

COUNCIL

23 SEPTEMBER 2015

**APPOINTMENTS – INTERIM HEAD OF PAID SERVICE, RETURNING OFFICER & ELECTORAL REGISTRATION OFFICER, DEPUTY ELECTORAL REGISTRATION OFFICER AND INTERIM DIRECTOR OF CHILDREN’S SERVICES**

**REPORT OF THE HEAD OF LAW AND GOVERNANCE**

**Purpose of Report**

1. The purpose of this report is to recommend Council to appoint an Interim Head of Paid Service, a Returning Officer & Electoral Registration Officer, a Deputy Electoral Registration Officer and an Interim Director of Children’s Services and to approve appropriate amendments to delegated functions as a consequence of these designations.

**Interim Head of Paid Service, Returning Officer & Electoral Registration Officer, Deputy Electoral Registration Officer**

2. Under the Council’s Constitution, the designation of Head of Paid Service and Returning Officer and Electoral Registration Officer is assigned to the Chief Executive. This post will be vacant with effect from midnight 30<sup>th</sup> September and therefore in order to comply with legislative requirements, it is proposed that designations are put in place, pending the making of long term arrangements.
3. The Local Government and Housing Act 1989 requires a relevant authority to designate an officer as Head of Paid Service. It is the duty of the Head of Paid Service to report to the Council where he/she considers it appropriate upon proposals as to:
  - a) the manner in which the discharge by the Council of its different functions is coordinated;
  - b) the number and grades of staff required by the Council for the discharge of its functions;
  - c) the organisation of the Council’s staff and the appointment and the proper management of the Council’s staff.

4. Under the Council's Employment Procedure Rules, the appointment of the Head of Paid Service is made by full Council on a recommendation by Human Resources Committee and is subject to the "objection" procedure under which a member of the executive may object to the appointment. As there is a statutory requirement to appoint a Head of Paid Service, Council is recommended to suspend the application of the Employment Procedure Rules in respect of the making of a recommendation by the Human Resources Committee, in order to enable the Council to make an appointment which will take effect from 1 October 2015. It is proposed that the remuneration in respect of the designation of Interim Head of Paid Service and in respect of any other officers who may be required to undertake additional duties as a result of the interim arrangements, will be determined by the Director of Human Resources and Organisational Development, in consultation with the Leader.
5. In addition, the Representation of the People Act 1983 requires the Council to appoint an officer to be the Returning Officer for its own elections and for those of any parishes within its district and also to appoint an Electoral Registration Officer. The Electoral Registration Officer discharges the functions of the Acting Returning Officer at a UK Parliamentary election. It is good practice to also appoint a Deputy Electoral Registration Officer who can act in the absence of the Electoral Registration Officer. The Returning Officer's responsibilities are of a personal nature, distinct from their duties as an employee of the Council. The payment scales for national elections are set out in a statutory instrument laid before Parliament in respect of each individual election and, in accordance with the Council's pay policy, are applied to both local and national elections.
6. It is recommended that the Council appoint Sonia Tognarelli, Director of Finance as Interim Head of Paid Service, Sue Stanhope, Director of Human Resources and Organisational Development as Returning Officer and Electoral Registration Officer and Lindsay Dixon, Head of Electoral Services as Deputy Electoral Registration Officer.

### **Delegated Functions**

7. The Constitution provides for a number of delegated functions and designations as "proper officer" which currently sit with the position of Chief Executive. While this post is vacant, it is recommended that in order to enable the continued exercise of these functions, they be delegated to the Interim Head of Paid Service, other than those which relate to the Returning Officer role.

