



Northumberland County Council

Your ref:

Our ref:

Enquiries to: Lesley Bennett

Email: Lesley.Bennett@northumberland.gov.uk

Tel direct: 01670 622613

Date: 17 October 2023

Dear Sir or Madam,

Your attendance is requested at a meeting of the **STAFF AND APPOINTMENTS COMMITTEE** to be held in **COUNCIL CHAMBER, COUNTY HALL, MORPETH** on **WEDNESDAY, 25 OCTOBER 2023** at **2.00 PM**.

Yours faithfully

Dr Helen Paterson
Chief Executive

To Staff and Appointments Committee members as follows:-

G Sanderson (Chair), R Wearmouth (Vice-Chair), A Dale, S Dickinson, B Flux, I Hunter, M Purvis, E Simpson and J Watson



Dr Helen Paterson, Chief Executive
County Hall, Morpeth, Northumberland, NE61 2EF
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AGENDA

PART I

It is expected that the matters included in this part of the agenda will be dealt with in public.

1. APOLOGIES FOR ABSENCE

2. MINUTES

(Pages 1
- 4)

Minutes of the meeting of the Committee held on Wednesday, 20 September 2023, as circulated, to be confirmed as a true record and signed by the Chair.

3. DISCLOSURE OF MEMBERS' INTERESTS

Unless already entered in the Council's Register of Members' interests, members are required where a matter arises at a meeting;

- a) Which **directly relates to** Disclosable Pecuniary Interest ('DPI') as set out in Appendix B, Table 1 of the Code of Conduct, to disclose the interest, not participate in any discussion or vote and not to remain in room. Where members have a DPI or if the matter concerns an executive function and is being considered by a Cabinet Member with a DPI they must notify the Monitoring Officer and arrange for somebody else to deal with the matter.
- b) Which **directly relates to** the financial interest or well being of a Other Registrable Interest as set out in Appendix B, Table 2 of the Code of Conduct to disclose the interest and only speak on the matter if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain the room.
- c) Which **directly relates to** their financial interest or well-being (and is not DPI) or the financial well being of a relative or close associate, to declare the interest and members may only speak on the matter if members of the public are also allowed to speak. Otherwise, the member must not take part in discussion or vote on the matter and must leave the room.
- d) Which **affects** the financial well-being of the member, a relative or close associate or a body included under the Other Registrable Interests column in Table 2, to disclose the interest and apply the test set out at paragraph 9 of Appendix B before deciding whether they may remain in the meeting.
- e) Where Members have or a Cabinet Member has an Other Registrable Interest or Non Registrable Interest in a matter being considered in exercise of their executive function, they must notify the Monitoring

Officer and arrange for somebody else to deal with it.

NB Any member needing clarification must contact monitoringofficer@northumberland.gov.uk. Members are referred to the Code of Conduct which contains the matters above in full. Please refer to the guidance on disclosures at the rear of this agenda letter.

4. APPOINTMENT OF DEPUTY CHIEF OFFICER - HEAD OF COMMUNICATIONS AND ENGAGEMENT

(Pages 5
- 10)

To accept the findings of the selection panel that the preferred candidate be appointed to the role of Head of Communications and Engagement. Details are set out in the attached confidential appendix 1.

To agree that in the event that any objection is received from the Leader and/or Cabinet that the appointment in question be referred back to this Committee for urgent consideration.

To note that the offer of employment will be subject to all necessary pre-employment checks.

To note that the effective date of commencement of employment is to be confirmed following all the necessary pre-employment checks.

To agree that the Head of Communications and Engagement receives staff benefits in line with all Council employees and remuneration of £73,511 per annum within pay band 14 (this cost excludes employer's national insurance and employer's pension contributions)

5. DIRECTOR OF LAW AND CORPORATE GOVERNANCE (MONITORING OFFICER) - CONTRACTURAL CHANGE

(Pages
11 - 14)

The purpose of this report is to seek approval that the current postholder in the role of Director of Law and Corporate Governance (Monitoring Officer) be contracted on a permanent basis.

6. CHANGE TO TERMS AND CONDITIONS OF DIRECTORS AND EXECUTIVE DIRECTORS

(Pages
15 - 44)

The purpose of this report is to seek agreement to start consultation to change the terms and conditions of service that cover those staff occupying the roles of Director and Executive Director in the Council, all of whom are classed as Chief or Deputy Chief Officers. The change would also apply to any appointments in the future.

Currently, all Chief and Deputy Chief Officers, with the exception of the Head of Paid Services, are covered by the Council's Senior Manager Terms and Conditions. No employees are covered by the JNC National Chief Officer terms and conditions.

The purpose of this report is to identify the posts that should be subject to the JNC Chief Officer terms and conditions, as set out in the Chief Officer

Handbook (appendix 1) and outline the rationale and process to move the affected staff onto Chief Officer terms.

7. URGENT BUSINESS (IF ANY)

To consider such other urgent business as, in the opinion of the Chair, should, by reason of special circumstances, be considered as a matter of urgency.

8. DATE OF NEXT MEETING

The next scheduled meeting date will be 5 December 2023, at 1.30 pm at County Hall, Morpeth.

PART II

It is expected that matters included in this part of the Agenda will be dealt with in private. Reports referred to are enclosed for members and officers only, coloured pink and marked "Not for Publication".

9. EXCLUSION OF PRESS AND PUBLIC

The Committee is invited to consider passing the following resolution:

- (a) That under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following items on the agenda as they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the 1972 Act, and
- (b) That the public interest in maintaining the exemption outweighs the public interest in disclosure for the following reasons:-

| Agenda Item | Paragraph of Part I of Schedule 12A |
|-------------|---|
| 4 | 1 and 2 Information relating to any individual and information which is likely to reveal the identity of an individual |

AND

The public interest in maintaining the exemption outweighs the interest in disclosure because

10. APPOINTMENT OF DEPUTY CHIEF OFFICER - HEAD OF COMMUNICATIONS AND ENGAGEMENT

(Pages
45 - 48)

To consider the attached Appendix 1 under Agenda item 4 in Part 1 of this agenda.

IF YOU HAVE AN INTEREST AT THIS MEETING, PLEASE:

- Declare it and give details of its nature before the matter is discussed or as soon as it becomes apparent to you.
- Complete this sheet and pass it to the Democratic Services Officer.

| | | | |
|---|--|--------------------------------|-------------------------------|
| Name: | | Date of meeting: | |
| Meeting: | | | |
| Item to which your interest relates: | | | |
| | | | |
| Nature of Interest i.e. either disclosable pecuniary interest (as defined by Table 1 of Appendix B to the Code of Conduct, Other Registerable Interest or Non-Registerable Interest (as defined by Appendix B to Code of Conduct) (please give details): | | | |
| | | | |
| Are you intending to withdraw from the meeting? | | Yes - <input type="checkbox"/> | No - <input type="checkbox"/> |
| | | | |

Registering Interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest.

Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in **Table 1**) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
- a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative or close associate; or
 - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2** you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied
9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well- being:
- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

| Subject | Description |
|--|---|
| Employment, office, trade, profession or vocation | Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.] |
| Sponsorship | Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. |
| Contracts | Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — a. under which goods or services are to be provided or works are to be executed; and b. which has not been fully discharged. |
| Land and Property | Any beneficial interest in land which is within the area of the council. ‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income. |
| Licenses | Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer |
| Corporate tenancies | Any tenancy where (to the councillor’s knowledge)— |

| | |
|-------------------|---|
| | <ul style="list-style-type: none"> a. the landlord is the council; and b. the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of. |
| Securities | <p>Any beneficial interest in securities* of a body where—</p> <ul style="list-style-type: none"> a. that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and b. either— <ul style="list-style-type: none"> i. the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or ii. if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class. |

* ‘director’ includes a member of the committee of management of an industrial and provident society.

