

Report of the Chief Executive and Head of the Paid Service

SENIOR MANAGEMENT ARRANGEMENTS

1 Purpose of report

To report back on the revised senior management arrangements following Council's agreement to the restructuring of the senior officer team on 30th July 2013.

2 Executive summary

This report gives further information on how the new Senior Management Team will operate and includes a proposal in relation to the Council's Monitoring Officer arrangements.

3 Appendices

Appendix A. Extract from the Constitution setting out the functions of the Council's Statutory Officers.

4 Proposed action:

4.1 It is proposed that the Committee RESOLVES to note progress with the implementation of the revised Senior Management organisational structure.

4.2 It is proposed that the Committee RECOMMENDS that:

- a) Sue Lyons, Head of Democratic & Legal Services at Kettering Borough Council be designated as the Borough Council of Wellingborough's Monitoring Officer for a 12 month period commencing 30th November 2013.**
- b) A further report be submitted to the Resources Committee and Council prior to the end of the 12 month period reviewing the operation of these arrangements.**

5 Discussion

5.1 This report covers three distinct but related aspects of the managerial arrangements at the Council. These are:

- a) An update on the implementation of the revised senior management structure.
- b) The role and functions of the Council's Statutory Officers.
- c) Proposed future arrangements for the Monitoring Officer role.

5.2 In agreeing the report on the restructuring of the senior team members were keen to understand a little more about how the new arrangements would work in practice. Particular concerns related to the size of the senior team and reduced capacity with the removal of a further 3 of the 7 remaining posts at Head of Service level and above and the practical arrangements for discharge of the Monitoring Officer functions. This report covers both these aspects.

The New Senior Management Team (SMT)

5.3 The new SMT comprises four officers:

- The Chief Executive
- The Head of Finance
- The Head of Resources
- The Head of Planning and Local Development.

5.4 The Council has a number of shared and distributed services which need to work very closely with the new core SMT. The senior officers of these services are:

- The Managing Director of Wellingborough Norse.
- The Shared Head of ICT Services (shared with East Northants District Council).
- The Head of Legal Consortium (District Law) (a shared Service with Kettering and Daventry).
- The Chief Internal Auditor (part of the CW Audit partnership).

These four colleagues will work with SMT in the Senior Management team (Shared Services). This team may expand in future as the Council pursues further shared services arrangements to assist in meeting our financial challenges.

5.5 For some time the Council's Principal Managers have met as a group effectively at a level below the SMT. Given our continued contraction in size it is important that the SMT and the Principal Managers work even more closely together. All of these colleagues will now work together in a new Extended Management Team.

5.6 The SMT will deal with the high level strategic and corporate issues and

challenges whilst the EMT will be more operationally focussed.

- 5.7 It is arguable that a positive benefit of the removal of a further layer of the management structure will actually see streamlined communications and improved management of the Council's officer structure. Of course the reduction in capacity will mean we have to work in a different way and the Council will have to be clear on its priorities and decision making arrangements. Work is underway on these aspects.
- 5.8 The new SMT arrangements are already in place and overlapping with the previous Corporate Management Team (CMT). The final CMT meeting will take place on 31st October 2013.
- 5.9 Members did ask a specific question around managerial cover in the absence of the Chief Executive. This will be provided by at least one of the Heads of Service.
- 5.10 Whilst the main driver for the senior management changes was to assist in meeting the financial challenge I am confident the new arrangements as set above will provide both an efficient and effective step forward in relation to the ongoing delivery of the Council's priorities and services.

The Role and Functions of the Council's Statutory Officers.

- 5.11 All local authorities are required to designate the following Statutory Officer positions:
- The Head of the Paid Service.
 - The Monitoring Officer.
 - A Chief Finance Officer (generally referred to as the Section 151 Officer).
- 5.12 Appendix A sets out the statutory functions of the 3 Statutory Officer roles.
- 5.13 Whilst there are differing arrangements for some authorities, in general the Chief Executive is usually designated as the Head of the Paid Service, the Director/Head of Finance as the Chief Finance Officer and the Director/Head of Legal Services as the Monitoring Officer. The new senior arrangements maintain the usual approach in relation to the Head of the Paid Service and Chief Finance Officer roles.
- 5.14 In relation to the Monitoring Officer (MO) role the Council has not followed the conventional practice for some time. The Council's Monitoring Officer role has been assigned as an additional responsibility to the Head of Community since 2011 (previously the same postholder was the Head of Partnerships, Policy and Property and was first designated as MO in 2008). It is important to state that there is no requirement for the person designated as MO to have any legal qualifications. It just so happens that in the vast majority of local authorities it will be the Head of Legal that takes the role because the specific duties that attach to it have a high degree of overlap with the provision of legal advice.

5.15 I am sure it is generally accepted that the Council's MO arrangements have worked satisfactorily over the years. The Council has, in effect, shown that a move away from the traditional approach is not detrimental to the discharge of its functions. This is helpful as we consider the MO arrangements for the future.

Proposed Future Arrangements for the Monitoring Officer Role.

5.16 The revised Senior Management Structure designed by the Head of the Paid Service and endorsed by the Council sees three senior posts being made redundant. One of these posts is the Head of Community and that is the post currently designated as the Council's Monitoring Officer. In proposing future arrangements for the MO there are three aspects to consider:

- the traditional approach to MO arrangements.
- the increasing complexity of the legislative and legal framework in which the Council operates and on which the MO has to advise.
- the level of MO resource required.

