial savings to the Council however there are potential capacity issues and resilience issues with this option and it would create uncertainty for existing staff to add to the uncertainty that the Council already faces in terms of recovery from the pandemic and with savings needing to be delivered in 2022/23.
- 5.31 If Members wish to pursue this option, it is recommended that West Midlands Employers Organisation are again engaged to prepare a proposed structure for consideration by Council and undertake the necessary consultations with existing staff. Such a process would take time to complete and will incur an initial cost but has the potential to deliver savings through the adoption of a new streamlined senior management structure. Depending on the extent of the changes to the structure, there is the potential that management capacity would be reduced.

To share a Managing Director/Chief Executive with another Council

- 5.32 The sharing of services and Management teams is becoming a common theme in order to address financial and capacity issues, with this model currently existing within Staffordshire at Staffordshire Moorlands / High Peak and within Worcestershire at Bromsgrove and Redditch Councils.
- 5.33 The Council currently shares back office services with Stafford Borough Council and a Phase 2 in the form of an Environmental Services review was considered by both Councils in 2019.
- 5.34 The report to Cabinet in April 2019 also looked at Digital/Customer services and the Planning Systems with both Councils agreeing to review the options for further collaboration and Phase 2 of the Environmental Services Review, including the potential for further shared services, after a period of 18-24 months.
- 5.35 The sharing of services to date has been undertaken in accordance with the Memorandum of Understanding between the two authorities and on production of a valid Business Case. However, the sharing of a Chief Executive is potentially more complex in terms of the scope of the sharing in terms of Management Teams, the required Governance arrangements at Member level and the requirement for protocols to deal with potential conflicts of interests.

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- 5.36 The sharing of a Chief Executive could result in a financial saving as a direct result of the loss of capacity at Tier1 level, however it is likely that outside support would be required to enable support to be provided directly to the shared Chief Executive in the production of a Business Case. Nevertheless the sharing will provide an experienced Head of Paid Service that will not only provide the impetus from the top to evaluate the potential for further shared / integrated or collaborative services and for that business case to be presented to both Councils, but also tackle the challenges facing the authority in 2021/22.
- 5.37 This option is however subject to the formal approval of Stafford Borough Council. Should Council determine this as the preferred option a formal approach would need to be made and agreement ratified at their Full Council.
- 5.38 Subject to both Councils agreeing to the rationale for sharing and the Terms of Reference of the appointment this option would consist of an interim Acting Joint Chief Executive to be appointed for 12 months.
- 5.39 The interim arrangement or trial basis would enable the Acting Chief Executive to assess the further scope for further shared services and the best way of delivering such services from a management perspective. There would be a requirement to not permanently fill senior management vacancies until the business case was approved however an earlier determination of a Management Restructure is available under this option.
- 5.40 The appointment for 12 months would allow sufficient time for the development of the business in the first 6 months and to assess the effectiveness of the shared Chief Executive arrangements and then to proceed with implementation of a revised management structure and governance arrangements. If after six months either party felt the arrangements were not working, the remaining six months would be used to allow the Council, with support from the Acting Chief Executive as appropriate, to consider and implement alternative arrangements. Council would be responsible for 50% of the cost of the Acting Post and any additional support costs required to produce a business case.
- 5.41 The sharing of a Managing Director with another authority is also an option and could be explored if Stafford Borough decide not to pursue this option. This will however take time to assess suitable partners and determine whether they are interested in such an arrangement.
- 5.42 This option would provide a saving at Tier 1 and it has the potential to deliver further management savings or to create resilience and capacity in the management structure going forward. This will need to be considered further as part of the development of the business case.
- 5.43 The potential to further share services and a Chief Executive would re-emphasise Staffordshire's approach to Local Government Re-organisation whereby efficiencies are found by collaboration and sharing (and enhanced two-tier working) rather than re-organisation.

6 Implications

6.1 Financial

The total severance payments made to the former Managing Director in accordance with contractual obligations have been funded from the reserves of the Council

The costs of the proposed interim arrangements are to be contained within the existing approved budget.

6.2 Legal

The legal implications have been referred to throughout the report.

6.3 Human Resources

None.

6.4 Risk Management

Management capacity has been identified as a strategic risk for a number of years. This will need to be factored into consideration of the options for the senior management of the Council going forward.

6.5 Equality & Diversity

None.

6.6 Climate Change

None.

7 Appendices to the Report

None.

Previous Consideration

None.

Background Papers

None.