8. A suggested allocation of delegated responsibilities is shown in the Appendix to this report. These have been taken from the existing delegations to the Chief Executive, updated to reflect changes in legislative provisions since originally drafted. In addition, an express authority has been included in respect of the exercise of the Council's rights as member of any company (to reflect current practice) and to reflect the practice of the Chief Executive to act as company secretary in respect of a number of companies either owned by the Council or in which the Council participates, such as the Empire Theatre Trust Limited and Sunderland Care and Support Limited. The proposed delegations will be able to be exercised by the Interim Head of Paid Service and the Returning Officer in addition to the functions currently delegated to them in respect of their substantive posts.
9. One of the legislative references that is required to be updated, which relates to anti-social behaviour, also appears in the delegations to the Head of Law and Governance and therefore it is proposed that a corresponding amendment be made to those delegations.
10. It is suggested that the opportunity is also taken to clarify an apparent inconsistency between paragraph 10.4 of the Delegations to Chief Officers (Interpretation and General) as set out in the Constitution which indicates that officers may authorise other officers ***within their own Department*** (emphasis added) to exercise powers that have been delegated to them and paragraph 8 of Section 4 – Delegations to Chief Officers which does not restrict the authorisation of other officers in this way. It is suggested that the former paragraph is amended to remove the apparent restriction. This will give increased flexibility while retaining the provision that the relevant chief officer remains responsible for the exercise of any power that has been delegated to them and regarding which they have authorised another officer to exercise functions.

### **Interim Director of Children's Services**

11. The Commissioner for Children's Services in Sunderland, Nick Whitfield, has recommended that the Council appoint Steve Walker, as Interim Director for Children's Services. Mr Walker will be seconded from Leeds City Council where he has led on much of their improvement work, having previously worked in Swansea, where he was also involved in the improvement of services for children. It is therefore proposed that Mr Walker be appointed to the statutory position of Director of Children's Services on an interim basis. Mr Walker will join the Executive Management Team and in accordance with statutory guidance, will report directly to the Interim Head of Paid Service.

There is a statutory requirement for an authority's Director of Children's Services to be represented on its Health and Wellbeing Board and therefore Council is also requested to confirm this appointment.

12. Members of the executive have been notified of the proposed appointments referred to in this report, in accordance with the Employment Procedure Rules.

## **Recommendation**

That Council

- (1) Resolves to suspend the operation of the Employment Procedure Rules (in particular Rules 2,3 and 4 ) as they apply to the appointments referred to in this report, such suspension to be for the purpose of this item of business only.
- (2) Approves, with effect from 1 October 2015
  - i. the appointment of Sonia Tognarelli, Director of Finance, as Interim Head of Paid Service and that she be authorised to undertake the functions set out in Section A of the Appendix to this report on an interim basis, in addition to those functions delegated to the Director of Finance under the Constitution and
  - ii. the appointment of Sue Stanhope, Director of Human Resources and Organisational Development as Returning Officer and Electoral Registration Officer and that she be authorised to undertake the functions set out in Section B of the Appendix to this report, in addition to those functions currently delegated to the Director of Human Resources and Organisational Development under the Constitution and
  - iii. the appointment of Lindsay Dixon, Head of Electoral Services, as Deputy Electoral Registration Officer and that she be authorised to undertake the functions of the Electoral Registration Officer in their absence.
- (3) Approves the appointment of Steve Walker as Interim Director of Children's Services, appoints the Interim Director to the Health and Wellbeing Board and authorises the Interim Director to undertake those functions which are within the remit of the statutory role of Director of Children's Services, which are currently delegated under the Constitution to the Executive Director of People Services.

- (4) Authorises the Director of Human Resources and Organisational Development, in consultation with the Leader, to determine the remuneration to be awarded in respect of the interim appointments and in respect of any officers who undertake additional responsibilities as a consequence of the interim arrangements;
- (5) Authorises the Head of Law and Governance to amend the Constitution as appropriate to reflect the delegations set out in the Appendix to this report and the delegation of relevant functions to the Interim Director of Children's Services and to make such other amendments as are appropriate to reflect the appointments agreed by the Council.

### **Background Papers**

No background papers were used in the preparation of this report.