* ‘securities’ means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a. any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b. any body
 - i. exercising functions of a public nature
 - ii. any body directed to charitable purposes or
 - iii. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

NORTHUMBERLAND COUNTY COUNCIL

STAFF AND APPOINTMENTS COMMITTEE

At a meeting of the **Staff and Appointments Committee** held in the Council Chamber, County Hall, Morpeth on Wednesday, 20 September 2023 at 10.00 am.

PRESENT

Councillor G. Sanderson
(in the Chair)

MEMBERS

| | |
|--------------|-------------|
| Dale, A. | Purvis, M.A |
| Dickinson, S | Simpson, E |
| Flux, B. | Watson, J. |
| Hunter, I. | |

OFFICERS IN ATTENDANCE

| | |
|---------------|---|
| Bennett, L.M. | Senior Democratic Services Officer |
| Gerrard, S. | Director of Law and Corporate Governance (MO) |
| Paterson, H. | Chief Executive and Head of Paid Services |
| Sample, C. | Lawyer |

13. APOLOGIES

Apologies were received from Councillor R. Wearmouth.

14. MINUTES

RESOLVED that the minutes of the meeting of the Committee held on 30 August 2023, as circulated, be confirmed as a true record and signed by the Chair.

15. APPOINTMENT OF DEPUTY CHIEF OFFICER – HEAD OF POLICY AND PERFORMANCE

The Chief Executive presented the report which confirmed and set out the outcome of a selection process for the Head of Policy and Performance and sought approval for the appointment of the preferred candidate.

Ch.'s Initials.....

At this point it was **RESOLVED**

- (a) That under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting during the remainder of the discussion on this item as it involved the likely disclosure of exempt information as defined in Part I of Schedule 12A of the 1972 Act, and
- (b) That the public interest in maintaining the exemption outweighs the public interest in disclosure for the following reasons:-

| Agenda Item | Paragraph of Part I of Schedule 12A |
|--------------------|--|
| 8 | 1 and 2 Information relating to any individual and information which is likely to reveal the identity of an individual |
| AND | The public interest in maintaining the exemption outweighs the interest in disclosure because disclosure would adversely affect the Authority's interests. |

Members then discussed the candidate's experience and suitability for the role in more detail.

It was then **RESOLVED** to re-admit the press and public.

RESOLVED that

- (1) the findings of the selection panel that the preferred candidate be appointed to the role of Head of Policy and Performance be approved. Details set out in the attached confidential appendix 1.
- (2) it be agreed that in the event that any objection is received from the Leader and/or Cabinet that the appointment in question be referred back to this Committee for urgent consideration.
- (3) the offer of employment will be subject to all necessary pre-employment checks be noted.
- (4) the effective date of commencement of employment will be confirmed following all the necessary pre-employment checks be noted.
- (5) it be agreed that the Head of Policy and Performance receives staff benefits in line with all Council employees and remuneration of £73,511 per annum within pay band 14 (this cost excludes employer's national insurance and employer's pension contributions)

16. DATE OF NEXT MEETING

The next meeting will be held on 25 October 2023, at 2 pm in the Council Chamber, County Hall, Morpeth.

CHAIR.....

DATE.....

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Northumberland County Council

STAFF & APPOINTMENTS COMMITTEE

25 October 2023

Appointment of Deputy Chief Officer – Head of Communications and Engagement

Report of the Chief Executive and Head of Paid Service

1. Purpose of the Report

- 1.1 The purpose of this report is to confirm and set out to the Staff and Appointments Committee the outcome of a selection process for the Head of Communications and Engagement and to seek approval for the appointment of the preferred candidate
- 1.2 Attached to this report is a confidential (part 2) exempt appendix setting out the application of the preferred candidate.
- 1.3 The Committee will recall at its meeting on 25 April 2023, that the above vacancy resulted from the senior management review.
- 1.4 This report also reminds the Committee of the requirements under the Officer Employment Procedure Rules in relation to the appointment (or dismissal) of all Chief and Deputy Chief Officers. Accordingly, please note that the appointments referred to in this report are subject to no substantial and well-founded objections being notified to the Leader of the Council, in accordance with Part 4.3 of the Constitution (Officer Employment Procedure Rules).

2. Recommendations

To agree the following recommendations:

- 2.1 To accept the findings of the selection panel that the preferred candidate be appointed to the role of Head of Communications and Engagement. Details are set out in the attached confidential appendix 1.
- 2.2 To agree that in the event that any objection is received from the Leader and/or Cabinet that the appointment in question be referred back to this Committee for urgent consideration.
- 2.3 To note that the offer of employment will be subject to all necessary pre-employment checks.
- 2.4 To note that the effective date of commencement of employment is to be confirmed following all the necessary pre-employment checks.
- 2.5 To agree that the Head of Communications and Engagement receives staff benefits in line with all Council employees and remuneration of £73,511 per annum within pay band 14 (this cost excludes employer's national insurance and employer's pension contributions)

3. Process and Timeline

- 3.1 All vacancies at Head of Service level and above were shared with this committee on 25 April 2023 in the context of the senior management review report. The rate of recruitment to these roles has varied due to different processes being deployed dependent on the specific nature of the role.
- 3.2 This role was advertised externally on The Council's own platform, on 'Indeed', 'Linked In' and 'Northeast Jobs'. The advert closed on 31st July 2023. A total of 55 applications were received and of these, 5 were shortlisted to take part in a selection process (one candidate withdrew prior to the selection process).
- 3.3 The selection process took place on 28 September 2023. The process consisted of a 10 minute presentation followed by interview questions. The interview selection panel consisted of the: Executive Director - Children, Young People and Education; Director of Corporate Strategy and Communications; and Director of Workforce and OD.
- 3.4 Following the conclusion of the selection process, Michelle Rose was identified as the preferred candidate.

4. The Preferred Candidate

- 4.1 The conclusion above was reached following a thorough assessment of the candidates' skills, knowledge and experience. The process also considered the preferred candidate's fit against the Council's values and the Nolan Principles. The candidate's application form (confidential) is attached as appendix 1 to this report.
- 4.2 The candidate has been informed that they are the preferred candidate for the role and has indicated acceptance of the conditional offer of appointment. The

offer has been made subject to relevant pre-employment checks, the recommendation of this Committee and the Officer Employment Procedure Rules (as set out below).

5. Officer Employment Procedure Rules

5.1 The Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) requires that, where a Council is operating a Cabinet and Leader model of governance, before any offer of appointment is made to a Chief or Deputy Chief Officer, the Proper Officer designated for that purpose, notifies the Leader and every member of the Cabinet of the intention to make the appointment, the name, salary and other relevant particulars of the post, and allows the Leader and Cabinet an opportunity to make any substantial or well-founded objections to that appointment, before the appointment is made. These provisions apply irrespective of whether the appointment is made by the full Council, a committee, or by an officer of the Council delegated to do so. The provisions are broadly set out in Part 4.3 of the Northumberland County Council Constitution.

5.2 Accordingly, for these purposes, the aforementioned role is deemed to be a deputy chief officer.

5.3 The Proper Officer designated for this purpose is the Chief Executive/Head of Paid Service. Accordingly, the Council's Chief Executive and Head of Paid Service will discharge the functions as required under the Officer Employment Procedure Rules.

