

Croydon Council

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| REPORT TO: | COUNCIL 15 JULY 2014 |
| AGENDA ITEM NO: | 11 |
| SUBJECT: | THE APPOINTMENT OF A PERMANENT CHIEF EXECUTIVE |
| LEAD OFFICERS: | Director of Human Resources & The Council Solicitor |
| FROM: | THE APPOINTMENTS COMMITTEE |
| CORPORATE PRIORITY/POLICY CONTEXT: Effective corporate governance. Delivery of the Council's Community Strategy and Corporate Plan | |
| FINANCIAL IMPACT: The recommendations within attached report will result in direct savings of £374k per annum. More detail is set out in section 5. | |
| FORWARD PLAN KEY DECISION REFERENCE: This is a decision for Council | |

1. RECOMMENDATION

- 1.1 That the Council consider the recommendation of the Appointments Committee of 1.7.14 and agree the appointment of Mr Nathan Elvery to the post of Chief Executive, Head of Paid Service and other statutory roles associated with that post.

2. EXECUTIVE SUMMARY

- 2.1 This report sets out the recommendation for the permanent appointment of a Chief Executive & Head of Paid Service (the Chief Executive post) for the Council on a full time basis following an extended period of interim arrangements for this post. The Council faces new challenges and increasing demands so needs to embark on a sustained period of radical and ambitious transformation and service improvement given the extent of the financial challenge facing Local Government. It is considered to be in the best interests of the Council that a permanent Chief Executive is now appointed to work with the new administration to provide permanent strategic leadership to achieve their ambition for Croydon.

- 2.2 The report notes that following a review of the Chief Executive post it will be amended to include, as of 16 July 2014, the responsibilities currently within the portfolio of the Executive Director of Corporate Resources and Customer Services (ED of CRCS) which is being delivered by the current Chief Executive (interim), the ending of the current allocation of Deputy Chief Executive responsibilities and the deletion of the ED of CRCS and the Executive Director of Adult Services Health and Housing (ED of DASHH) posts.

3. DETAIL

- 3.1 The Council is facing new and increased demands and, as it embarks on a period of radical and ambitious transformation and service improvement so it is appropriate to appoint a permanent Chief Executive & Head of Paid Service. This will enable the Council to continue modernising through the implementation of the Croydon Challenge Transformation Programme which will bring about a further restructure of the Council.
- 3.2 The Council's Community Strategy and Corporate Plan combined with the Manifesto of the newly elected administration set out ambitious plans for service enhancement and change. In order to deliver this vision the Council is developing the Croydon Challenge Transformation Programme to implement an appropriate service transformation based on a focus of outcomes for the people of Croydon. This in turn will significantly contribute to the financial savings required by the Council during the medium term. In addition the Council's Transformation Programme envisages a complementary programme facilitating greater access by customers and residents, principally using web technology, and the modernisation of Council structures, culture and administration. As well as appraisal by residents and Members, the Council's progress will be judged by third parties including statutory inspectors.
- 3.3 The Council's plans can best be delivered through a suitably organised, motivated and empowered group of senior officers and staff working in partnership with the Political Leadership of the organisation. Leadership from the Chief Executive and an appropriately structured and effective Corporate Leadership Team will be critical to the Council's future success and improvements in the key outcomes for the people of Croydon. The Council also needs to respond to initiatives and guidance from central government and ensure the safe delivery of the financial challenges. This is within the context of an increasingly complex landscape and in a pre-general election year.

3.4 OPTIONS FOR APPOINTMENT

The following options were considered by the Appointments Committee and Option 3 adopted:-

Option 1: Advertise externally with no amendment to the Chief Executive job description

The Chief Executive post could be advertised on an external basis with no

amendment to the job description. If this were to happen then typically a 'search and select' agency would be engaged. The cost of engaging a search and select agency would be in the region of 20 % of anticipated salary i.e. circa £45k.

Typically it would take 2-3 months to advertise, long list and arrange a shortlist; and if an external (rather than internal appointment) were to be made then, if the successful candidate were currently in a role, a 3-6 month contractual notice period is considered the norm.