### Delegations

#### A. Interim Head of Paid Service

- To be the Council's principal adviser on general policy, and to ensure that proposals are consistent with policy.
- To make long term assessments of resources, needs and commitments, and to co-ordinate advice on forward planning.
- To ensure that the Council's policies and programmes are implemented and that the Council's staff are managed effectively having regard to statutory responsibilities.
- To grant exemptions from politically restricted posts and generally to deal with such posts.
- To keep a record of particulars of any notice given under Section 117 of the Local Government Act 1972 by an Officer of the Council as to a pecuniary interest in any contract or proposed contract.
- To receive and record declarations of hospitality received from officers.
- To witness and receive declarations as to the acceptance of office by a Councillor under Section 83 of the Local Government Act 1972.
- To receive notices of resignation as councillors under Section 84 of the Local Government Act 1972.
- To convene meetings of the Council for the election of a casual vacancy in the office of Mayor under Section 88 of the Local Government Act 1972.
- To receive notices of a casual vacancy of the office of councillor under Section 89(1) (b) of the Local Government Act 1972 and of a Parish Councillor under Rule 8 of the Local Elections (Parishes and Communities) Rules 1986.
- To sign photographic copies of documents under Section 22 of the Local Government Act 1972.

- To authenticate notices orders and other documents under Section 234 of the Local Government Act 1972.
- To send copies of byelaws to every parish to which they apply, under Section 236 of the Local Government Act 1972.
- To certify copies of byelaws under Section 238 of the Local Government Act 1972.
- To keep the roll of Freemen of the City under Section 248(2) of the Local Government Act 1972.
- Under Paragraph 4 of Schedule 12 of the Local Government Act 1972, to sign and serve Summonses of council meetings to every Member of the Council and to receive notices from Members as to the address to which their Summonses should be sent.
- To certify resolutions of the Council in respect of proceedings under the Public Health Acts 1875 to 1925 under paragraph 25(7) of Schedule 14 of the Local Government Act 1972.
- To exercise functions under the Registration Services Act 1953.
- To receive notices under the Local Government (Committees and Political Groups) Regulations 1990.
- To exercise powers under Section 1 of the Localism Act 2011 to provide financial and other assistance for economic development purposes provided that where the amount to be given to any one body in any one financial year is over £50,000, the matter shall be referred to the Cabinet for consideration.
- To approve the use by Chief Officers of external consultants where the cost is estimated to exceed £10,000 but not to exceed £100,000.
- To issue closure orders under the Anti-Social Behaviour, Crime and Policing Act 2014.
- To be the responsible person for ensuring compliance with the Local Authority Social Services and National Health Services Complaints (England) Regulations 2009.

- To approve, in consultation with the Head of Law and Governance, the payment of an indemnity to any Member or Officer up to a maximum of £50,000 in accordance with the approved policy, with requests above this sum being referred to Cabinet for consideration.
- To manage, operate and develop policies associated with Community Development and working with the voluntary and community sector, including Community Associations.
- To authorise officers to sign contracts with a value exceeding £50,000.
- To exercise the Council's rights in any company or other form of corporate body of which the Council is a shareholder or member, unless alternative arrangements are specified in the relevant body's articles of association, other governing instrument, any shareholders' agreement or any specific delegations in relation to particular bodies.
- To undertake the role of company secretary in any company for which the Council provides company secretarial or administrative services.
- To carry out any function which is delegated to a particular officer.
- To exercise all other functions which the Chief Executive is authorised to undertake or for which the Chief Executive is the nominated officer or "proper officer" under the current constitution, other than those set out in Section B below which are delegated to the Returning Officer.

## **B. Returning Officer**

- To act as Electoral Registration Officer and Returning Officer for the Council and any parish councils within the Council's area and exercise those functions in relation to elections listed in Section D of Schedule 1 of the Functions Regulations other than those reserved to the Council in Part 2, and be responsible for electoral areas and local government boundary reviews.

## **C. Head of Law and Governance**

Delete 5.1 (c) and 5.8 to 5.12 of the current delegation scheme and include authority

- To make applications for injunctions and orders and to commence proceedings under the Anti-Social Behaviour, Crime and Policing Act 2014.



## **Delegations to Chief Officers**

Amend Paragraph 10.4 of Section 10 Interpretation and General to provide that:

- Any power delegated to a Chief Officer or Head of Service may be delegated by him to any Officer of the Council provided that this is not precluded in law.