Implications

| | |
|------------------------------------|---|
| Policy | Oversight of HR policies and procedures |
| Finance and value for money | Permanent appointment to this role is deemed to be appropriate and the cost of appointment will be met from within the Council's revenue budget. |
| Legal | <p>Under the Pay Policy Statement, the Council has delegated to StAC the function to appoint and approve any roles that attract a salary of £100k or more.</p> <p>Under the Local Authorities (Standing Orders) (England) Regulations 2001, where a Council operates a Leader and Cabinet model of governance, before any appointment is made to Chief or Deputy Chief Officer, the Proper Officer designated for that purpose notifies the Leader and every member of the Cabinet on the intention to make the appointment, the name, the salary and other relevant particulars of the post, allowing any well-founded objections, before an appointment is made.</p> <p>Chief Officer is defined in s43 of the Localism Act 2011 as follows:</p> <ul style="list-style-type: none"> • The head of the authority's paid service |

| | |
|---|---|
| | <ul style="list-style-type: none"> • The monitoring officer • Any statutory chief officer: <ol style="list-style-type: none"> 1. The person having responsibility for all statutory purposes (inc. s151 of the Local Government Act 1972), for the administration of the authority's financial affairs. 2. The Director of Children's Services appointed under s18 of the Children Act 2004. 3. The Director of Adult Social Services appointed under section 6 (A1) of the Local Authority Social Services Act 1970 (as amended by the Children Act 2004). 4. The Director of Public Health appointed under s73A (1) of the National Health Service Act 2006. 5. The Director of Education appointed under s532 of the Education Act. 6. The Chief Fire Officer of a fire brigade maintained under the Fire Services Act 1947 and appointed under regulations made under section 18(1)(a) of that Act. • Any non-statutory officer: <ol style="list-style-type: none"> 1. A person for whom the head of the authority's paid service is directly responsible. 2. A person who in relation to most of their duties is required to report direct or is directly accountable to the head of paid service and any person who similarly is required to report direct or is directly accountable to the authority or its committees. <p>A Deputy Chief Officer is a person who, as respects all or most of the duties of their post, is required to report directly to one or more of the Chief Officers.</p> <p>StAC will also determine the terms and conditions relating the employees of the Council including the remuneration and terms of employment for the Head of Paid Service and Chief and Deputy Chief Officers.</p> |
| Procurement | N/A |
| Human Resources | All processes referenced in this report will be made in line with appropriate employment policies and relevant legal advice has been sought as required. |
| Property | N/A |
| Equalities (Impact Assessment attached) | This process will be conducted in line with best practice in relation to promoting equality and diversity within the Council's employment processes. |

| | |
|---|---|
| Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> | |
| Risk Assessment | Consistent approved Management Restructure with Corporate Governance Review |
| Crime & Disorder | N/A |
| Customer Consideration | N/A |
| Carbon reduction | N/A |
| Health and Wellbeing | The recommendations will support the health and wellbeing of employees |
| Wards | Not related to any ward but cover the whole of Northumberland |

Appendices

Appendix 1 - Confidential CV of preferred candidates

Background papers:

N/A

Linked Reports

StAC report and minutes – 25 April 2023

Report sign off.

Authors must ensure that officers and members have agreed the content of the report:

| | Full Name of Officer |
|---|-----------------------------|
| Director of Law and Corporate Governance (Monitoring Officer) | Stephen Gerrard |
| Executive Director of Transformation & Resources (s151) | Jan Willis |
| Chief Executive (HoPS) | Dr Helen Paterson |

Authors and Contact Details

This report has been prepared by:
Sarah Farrell – Director of Workforce and OD
07770 971 861

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Northumberland County Council

STAFF & APPOINTMENTS COMMITTEE

25 October 2023

Director of Law and Corporate Governance (Monitoring Officer) - Contractual Change

Report of the Chief Executive and Head of Paid Service

1. Purpose of the Report

- 1.1 The purpose of this report is to seek approval that the current postholder in the role of Director of Law and Corporate Governance (Monitoring Officer) be contracted on a permanent basis.
- 1.2 The Committee will recall at its meeting on 9 March 2023, and subsequently at a meeting of Full Council on 22 March 2023, the fixed term appointment of Stephen Gerrard to the role of Director of Law and Corporate Governance (Monitoring Officer) was approved.

2. Recommendations

To agree the following recommendations:

- 2.1 To approve that the current postholder be offered a permanent contract in the role of Director of Law and Corporate Governance (Monitoring Officer).
- 2.2 Subject to the approval of this committee, to recommend to full Council on 1 November 2023 that the offer of a permanent contract be made.
- 2.3 To agree that, subject to approval of recommendation 2.1 above, and approval by full Council on 1 November 2023, permanent contractual status be offered from 2 November 2023.

2.4 To note that all other terms and conditions of employment, including salary of £139,366 per annum, will remain unchanged.

3. Background

3.1 As detailed in a supplementary report to this committee dated 30 January 2023, a selection exercise to recruit a permanent Director of Law and Corporate Governance (Monitoring Officer) took place on 27 January 2023 and a preferred candidate was identified. A conditional job offer was made to this candidate but was subsequently declined.

3.2 A commitment was made at the meeting of 30 January 2023 that alternative arrangements for filling the vacancy would be explored and outcomes would be reported at a future meeting.

3.3 During February 2023, our strategic recruitment partners, Penna, were able to offer candidates available for interim work only and through thorough and robust consideration of the candidates put forward by Penna, the current postholder was identified as being significantly high calibre and worthy of appointment.

3.4 On 9 March 2023, a report was considered by this committee for the approval of the appointment of the preferred candidate, Stephen Gerrard. Approval was given and subsequently approved at a meeting of Full Council on 22 March 2023.

3.5 Whilst a fixed term appointment was not the council's preferred outcome, it reflected the availability of candidates at that time. The 2-year fixed term appointment however did provide the council with the prospect of a period of stability and the opportunity to consider an appropriate medium term succession plan.

3.6 Stephen Gerrard commenced employment on 5 June 2023 and has successfully completed the 4-month progress review outlined in the council's Probationary policy.

4. Proposal

4.1 Suitably qualified and experienced Monitoring Officers continue to be in scarce supply.

4.2 Since joining, Stephen Gerrard has consistently contributed to the effectiveness of the Executive Management team and has established himself as integral to ensuring the council can deliver our commitment to improve and strengthen our approach to governance.

4.3 It is proposed that Stephen Gerrard be offered a permanent contract in place of his current 2-year fixed term contract.

4.4 Offering a permanent contract will provide greater assurance of stability and continuity, essential for continued progress and growth.

4.5 Provisional discussions between the Chief Executive and the postholder regarding the proposal have resulted in Stephen Gerrard indicating that he would accept an offer of a permanent contract.

Implications

| | |
|--|---|
| Policy | Oversight of HR policies and procedures |
| Finance and value for money | Permanent appointments to this role is deemed to be appropriate and the cost of appointment will be met from within the Council's revenue budget. |
| Legal | <p>Whilst the appointment of the Monitoring Officer must be approved by Full Council, authority has been delegated to StAC to discharge the Council's functions of the employer in relation to Chief Officers, including the Monitoring Officer.</p> <p>StAC also has delegated authority to determine the terms and conditions relating to employees of the Council including the remuneration and terms of employment for the Head of Paid Service and Chief and Deputy Chief Officers. The proposal contained within this report is a proposed change to terms and conditions and can, therefore, be authorised by StAC.</p> |
| Procurement | N/A |
| Human Resources | All processes referenced in this report will be made in line with appropriate employment policies and relevant legal advice has been sought as required. |
| Property | N/A |
| Equalities (Impact Assessment attached) Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> | This process has been conducted in line with best practice in relation to promoting equality and diversity within the Council's employment processes. |
| Risk Assessment | |
| Crime & Disorder | N/A |
| Customer Consideration | N/A |
| Carbon reduction | N/A |
| Health and Wellbeing | N/A |

| | |
|--------------|---|
| Wards | Not related to any ward but cover the whole of Northumberland |
|--------------|---|

Appendices

N/A

Background papers:

N/A

Linked Reports

[StAC supplementary report](#) and minutes – 30 January 2023
[StAC report ‘Preferred candidate appointment – Director of Law and Corporate Governance \(Monitoring Officer\)’](#) - 9 March 2023
[Full Council report ‘Appointment of the Council’s Monitoring Officer’](#) - 22 March 2023

Report sign off.