If the application of the internal post holder occupying the Chief Executive (interim) post was not successful then the postholder would revert to the ED of CRCS post and the Council would start to incur additional salary costs which have formed a basis of savings to the council taxpayer over the last year, noting that the post is not currently being backfilled as the postholder is performing both roles on behalf of the Council.

Option 2: Advertise the post externally with an amended job description to the Chief Executive post to include the responsibilities of the ED of CRCS

An 'amended' Chief Executive post could be advertised externally to include the portfolio or responsibilities currently covered by the ED of CRCS. Again if this were to happen a 'search and select' agency would usually be engaged, and it would typically take 2-3 months to draw up a shortlist.

If this option were to be considered then the existing Chief Executive (interim) would be at risk of redundancy as a result of the incorporation of the ED of CRCS duties within the amended Chief Executive post. In these circumstances it would be usual for the affected post holder to be considered first for the post on a ring fenced basis.

If the in house ring fenced application was not successful for the post then redundancy monies would become due (as a consequence of the restructuring proposals which remove the role of ED of CRCS) and consideration could be given to external applicants that had been invited through the search and select process.

Option 3: The Chief Executive post is amended to incorporate the responsibilities of the ED of CRCS; that the ED of DASHH post is also deleted and that affected staff are considered on a ring fenced basis first

The Croydon Challenge is an emerging Transformation Programme which is being designed to address the scale of the financial challenge which Croydon is facing in the next three years. It is expected that this will include a radical restructure of the Council including the deletion of posts from the current Corporate Leadership team.

The deletion of the posts of ED of CRCS and ED of DASHH would create two potential redundancies unless either post holder was successfully redeployed. It would be usual for affected post holders to be ring fenced and considered first for any newly amended or newly created posts – i.e. the amended Chief Executive

post.

If an internal applicant was appointed this would avoid the need for a search and select agency to be engaged; and it would potentially only incur redundancy costs in relation to one of the ED post holders whose post was being made redundant.

3.5 This is an individual proposal for consideration on its merits under the Council's policies. Factors which are key for consideration at this time include:-

- Desire for a change and pace of direction;
- New and increasing demands;
- A period of change & service transformation and improvement;
- Re-energised officer leadership and culture;
- Skills, experience and knowledge of existing staff;
- Electoral cycle (as the Chief Executive is the Returning Officer); and
- Government Inspection cycle.

3.6 Impact on staff

It would be normal practice, given that both posts that are to be deleted carry with them Deputy Chief Officer status, to consider the affected post holders first on a "ring fenced" basis for the vacant Chief Executive post.

The current ED of DASHH has expressed a clear and unambiguous wish to relinquish such an opportunity and to retire on the grounds of redundancy with effect from later this year in accordance with the timescales associated with the Croydon Challenge Transformation Programme.

The substantive post holder of the ED of CRCS was interviewed for the amended Chief Executive post by the Appointments Committee. This post holder has been Chief Executive (interim) since 11 March 2013.

This post holder that was considered on a ring fenced basis for the amended Chief Executive post has been employed by the Council for in excess of 10 years, and has been undertaking the portfolio of responsibilities of Chief Executive on an interim basis since March 2013. The structural change that is proposed is therefore one that has been 'tried and tested' and has proven to be extremely effective.

The proposed deletion by reason of redundancy of the ED of DASHH will also have an impact posts that currently report directly to it, and on others to which it is proposed responsibilities transfer as a consequence. Informal consultation with individuals currently in the posts affected has confirmed that they support the proposed expanded portfolio of responsibilities for the Chief Executive post with no objections to this proceeding and to there being one ring-fenced candidate for consideration.

Once restructure proposals are finalised in relation to the redistribution of these responsibilities, formal consultation with the individuals impacted both directly and structurally will be undertaken in advance.

4. ADDITIONAL CONSIDERATIONS

4.1 Value for Money

Value for money is a matrix of economy efficiency and effectiveness. Members, when considering value for money issues may also take account of the potential for significant long-term non-financial damage in respect of the Council's relationship with its staff which is a legitimate consideration for Members. The costs of these issues are potentially very high compared to the cost of reaching an Agreement in relation to the consequences of Option 3 with the post holders concerned. Notwithstanding the post holder's duty to mitigate their own losses, in a worst case scenario, if the Council was to lose a claim for unfair / constructive dismissal and the Chief Executive (interim) had been unable to secure alternative employment there is a potential for a high award to be made for which the Council could be liable as well as its own legal costs. Value for money might also be considered against the background of the Council's general financial parameters i.e. the annual revenue net budget of £279m and the Council's financial standing.