Authors must ensure that officers and members have agreed the content of the report:

| | Full Name of Officer |
|---|--|
| Director of Law and Corporate Governance (Monitoring Officer) | Neil Masson (on behalf of Stephen Gerrard) |
| Executive Director of Transformation & Resources (s151) | Jan Willis |
| Chief Executive (HoPS) | Dr Helen Paterson |

Authors and Contact Details

This report has been prepared by:
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Northumberland County Council

STAFF & APPOINTMENTS COMMITTEE

25 October 2023

Change to Terms and Conditions of Directors and Executive Directors

Report of the Director of Workforce and Organisational Development

1. Purpose of the Report

- 1.1 The purpose of this report is to seek agreement to start consultation to change the terms and conditions of service that cover those staff occupying the roles of Director and Executive Director in the Council, all of whom are classed as Chief or Deputy Chief Officers. The change would also apply to any appointments in the future.
- 1.2 Currently, all Chief and Deputy Chief Officers, with the exception of the Head of Paid Services, are covered by the Council's Senior Manager Terms and Conditions. No employees are covered by the JNC National Chief Officer terms and conditions.
- 1.3 The purpose of this report is to identify the posts that should be subject to the JNC Chief Officer terms and conditions, as set out in the Chief Officer Handbook (appendix 1) and outline the rationale and process to move the affected staff onto Chief Officer terms.

2. Recommendations

- 2.1 To agree the following recommendations:
- 2.1.1 To note the proposal from Executive Management Team that the identified group of Chief Officers and Deputy Chief Officers at Director level and above, be accordingly assigned to JNC Chief Officer terms and conditions.
- 2.1.2 To approve formal consultation of the affected staff to propose to change their terms and conditions.
- 2.1.3 To agree that, subject to there being no significant issues raised during consultation, once consultation has concluded, those staff will be assigned to JNC Chief Officer terms and conditions with an effective date of 1 April 2024. Updated statements of particulars will be issued accordingly.

3. Links to Corporate Plan

3.1 This report is relevant to all areas of the Corporate Plan as it relates to the senior management appointments in the organisation. Whilst appointment to Chief and Deputy Chief Officer roles have been approved by this committee the relevant terms and conditions have yet to be applied.

4. Background and Key Issues

4.1 The terms and conditions of Council employees are applied in accordance with nationally negotiated collective agreements. The collective agreement that applies to the majority of the Council's staff is the 'National Joint Council (NJC) for Local Government Services National Agreement on Pay and Conditions of Service', commonly referred to as 'The Green Book'.

4.2 Currently, all senior managers of the Council at Band 14 to Band 18 are subject to NJC (Green Book) terms and conditions with some locally agreed variations. The Council refers to these as 'Senior Manager Terms and Conditions'.

4.3 When changes to the NJC Green Book terms and conditions are nationally negotiated, including determination of annual pay awards, these are currently applied universally to all those on NJC terms and conditions and those on Senior Manager terms and conditions.

4.4 Previously, the negotiated value of pay awards has been equal across Green Book, JNC Chief Officer and JNC Chief Executive collective agreements eg £1925 on all spinal points negotiated in 2022. However, an additional day's leave was negotiated for Green Book employees only in 2022, to take effect from 1 April 2023. It was locally agreed that despite this additional leave not being negotiated for JNC Chief Officers and JNC Chief Executives specifically, in order to achieve parity, no distinction would be made and the additional day of leave would be universally applied to the leave entitlement of all Council employees.

4.5 This year, the pay award for JNC Chief Officers is likely to be different to the pay awards for Green Book and JNC Chief Executives. Independent pay negotiations for the current year (2023/2024) are still ongoing for Green Book and JNC Chief Executives respectively. The JNC Chief Officers pay award was agreed in May 2023 at 3.5% however, due to the current contractual position, for 2023/24, Chief Officers will receive a pay award in line with their existing senior manager terms and conditions which are determined by green book pay negotiations

4.6 As a result of the recent senior management review, the council has been able to properly determine assignment of Chief Officer and Deputy Chief Officer status.

4.7 In order to apply the agreed pay award for 2024/2025, and any other future nationally negotiated terms and conditions for Chief Officers, it is proposed that the Council make contractual distinction of this group.

4.8 Fundamentally, there is very little difference between current senior manager terms and conditions and proposed Chief Officer terms and conditions. A full comparative

table is presented at Appendix 2. The main differences include:

- 4.8.1 Annual leave for Chief Officers with less than 5 years' service will be 30 days (as opposed to 26 days under current senior manager terms and conditions). Annual leave for those on Chief Officer terms and conditions with more than 5 years' service, will rise to 31 days (the same as current senior manager terms and conditions).
- 4.8.2 There are some restrictions for those on Chief Officer terms and conditions on where they are able to work after leaving the employment of the Council.
- 4.9 The Executive Management Team have agreed that a proposal be put before this committee that, alternative to currently applied Senior Manager terms and conditions, JNC Chief Officer's terms and conditions should be applied to Directors (Band 16 / Band 17) and Executive Directors (Band 18) of the council. The roles to which this change will apply are detailed in appendix 3.
- 4.10 It is not proposed to change the terms and conditions of the Chief Fire Officer other than to apply pay awards in line with JNC CO pay negotiations rather than green book pay negotiations, as is currently the case. This is due to the Chief Fire Officer's current terms and conditions being more favourable than Chief Officer terms.

5. Process and Next Steps

- 5.1 As moving the affected staff to different terms and conditions represents a contractual change, consultation should be undertaken with all affected employees and Trade Unions.
- 5.2 If the committee approves the approach outlined above, consultation can commence with the affected group with a view to consultation closing by the end of November 2023.
- 5.3 Affected staff and their Trade Unions will be contacted directly with the opportunity for group or individual consultation meetings with Executive Directors (or in the case of an Executive Director, the Chief Executive) and HR.
- 5.4 Once consultation has closed, if no significant issues are raised, staff will be asked to agree the new terms with effect from 1 April 2024.
- 5.5 Thereafter, revised contracts will be issued, clearly stating the new terms and conditions applying to Directors and Executive Directors.

Implications

| | |
|------------------------------------|--|
| Policy | Oversight of HR policies and procedures |
| Finance and value for money | Changes to the terms and conditions is deemed to be appropriate. Pay awards will be factored into the Council's budget process in the usual way. |
| Legal | <p>The functions of the Staff and Appointments Committee:</p> <ul style="list-style-type: none"> a. To discharge the Council's functions of the employer in relation to the Chief and Deputy Chief Officers. b. To consider, approve, or make recommendations to the County Council, in relation to any changes to the overall structure of the Council's workforce, and the number and designation of Chief Officer and Deputy Chief Officer posts. c. To determine the terms and conditions relating to employees of the County Council to include the remuneration and terms and conditions of employment for the Head of Paid Service and Chief and Deputy Chief Officers. <p>Definition of Chief Officer Chief Officer is defined in s43 of the Localism Act 2011 as follows:</p> <ul style="list-style-type: none"> • The head of the authority's paid service • The monitoring officer • Any statutory chief officer: <ol style="list-style-type: none"> 1. The person having responsibility for all statutory purposes (inc. s151 of the Local Government Act 1972), for the administration of the authority's financial affairs. 2. The Director of Children's Services appointed under s18 of the Children Act 2004. 3. The Director of Adult Social Services appointed under section 6 (A1) of the Local Authority Social Services Act 1970 (as amended by the Children Act 2004). 4. The Director of Public Health appointed under s73A (1) of the National Health Service Act 2006. 5. The Director of Education appointed under s532 of the Education Act. 6. The Chief Fire Officer of a fire brigade maintained under the Fire Services Act 1947 and appointed under regulations made under section 18(1)(a) of that Act. • Any non-statutory officer: <ol style="list-style-type: none"> 1. A person for whom the head of the authority's paid service is directly responsible. 2. A person who in relation to most of their duties is required to report direct or is directly accountable to the head of paid service and any person who similarly is required to report direct or is directly accountable to the authority or its committees. |

| | |
|--|---|
| | A Deputy Chief Officer is a person who, as respects all or most of the duties of their post, is required to report directly to one or more of the Chief Officers. |
| Procurement | N/A |
| Human Resources | All processes referenced in this report will be made in line with appropriate employment policies and relevant legal advice has been sought as required. |
| Property | N/A |
| Equalities (Impact Assessment attached) Yes <input type="checkbox"/> No <input type="checkbox"/> N/A X | This process will be conducted in line with best practice in relation to promoting equality and diversity within the Council's employment processes. |
| Risk Assessment | N/A |
| Crime & Disorder | N/A |
| Customer Consideration | N/A |
| Carbon reduction | N/A |
| Health and Wellbeing | The recommendations will support the health and wellbeing of employees |
| Wards | Not related to any ward but cover the whole of Northumberland |

Appendices

Appendix 1 - JNC Chief Officer Handbook

Appendix 2 - Comparison between Senior Manager's terms and Chief Officer's Handbook

Appendix 3 - Roles impacted by change to JNC CO T&Cs

Background papers:

N/A

Linked Reports

N/A

Report sign off.

Authors must ensure that officers and members have agreed the content of the report:

| Role | Full Name of Officer |
|---|--|
| Director of Law and Corporate Governance (Monitoring Officer) | Neil Masson on behalf of Stephen Gerrard |
| Executive Director of Transformation & Resources (s151 Officer) | Alison Elsdon on behalf of Jan Willis |
| Chief Executive | Dr Helen Paterson |

Authors and Contact Details

This report has been prepared by:

Sarah Farrell – Director of Workforce and OD

JOINT NEGOTIATING COMMITTEE
for
LOCAL AUTHORITY CHIEF OFFICERS

CONDITIONS OF SERVICE
HANDBOOK

UPDATED 8 August 2017

| Employers' Secretary: | Officers' Side Secretary: |
|--|---|
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The Joint Negotiating Committee (JNC) for Chief Officers of Local Authorities is the national negotiating body for the pay and conditions of service of chief officers in England and Wales.

The Authorities' Side consists of elected members nominated by the Local Government Association and the Welsh Local Government Association. The Staff Side consists representatives of GMB and UNISON.

CONTENTS

PART 1 - CONSTITUTION

| | | |
|----|-------------------|---|
| 1 | Title | 3 |
| 2 | Scope | 3 |
| 3 | Membership | 3 |
| 7 | Functions | 4 |
| 8 | Procedure | 4 |
| 15 | Finance | 5 |
| 16 | Arbitration | 5 |
| 17 | Amendments | 5 |

PART 2 – CONDITIONS OF SERVICE

| | | |
|----|--|---|
| 1 | Application of Terms & Conditions Generally..... | 6 |
| 2 | Questions of Interpretation | 6 |
| 3 | Periods of Notice to Terminate Employment..... | 6 |
| 4 | Annual Leave..... | 6 |
| 5 | Honorarium Payments..... | 6 |
| 6 | Relocation Expenses..... | 6 |
| 7 | Setting Remuneration Levels..... | 7 |
| 8 | Performance Appraisal..... | 7 |
| 9 | Restrictions on Re-Employment..... | 8 |
| 10 | Salary..... | 8 |
| 11 | Returning Officer Fees..... | 9 |
| 12 | Official Conduct..... | 9 |

PART 3 – DISCIPLINE, CAPABILITY AND REDUNDANCY

| | | |
|---|---|----|
| 1 | Specific Statutory Officers..... | 11 |
| 2 | Chief Officers other than Statutory Officers..... | 11 |
| 3 | Redundancy..... | 12 |

| | | |
|----------------|--|----|
| Annex 1 | Joint Guidance on Appraisal of the Chief Officer | 14 |
|----------------|--|----|

NB: All hyperlinks and email addresses contained in this Agreement are correct at the time of publication. Please notify the Joint Secretaries of any discrepancies by emailing them at the addresses shown on the cover page.

PART 1 - CONSTITUTION

TITLE

- 1 The Committee shall be known as the Joint Negotiating Committee for Chief Officers of Local Authorities (hereinafter referred to as “the Committee”).

SCOPE

- 2 The Committee shall have within their scope any officer of a local authority in England and Wales who
 - a is a chief officer designated by the employing authority as the administrative and executive head
 - either i* of a separate department
 - or ii* of a particular function or servicewhich in either case is regarded by the authority as important in relation to the total activities of the authority;
or
 - b is designated by the authority as a recognised deputy to any chief officer covered by (a) above including an officer of deputy status but whose post may carry a different title.

MEMBERSHIP

- 3 The Committee shall consist of 36 members, appointed as follows:-

Representing local authorities:

| | |
|------------------------------------|---|
| Local Government Association | 9 |
| Welsh Local Government Association | 1 |

Representing officers:

| | |
|--------|----|
| GMB | 23 |
| Unison | 3 |

- 4 If any of the organisations named in paragraph 3 hereof fail to appoint the number of representatives provided for by the Constitution, such failure to appoint shall not vitiate the decisions of the Committee always providing the quorum referred to in paragraph 13 is met. In the event of any member of the Committee or any sub-committee thereof being unable to attend any meeting of the Committee or of the sub-

committee, as the case may be, the organisation represented by such member shall be entitled to appoint another representative to attend and vote in his/her place.

- 5 A member of the Committee shall automatically retire on ceasing to be a member of the organisation which he/she represents.
- 6 On the occurrence of a casual vacancy, a new member shall be appointed by the organisation in whose representation the vacancy occurs and shall sit until the end of the period for which his/her predecessor was appointed.

FUNCTIONS

- 7 The functions of the Committee shall be to secure the largest possible measure of joint action in respect of the salaries and service conditions of officers within the scope of the Committee; and to seek to resolve any differences between a local authority and its officers which may be referred to the Committee, in accordance with procedures to be determined by the committee from time to time.

PROCEDURE

- 8 **Sub-Committees** The Committee may appoint from their own members such sub-committees as they may consider necessary and with such authorities as they may from time to time determine. The reports of all sub-committees shall be submitted to the full Committee.
- 9 **Chair and Vice-Chair** The Committee shall appoint annually a Chair and Vice-Chair. When the Chair is a member of the Authorities' Side, the Vice-Chair shall be appointed from the Officers' Side and vice versa. The Chair shall be held in alternate years by a member of the Authorities' Side and a member of the Officers' Side. The Chair, or in his/her absence, the Vice-Chair, shall preside at all meetings of the Committee. In the absence of both the Chair and Vice-Chair at any meeting, a chair shall be elected to preside. In no case shall a Chair have a second or casting vote.
- 10 **Officers** The Committee shall appoint joint secretaries and a treasurer.
- 11 **Meetings** Meetings of the Committee shall be held as often as may be necessary, and the Chair shall call a special meeting if so requested by one-third of either side of the Committee. The notice summoning any special meeting shall state the nature of the business proposed to be transacted thereat, and no other matters shall be discussed. A special meeting shall take place within fourteen days after the request has been received.

- 12 **Voting** Voting in the Committee and in sub-committees shall be by show of hands or otherwise as the Committee or sub-committee, as the case may be, shall determine. No resolution shall be regarded as carried unless it has been approved by a majority of the members entitled to vote present on each side of the Committee or sub-committee, as the case may be.
- 13 **Quorum** The quorum of the Committee shall be 10, consisting of 4 representatives of local authorities and 6 of the officers. In the absence of a quorum the Chair shall vacate the chair, and the business then under consideration shall be the first business to be discussed either at the next ordinary meeting or at a further special meeting to be held within fourteen days after the date fixed for the first special meeting, as the case may be. The quorum of a sub-committee shall, subject to any directions given by the Committee, be determined by the sub-committee.
- 14 **Notices of meetings** All notices of meetings of the Committee and of any sub-committee thereof shall be sent to the respective members at least seven clear days before the date of the meeting.

FINANCE

- 15 The expenses of the Committee, excluding any necessary travelling or subsistence expenses incurred by the members, shall be shared equally by the two sides.

ARBITRATION

- 16 In the event of a dispute over terms and conditions of employment arising between the two sides of the Committee on any matter of general application to staff or of application to particular classes of staff, the dispute shall, at the request of either side, be reported to the Advisory, Conciliation and Arbitration Service by the Joint Secretaries with a request that the matter be referred for settlement by arbitration. The arbitration award shall be accepted by the two sides, and shall be treated as though it were an agreement between the two sides.