4.2 From published accounts the range of salaries for Chief Executive posts in what may be considered comparable boroughs have been identified as follows:-

- LB Bexley - £195,582
- LB Wandsworth - £230,440
- LB Westminster - £200,379

It is proposed that a £180k pa salary with no increases for 2 years from the date of appointment would be acceptable to Mr. Elvery. Therefore the salary being proposed is less than the market rate for this role for the size and complexity of this borough.

4.3 The Chief Executive post is entitled to receive fees in respect of undertaking the separate contractual role and responsibility of Electoral Returning Officer. The fee associated with this role is determined independently of the Council for each election. Mr Elvery has given a commitment that in circumstances where there are no set fees for any deputies undertaking and supporting his electoral role and responsibilities he will continue to share his fees with them.

4.4 Previous holders of the office of Chief Executive have also enjoyed additional benefits such as private health care, a subscription to a professional association and a car allowance. Mr. Elvery has declined these benefits which results in an additional saving of £5k pa on the current budget.

5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1 The Director of Finance and Assets comments that the report recommends the deletion of two Executive Director posts. The ED of CRCS is currently being undertaken by the Chief Executive (interim) and therefore it is assumed there will be full year savings for 2014/15. It is assumed that the ED for DASHH will become vacant from the 31/03/15 for the purposes of the financial

considerations. The table below includes the budget for the Chief Executive and the two Executive Directors.

1 Revenue and Capital consequences of report recommendations

| | Current year | Medium Term Financial Strategy – 3 year forecast | | |
|---------------------------------------|------------------|--|------------------|------------------|
| | 2014/15 £'000 | 2015/16 £'000 | 2016/17 £'000 | 2017/18 £'000 |
| Revenue Budget available | 595 | 408 | 221 | 221 |
| Expenditure | | | | |
| Income | | | | |
| Effect of decision from report | | | | |
| Expenditure | (187) | (187) | | |
| Income | | | | |
| Remaining budget | <u>408</u> | <u>221</u> | <u></u> | <u></u> |
| Capital Budget available | | | | |
| Expenditure | | | | |
| Effect of decision from report | | | | |
| Expenditure | | | | |
| Remaining budget | <u></u> | <u></u> | <u></u> | <u></u> |

2 The effect of the decision

The deletion of the two posts will directly save £374k per annum from April 2015, with £187k saved in 2014/15. The costs and savings above include the employer NI and Pension contributions. Redundancy costs are not factored into this calculation. These will be based on the council's agreed policy and will be funded from earmarked reserves in line with the financial policy to bring forward revenue savings from staffing changes.

3 Risks

There will be a reduction in senior management capacity as a result of these changes however it is felt any risks are minimal given the ED CRCS post has been vacant since March 2013 and the overall changes and reductions in council spending.

4 Options

Three options have been considered as set out within the body of the report. Option 3 is modelled above.

Option 1 results in no savings against our budget as no posts are deleted and would in practice result in additional costs as one of the posts is currently vacant.

Option 2 results in a saving of £187k against budget rather than £374k. Both option 1 and 2 result in an expected cost of £45k for recruitment.

5 Future savings/efficiencies

There is expected to be further opportunities for savings at other levels following the removal of these two posts. This will include support services focused around these two posts and the two departments