AMENDMENTS TO CONSTITUTION

- 17 Alterations in the Constitution of the Committee shall be made as follows:
- a in paragraph 3 of this Constitution any change to the organisations represented on each Side, shall be a matter for each Side to determine.
 - b all other clauses can only be changed with the assent of both Sides.

PART 2 – CONDITIONS OF SERVICE

1. APPLICATION OF TERMS AND CONDITIONS GENERALLY

A chief officer shall enjoy terms and conditions in other respects not less favourable than those accorded to other employees of the local authority. Where terms and conditions are not specified locally, 'Green Book' provisions shall apply. Such terms and conditions may include:

Adoption Scheme
Car Allowances
Continuous Service
Grievance
Health, Safety & Welfare
Maternity / Paternity Scheme
Reimbursement of Expenditure
Sickness Scheme
Training & Development

2. QUESTIONS OF INTERPRETATION

Any questions concerning the interpretation of the paragraphs of this booklet shall be referred to the Joint Secretaries who if necessary, may agree to refer it to the Joint Negotiating Committee for determination.

3. PERIODS OF NOTICE TO TERMINATE EMPLOYMENT

The period of notice on either side will normally be three months, but this can be changed by mutual agreement.

4. ANNUAL LEAVE

The chief officer shall be entitled to a minimum of 30 days' annual leave (in addition to statutory and other public holidays but inclusive of any long service leave, extra statutory and local holidays). In exceptional circumstances and by mutual agreement annual leave may be carried forward to the next leave year.

5. HONORARIUM PAYMENTS

A local authority may consider granting an honorarium (of an amount dependent upon the circumstances of each case) to an officer within purview of this Committee who performs duties outside the scope of his/her post over an extended period.

6. RELOCATION EXPENSES

In the case of officers being relocated it is the practice of some authorities to contribute towards the approved costs of removal

expenses and of other incidental expenses reasonably attributable to the removal; it would be in the best interests of local government and facilitate movement of officers if this practice were more widely followed.

7. SETTING REMUNERATION LEVELS

- 7.1 The Localism Act 2011 requires local authorities to produce and publish a pay policy statement. According to the Act and statutory guidance published in 2012 and 2013, the statement should include the local authority's policy on specific aspects of chief officers' remuneration: remuneration on recruitment, increases and additions to remuneration, use of performance-related pay and bonuses, termination payments, and transparency arrangements. It should also set out the approach to be adopted towards pay dispersion, (i.e. differentials). In addition, the Local Government Transparency Code 2015 requires local authorities to publish the differential between the taxable benefits of senior managers and the median taxable earnings figure for the local authority's whole workforce, and details of senior employee salaries (above £50,000), names (with the option for individuals to refuse to consent for their name to be published), job descriptions, responsibilities, budgets and numbers of staff.
- 7.2 In this context it is essential for good governance that local authorities can demonstrate that decisions on pay and reward packages for chief officers have been made in an open and accountable way.
- 7.3 One option is for a local authority to establish a remuneration committee. The establishment of a remuneration committee is of course optional and different models may well suit individual authorities. What is clear though is that more than lip service must be paid to the notion of providing a verifiable and accountable process for recommending the remuneration level of the most highly-paid officials.
- 7.4 The issues that local authorities will need to consider if they set up such a committee are set out at **Appendix 3** of the JNC Conditions of Service Handbook for local authority Chief Executives.

8. PERFORMANCE APPRAISAL

- 8.1 Chief officers' responsibilities and accountabilities should be set out in writing at the appointment stage. Where this has not been done at the appointment stage it should be agreed with the individual officer concerned prior to the implementation of the performance appraisal scheme. Subsequently, there should be an annual process of performance appraisal linked to those responsibilities and accountabilities.
- 8.2 The performance appraisal process is separate from any scheme relating to either pay or performance related pay.

- 8.3 The performance appraisal process should involve the setting of both general and specific objectives for the year ahead and the review of performance in achieving previously set objectives. The focus of the process should be on clarifying what the chief officer will be expected to achieve and on identifying any continuing personal development needs to maintain a high level of performance.
- 8.4 The authority will provide training for all parties involved in the process, including elected members if involved.
- 8.5 The setting of objectives should be by consensus between the chief officer and his/her line manager, and/or the chief executive, and if desired an appropriate elected member. The result of the performance appraisal process will be to identify agreed objectives that are relevant and challenging but achievable and realistic in the light of available resources and time. (Joint Secretaries guidance on appraisal of chief officers is set out in full at **Annex 1**)

9. RESTRICTIONS ON RE-EMPLOYMENT

- 9.1 After termination of the chief officer's employment he/she:
- a will not divulge any information to any third party which is confidential to the authority.
 - b will not, without the consent of the authority, which will not unreasonably be withheld, within a period of 12 months take up employment with or provide services for reward to any body:
 - i if during the chief officer's last two years of employment with the authority the officer has been directly involved in transactions with that body for which the offer of employment or provision of services could reasonably be regarded as a reward
 - ii which is likely to benefit from commercially sensitive information which is known to the chief officer by virtue of his/her past employment by the authority.
- 9.2 These provisions would not apply if the termination of employment with the local authority arose as the result of redundancy or the externalisation of work and consequent transfer to a new employer.

10. SALARY

The salary paid to a chief officer will be that determined by the employing local authority. Salaries shall be deemed to be inclusive, and all other fees and emoluments, unless they are covered by **Paragraph 11** or the authority expressly agrees that they shall be

retained by the officer, shall be paid by the officer into the local authority's accounts.

11. RETURNING OFFICER FEES

The chief officer shall be entitled to receive and retain the personal fees arising from such of the duties of returning officer, acting returning officer, deputy returning officer or deputy acting returning officer and similar positions as he or she performs subject to the payment of pension contributions thereon, where appropriate, unless a specific term has been included in the chief officer's contract referring to alternative arrangements.

12. OFFICIAL CONDUCT

- 12.1 The public is entitled to demand of a local government officer conduct of the highest standard.
- 12.2 An officer's off-duty hours are his/her personal concern but he/she should not subordinate his/her duty to his/her private interests nor put himself/herself in a position where his/her duty and his/her private interests conflict, or where public confidence in the conduct of the authority's business would be weakened.
- 12.3 Officers within purview of this Committee shall devote their whole-time service to the work of the local authority and shall not engage in any other business or take up any other additional appointment without the express consent of the local authority.
- 12.4 An officer shall not be required to advise any political group of the local authority, either as to the work of the group or as to the work of the local authority, neither shall he/she be required to attend any meetings of any political group. This shall be without prejudice to any arrangements to the contrary which may be made in agreement with any officer and which includes adequate safeguards to preserve the political neutrality of the officer in relation to the affairs of the local authority.
- 12.5 No officer shall communicate to the public the proceedings of any committee meeting nor the contents of any document relating to the authority which in either case is regarded by the authority as confidential unless required by law or expressly authorised to do so.
- 12.6 If it comes to the knowledge of an officer that a contract in which he/she has any pecuniary interest, whether direct or indirect (not being a contract to which he/she is himself/herself a party), has been or is proposed to be, entered into by the authority, he/she shall, as soon as practicable, given notice in writing to the chief executive of the authority of the fact that he/she is interested therein. (Attention is

drawn to the provisions of the Local Government Act 1972 Section117).

- 12.7 Information concerning an officer's private affairs shall not be supplied to any person unless the consent of such officer is first obtained.

PART 3 - DISCIPLINE, CAPABILITY AND REDUNDANCY

1. SPECIFIC STATUTORY OFFICERS

- 1.1 Where disciplinary action against the Monitoring Officer or s151 Officer or, in Wales, the Head of Democratic Services is contemplated, the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015) in England, and the Local Authorities Standing Orders (Wales) Regulations 2006 in Wales, provide a degree of protection for these officers against unwarranted political interference in their statutory role within local authorities.
- 1.2 **(England)** Paragraph 13 and 13A and Appendix 5A of the Conditions of Service Handbook of the Joint Negotiating Committee for Local Authority Chief Executives, which give effect to these statutory requirements, can be used as a reference guide in circumstances where disciplinary action against the Monitoring Officer or s151 Officer is contemplated.
- 1.3 **(Wales)** Paragraph 13 and 13B and Appendix 5B of the Conditions of Service Handbook of the Joint Negotiating Committee for Local Authority Chief Executives, which give effect to these statutory requirements, can be used as a reference guide in circumstances where disciplinary action against the Head of Democratic Services is contemplated.

2. CHIEF OFFICERS OTHER THAN SPECIFIC STATUTORY OFFICERS

- 2.1 The size and structure of local authorities varies greatly and it is therefore difficult to set out single disciplinary and capability procedures which would fit all authorities. However, authorities will have local procedures to deal with such issues.
- 2.2 In general, informal conciliation is to be preferred to formal disciplinary and capability procedures if it can bring about a mutually agreed solution to the problems that have arisen. Such solutions should make it clear what specific changes in behaviour and/or performance are expected and within what timescales. However, provision is required to undertake more formal action where necessary.
- 2.3 The principles of natural justice and good management practice must govern the conduct of any proceedings against a chief officer on the grounds of either alleged misconduct (i.e. 'discipline') or an alleged inability to carry out their role (i.e. 'capability'). Authorities should have full regard to the principles and standards set out in the ACAS Code of Practice on Disciplinary Procedures.

- 2.4 A particular consideration for Chief Officers is that the procedures must take account of an officer's position in the hierarchy when determining who conducts investigations, undertakes disciplinary/capability hearings taking any appropriate action and who hears appeals. Depending on the structure of the authority and the circumstances of the case these functions should normally be undertaken by officers as appropriate but in some cases may require a committee of members to be involved in hearings or appeals.
- 2.5 Where the chief officer's continuing presence at work compromises an investigation or impairs the efficient exercise of the local authority's functions, the chief officer may (subject to whatever consultation or approval may be required under the authority's standing orders) be suspended from duty. The Council, or appropriate committee or senior officer, acting under delegated powers, may carry out such suspension on full pay. Written notice stating the reasons for any such suspension shall be given at the earliest opportunity possible.
- 2.6 Suspension protocols regarding communication and matters such as annual leave and sickness should be agreed. The necessity for the chief officer to remain suspended should be reviewed at regular intervals and where possible lengthy periods of suspension should be avoided.
- 2.7 In England, where an authority operates a mayor or leader cabinet executive system and as a result of disciplinary proceedings there is a recommendation to dismiss, they should check whether the executive objections procedure set out in schedule 1, part I, paragraph 6 and part II, paragraph 6 of the Local Authorities (Standing Orders) (England) Regulations 2001 applies, and if so ensure it is followed before the chief officer is dismissed.
- 2.8 Where the chief officer in question is a Director of Public Health in England then the authority should ensure that it complies with section 73A of the National Health Act 2006, which provides that before terminating the appointment of its Director of Public Health, a local authority must consult the Secretary of State for Health. Further information on this is available in the Department of Health's guidance, [Directors of Public Health in Local Government: Roles, responsibilities and context](#).
- 2.9 The Joint Secretaries (or their representatives) are available to act in an impartial conciliation role, whether formal or informal if required to do so by the local parties.

3. REDUNDANCY

- 3.1 Employing authorities should consult with any chief officer affected at the earliest possible stage when there is a suggestion that the chief officer's post might be abolished or proposed for abolition.

- 3.2 If after such consultation a proposal is formulated to abolish the chief officer's post, and that is part of a proposal to dismiss 20 or more employees from one establishment within 90 days the procedure of Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992, requiring consultation with trade unions, should be followed, the required statutory information being sent to the chief officer and to each independent trade union recognised by the employers for collective bargaining purposes for the chief officer. Where the provisions of the Act do not apply in any event a period of not less than twenty-eight days should be allowed for the individual consultation process. The chief officer and a trade union representative should also be afforded an opportunity of making oral representations to the Committee or Council meeting concerned before a final decision is made.
- 3.3 If following such consultations the authority decide that the post must nevertheless be abolished, the officer should be offered any suitable alternative employment that may be available or which may become available in consequence of the re-organisation giving rise to the abolition of the chief officer's post.
- 3.4 The authority should also bear in mind the possible application of discretionary powers of premature retirement, and permissible enhancement of benefits or redundancy payments, and the possibilities of providing an alternative post or of extending the period of notice to assist the chief officer in finding other employment.
- 3.5 Where the chief officer in question is a Director of Public Health in England then the authority should ensure that it complies with section 73A of the National Health Act 2006, which provides that before terminating the appointment of its Director of Public Health, a local authority must consult the Secretary of State for Health. Further information on this is available in the Department of Health's guidance, [Directors of Public Health in Local Government: Roles, responsibilities and context](#).

JOINT GUIDANCE ON APPRAISAL OF THE CHIEF OFFICER

1. INTRODUCTION

- 1.1 This guidance is intended for use by senior officers, elected members and the chief executive when agreeing a process for appraising the performance of the chief officer. The focus of this process should be on clarifying what the chief officer is expected to achieve and on identifying any continuing developmental needs which, if met, would maintain a high level of performance. The process of setting objectives should be by agreement and the result should be to identify objectives which are relevant and challenging but achievable.
- 1.2 The process should not become complex. At all times it needs to focus clearly on a few basic issues: what the chief officer's job is; what has been done well; what could have been done better; the major issues over the next year; and what developmental needs the process clearly identifies.

2. RESPONSIBILITY FOR APPRAISAL

- 2.1 The responsibility for appraising a chief officer lies primarily with their line manager and/or chief executive. It is a contractual obligation on the part of both the chief officer and the employing local authority to engage in a regular process of appraisal.
- 2.2 It will be for local decision in the light of local circumstances whether the appraisal should include any input from elected members representing all political groups or by a senior representative or representatives of the controlling group. Whichever approach is adopted, those conducting the appraisal need to bear in mind at all times that the chief officer is employed by the local authority as a whole, not by the controlling group, and is therefore required to serve all of the local authority.

3. AIMS OF APPRAISAL

- To identify and clarify the key objectives, priorities and targets of the local authority and appropriate timescales for their achievement over the next (e.g. twelve) months
- Agree what the chief officer should personally achieve over the next (e.g. twelve) months and identify required standards of performance, in order to help deliver the local authority's key objectives, priorities and targets. Wherever possible standards of performance should be expressed in ways which can be monitored objectively

- Discuss positive achievements over the past (e.g. twelve) months and identify reasons for good performance
- Discuss instances over the past (e.g. twelve) months where targets have not been met, identifying the factors preventing the achievements of agreed goals
- Discuss developmental requirements. The chief officer will have strengths and weaknesses and the parties should identify the professional development necessary to equip the chief officer with the requisite skills to meet the local authority's objectives. The parties should be proactive and anticipate future developmental needs in the context of the local authority's changing priorities. This discussion could lead to the design of a formal programme of continuous professional development (CPD). Equally this discussion may lead to agreement on changes to the working relationship between the chief officer and the chief executive. It should not be assumed that it is only the chief officer who may need to adjust his / her approach to the working relationship

3.1 Appraisal should be set in the context of the local authority's objectives, priorities and targets, generally expressed in corporate plans. Appraisal targets when taken as a whole should be related to agreed targets for the local authority as a whole.

4. THE APPRAISAL CYCLE

Appraisal should take place on a predetermined date, **at least annually**, backed up by regular monitoring meetings at which targets can be reviewed for continuing relevance. A formal system of appraisal should not prevent the continuous review of progress and performance.