6. LEGAL CONSIDERATIONS

- 6.1 The Council Solicitor comments that this report has been prepared on the basis that there is cross party support for the appointment of a permanent Chief Executive, Head of Paid Service and other statutory roles associated with this post. Members will be aware that the Chief Executive holds several statutory posts including Head of Paid Service, Returning Officer and Electoral Registration Officer. Accordingly, if the ring fenced exercise was unsuccessful Members would need to consider a further report on the current Interim arrangements and the appointment of a permanent Chief Executive.
- 6.2 The appointment of a permanent Chief Executive is subject to veto by the Cabinet and agreement of the full Council.
- 6.3 By section 112 of the Local Government Act 1972 the Council has the power to employ staff on such reasonable terms and conditions as it thinks fit.
- 6.4 The matters addressed in the body of the report are all relevant considerations which should be carefully weighed in making the decision. Members should also bear in mind their general fiduciary duty to the Council Tax payers and their decisions must be prudent and reasonable, and within Council policy.
- 6.5 A speedy resolution to this matter is a perfectly proper objective as a lengthy process would inevitably impact on the provision of the services and the efficiency of the organisation given the scale of the budget challenge.
- 6.6 It is always possible that the District Auditor or any other person can take a contrary view. However, Members should be assured that this option is sustainable and forms part of a well-trodden path. As this matter is within the discretion of the Council it is the reasonableness of the Council decision which is important. The fact that someone else may reasonably come to a different decision on the same facts is not important. The Courts recognise a broad band of reasonableness which can support different outcomes
- 6.7 It remains the position that the Chief Executive (interim) has not made any claim against the Authority in respect of his employment position and all parties

have proceeded in a spirit of mutual co-operation. None the less there is the potential risk for such a claim being made.

- 6.8 If the Committee wishes to pursue an alternative course of action then a further report would be required to the full Council as the current interim arrangements expire in October 2014.

7. HUMAN RESOURCES IMPACT

- 7.1 The Director of Human Resources comments that it is appropriate for the affected post holder(s) of those posts to be deleted by reason of redundancy to be considered first for the amended Chief Executive post on a ring fenced basis; and particularly so given their length of service and the fact that those impacted would otherwise have Deputy Chief Executive responsibilities.
- 7.2 Following the agreement of the Appointments Committees recommendation by full Council a planned and timely internal and external communications strategy will mitigate any levels of anxiety; and it will help ensure support for the recruitment process and appointment for the Council.
- 7.3 The redundancy arrangements for the ED of DASHH will be made in accordance with the Council's Early Retirement and Redundancy Scheme.
- 7.4 The recognised trade unions have been consulted on these proposals. Unison, Unite and GMB were advised about the detail and outcome following the Appointments Committee meeting so that any views expressed by the unions may be made known to full Council.
- 7.5 Any contractual offer of employment offered to a successful applicant should incorporate any previous allowance that may exist or be being paid in relation to the post being a Chief Officer post. Payment of a separate Chief Officer allowance no longer applies to new, or newly appointed, Chief Officers.
- 7.6 The salary/emoluments for the post of Chief Executive should also be subject to review again e.g. if the Council's Pay Policy is reviewed; and also on a regular basis to ensure it is appropriate in relation to the market.

8. CONSULTATION

- 8.1 It is understood that this course of action is endorsed by both Groups represented on the Council. A draft of this report has been provided to the Chief Executive (interim) who endorses the contents. The ED of DASHH was consulted and declined the invitation to participate in the ring fenced opportunity for the appointment of the Chief Executive and has agreed to take redundancy later in the year. One to one informal consultation has been undertaken with all of the Executive Directors, Directors and one Head of Service directly affected (directly or organisationally) by the proposal to restructure the central departments and they are all very positive about the benefits of the restructure for the Council which they fully support.

9. EQUALITIES IMPACT

9.1 Although there are no specific equal opportunity implications in this report it is important that the officers concerned are treated in accordance with the Council's Policies and Procedures.

10. HUMAN RIGHTS IMPACT

10.1 Whilst it does not appear that there are any specific human rights applicable in this context the Council must ensure that its actions are proportionate.

11. FREEDOM OF INFORMATION/DATA PROTECTION CONSIDERATIONS

11.1 Whilst this report could be considered exempt from disclosure the Mr. Elvery has requested that it be in Part A of the agenda and so in the public domain.

CONTACT OFFICERS:

Heather Daley, Director of Human Resources & Julie Belvir, Council Solicitor & Monitoring Officer, Director of Democratic & Legal Services

BACKGROUND DOCUMENTS:
Committee 01/07/2014.

Exempt report to the Appointments