5. KEY ELEMENTS OF THE APPRAISAL PROCESS

- Continuous two-way monitoring of performance against objectives
- Preparation for an appraisal interview
- An appraisal interview where recent and current performance, future objectives and development needs are discussed
- Agreement on action required from either party to ensure required performance is achievable
- A continuing process of informal discussion regarding performance

6. THE APPRAISAL INTERVIEW AND AFTERWARDS

- Both parties should be well informed and prepared for the interview
- The process should be two-way
- The interview should be free from interruptions, and notes should be taken when necessary
- The parties should concentrate as far as possible on established facts rather than unsubstantiated opinions
- Targets which are realistic and capable of being monitored should be agreed
- Any agreed personal development plans should be implemented within the agreed timescale
- The chief officer should be given a reasonable opportunity to correct any shortfalls in performance
- A date for the next review should be agreed

7. OTHER MATTERS

The detailed content of appraisal interviews should normally be treated as confidential to the participants, unless both parties agree that it would be helpful for the targets agreed for the ensuing period to be shared more widely. However, it may be useful to report to an appropriate committee meeting that an appraisal interview has taken place.

Comparison between Senior Manager Terms and Chief Officer Handbook

| Term | Senior Manager's Terms | Chief Officer's Handbook |
|--------------------------------|--|---|
| Sickness Absence | <p>Sick leave is specified:</p> <ul style="list-style-type: none"> • During the first year of service: one month's full pay during your first three month's service; one month's full pay and two months' half pay after four month's service • During the second year: two months' full pay and two months' half pay • During the third year: four months' full pay and four months' half pay • During the fourth year: five months' full pay and five months' half pay • After completing five years' service: six month's full pay and six months' half pay. | Where terms are not specified locally, Green Book provisions shall apply |
| Notice to terminate employment | 12 weeks on either side | 3 months on either side, but this can be changed by mutual agreement |
| Annual Leave | 26 days, rising to 31 days after 5 years' service plus BHs | 30 days plus BHs from day one |
| Relocation expenses | <p>The Council's policy will apply. This may be subject to revision, as determined by the Council from time to time. Reimbursement will be based on receipts only and completion of relevant claim form. No expenditure will be authorised without receipts.</p> | <p>It is the practice of some authorities to contribute towards the approved costs of removal expenses and of other incidental expenses attributed to moving. It would be in the best interests of local government if this practice were more widely followed.</p> |

| Term | Senior Manager's Terms | Chief Officer's Handbook |
|-----------------------------|---|---|
| Setting remuneration levels | <p>The Council will ensure that every senior management post is job evaluated using the Local Government Employers (LGE) job evaluation system for senior managers. The LGE job evaluation system will determine the band the post is allocated to. Where there is a salary range within a salary band, the Council will determine the exact point within the band for each senior manager (spot point). There is no automatic incremental progression. Movement within the band (where incremental points are applicable) in exceptional circumstances will be dealt with by the Head of Paid Service upon recommendation from an Executive Director or, in the case of Executive Directors, on the grounds of exceptional performance by that Executive Director.</p> | |
| Performance Appraisal | <p>Senior managers are required to actively participate in the prevailing Performance Management Scheme.</p> | <p>Fairly vague, but talks about setting objectives at the outset. The setting of objectives should be by consensus between the chief officer and his/her line manager. It will be for local decision in the light of local circumstances whether the appraisal should include any input from elected members representing all political groups or by a senior representative of the controlling group.</p> |

| Term | Senior Manager's Terms | Chief Officer's Handbook |
|-------------------------------|--|---|
| Restrictions on re-employment | Not mentioned | <p>After termination of the chief officer's employment he/she:</p> <ul style="list-style-type: none"> • Will not divulge any information to any third party which is confidential to the authority • Will not, without the consent of the authority, which will not be unreasonably withheld, within a period of 12 months take up employment with or provide services for reward to any body: <ul style="list-style-type: none"> ○ If during the chief officer's last two years of employment with the authority the officer has been directly involved in transactions with that body for which the offer of employment or provision of services could reasonably be regarded as a reward. ○ Which is likely to benefit from commercially sensitive information which is known to the chief officer by virtue of his/her past employment by the authority. <p>These provisions do not apply if the termination arose as the result of redundancy or TUPE</p> |
| Disclosure of Salary | All senior manager salaries will need to be disclosed in the annual accounts and any other relevant form in line | The salary paid to a chief officer will be that determined by the employing local authority. |

| Term | Senior Manager's Terms | Chief Officer's Handbook |
|--------------|--|--|
| | with relevant statute or guidance. This will normally take the form of name, designation and salary band but this may be subject to change. This is a condition of employment for all senior managers. Where a severance has taken place this will also need to be disclosed in line with above provisions | The Local Government Transparency Code 2015 requires local authorities to publish...details of senior employee salaries (above £50,000), names (with the option for individuals to refuse to consent for their name to be published), job descriptions, responsibilities, budgets and numbers of staff. |
| Disciplinary | With the exception of Chief Officers and Deputy Chief Officers, Senior Managers will be subject to the Council's Disciplinary Procedures. A separate procedure exists for Chief Officers and Deputy Chief Officers. Details can be found in the terms of reference for the Employment (Appeals) Committee. | Use JNC Code for Chief Execs if disciplinary investigation involves the Monitoring Officer or s151 Officer. For other Chief Officers, local authorities will have local procedures to deal with such issues. Usual guidance such as try informal resolution first, follow ACAS code of practice, hearings/investigation normally carried out by officers, but if the person is very senior consider using Members for the hearing or the appeal, suspension must be on full pay – nothing that you wouldn't expect in a standard disciplinary policy. |
| Grievance | Senior managers are subject to the Council's normal policy and procedures for officers. Grievances raised by Chief Officers are dealt with by the Grievance Committee. | A chief officer shall enjoy terms and conditions in other respects not less favourable than those accorded to other employees of the local authority. Where terms and conditions are not specified locally, 'Green Book' provisions shall apply. |

| Term | Senior Manager's Terms | Chief Officer's Handbook |
|---|--|--|
| Redundancy, redeployment and early retirement | <ul style="list-style-type: none"> • If a senior management post is deemed as redundant decisions will be in accordance with the Council's normal policy and procedures • If a senior management post becomes at risk of redundancy the normal Council procedures for redeployment will apply, along with the Council's prevailing Pay Protection Scheme. • Senior managers are subject to the Council's normal policy and procedures for severance and early retirement. Any policy decisions in relation to the Council's schemes are not contractual and will be reviewed on a regular basis in accordance with the relevant Regulations | <ul style="list-style-type: none"> • Employing authority should consult with any chief officer at earliest opportunity • Collective consultation takes place when appropriate but, in any event, individual consultation should be no less than 28 days • Must be offered any suitable alternative employment that may be available • Authority should bear in mind the possible application of discretionary powers of premature retirement and permissible enhancement of benefits or redundancy payments and the possibilities of providing an alternative post or of extending the period of notice to assist the chief officer in finding other employment. • Where the chief officer is the Director of Public Health then the authority should ensure that it complies with section 73A of the National Health Act 2006 (concerns consultation with the Secretary of State for Health) |

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Appendix 3 – Roles impacted by change to JNC CO T&Cs

| Chief and Deputy Chief Officers | Designation |
|---|--------------------|
| Executive Director - Adults, Ageing & Wellbeing | Chief Officer |
| Executive Director - Children, Education and Young People | Chief Officer |
| Executive Director - PH Communities and Inequalities | Chief Officer |
| Executive Director - Place and Regeneration | Chief Officer |
| Executive Director - Transformation & Resources (S151) | Chief Officer |
| Chief Fire Officer* | Chief Officer |
| Director of Law & Corporate Governance | Chief Officer |
| Director of Strategy & Communications | Chief Officer |
| Director of Workforce & OD | Chief Officer |
| Director of Assessment and Safeguarding | Deputy Chief |
| Director of Integrated Commissioning | Deputy Chief |
| Director of Children's Social Care | Deputy Chief |
| Director of Education, SEN & Skills | Deputy Chief |
| Director of Stronger Communities | Deputy Chief |
| Director of Economic Development & Growth | Deputy Chief |
| Director of Environment and Transport | Deputy Chief |
| Director of Planning and Housing | Deputy Chief |
| Director of Digital & IT | Deputy Chief |
| Director of Finance and Procurement (Deputy s151) | Deputy Chief |
| Director of Strategic Change | Deputy Chief |

*for the purposes of pay award only, all other T&Cs to remain unchanged

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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