5.17 As set out above the Council has for some time had a non-conventional approach to the designation of its MO. There is no need for any concern that the Council does not have its own full time Director/Head of Legal or other officer to designate as MO.

5.18 Whilst there is no need for the MO to be legally qualified the increasing complexity of the matters dealt with by the MO suggest that a legally qualified MO may now be a good idea.

5.19 In most local authorities and certainly one such as BCW the MO function is not a full-time role and as already noted, most local authorities incorporate the role into the duties of another post. The current MO estimates that statutory MO functions take up on average less than 3 days a month of his time.

5.20 In passing, it is worth mentioning that the Head of Community currently spends more time dealing with and advising on procurement issues than dealing with statutory MO issues. As the Council has recently joined the Welland Procurement Partnership most advice on procurement will in future be dealt with via that route.

5.21 Taking all of the above points into account and the fact that the recent change to the Standards regime introduced by the Localism Act 2011 has given less prominence to this aspect of the role of the MO it is considered that reintegrating the role of the MO with the provision of legal services would be a positive enhancement to the Council's organisational arrangements.

5.22 The Council obtains its legal services through a shared service agreement with Kettering and Daventry Councils. This consortium is District Law. The Head of that consortium is Sue Lyons and Sue is an experienced MO. This seems to provide a ready made solution. Sue could be seconded to BCW and designated as BCW's MO. Kettering Borough Council would be paid a small sum for the secondment thereby keeping costs manageable. Given that, as mentioned

above, the financial challenges faced by the Council were a key driver for the senior management restructuring the financial implications are important. These are set out in more detail in Section 8 below.

- 5.23 There is no legal barrier to appointing a colleague from an external organisation as the Council's Monitoring Officer, and a number of authorities have already done this as a means of reducing cost and increasing resilience, although some technical requirements relating to the postholder being seconded to the Council's establishment do need to be met. Section 7 below sets out the detailed legal position.

6. Related Considerations

- 6.1 Notwithstanding all of the matters covered above it is recognised that some members may still have concerns around designating the Head of a shared service (District Law) rather than a Council employee as the Council's MO. In fact when District Law was set up the MO function was specifically excluded from the arrangement. However, as set out elsewhere many factors have changed a great deal since May 2006 when the shared service commenced. The landscape of local government has quite literally suffered an earthquake in relation to funding and the aftershocks continue.

- 6.2 In order to address these concerns there are 3 further proposals which relate to:

- assistance for the Monitoring Officer role
- a period of review.
- a regular meeting of the Council's 3 Statutory Officers.

Assistant Monitoring Officer

- 6.3 It is recognised that it would be beneficial both for Members to have a local contact for MO issues and for the MO to have local assistance in carrying out the duties of the post, particularly, those attaching to advising Members on the registration and declaration of interests under the Code of Conduct. Accordingly, it is proposed that, the Principal Democratic Services Manager would act in this role. This means we would retain an officer in our main office who could be a first point of contact for MO related matters and who would be able to advise Members and Officers on certain matters. Appropriate training and support would be provided.

Review Period

- 6.4 As this is a new venture for the Council it would be sensible to review the approach after a suitable period. It is proposed that 12 months would be a suitable period to assess and analyse whether or not the new arrangement had been successful and if any adjustments were required.

- 6.5 **Statutory Officer Meetings**

It is good practice for the Council's 3 Statutory Officers to meet regularly to discuss the governance of the Council. Such a system will ensure that any MO resource is closely connected to and not remote from the day to day running of the Council. These sessions will be in addition to the MO's involvement in the Senior Management Team.

7. Legal Powers

- 7.1 Local Authorities are required to have a designated Monitoring Officer (MO) in accordance with Section 5 of the Local Government and Housing Act 1989.
- 7.2 Section 113 of the Local Government Act 1972 provides the statutory power for Local Authorities to second their staff to other local authorities. Subsection 2 of Section 113 provides that any officer seconded under this provision shall in relation to any enactment be treated as an officer of the authority.
- 7.3 As Head of District Law Sue Lyons is employed by the host authority, Kettering Borough Council. Under the provisions of S113(2) of the Act Kettering Borough Council can enter into a secondment agreement with BCW to carry out the role of MO.

8. Financial, Risk and Value for Money Implications

- 8.1 As members are aware the Council continues to face significant financial challenges. The restructuring of the senior team produces a full year annual saving of £360k per annum and reduces the Council's senior management costs by 52 per cent.
- 8.2 The proposed new arrangements for the Monitoring Officer role can be accommodated within the additional responsibility allowance of £3,940 currently paid to the Head of Community.
- 8.3 The allowance payable in respect of the MO should be set at £2,500 per annum and the allowance for the Assistant MO at £1,400 per annum.

9. Author and contact officer

John T Campbell, Chief Executive

10. Consultees

- 10.1 Liz Elliott, Head of Finance
Bridget Lawrence, Head of Resources
Steven Wood, Head of Planning and Local Development
Paula Lawton, Principal Democratic Services Manager
- 10.2 Importantly, the current MO, Chris Pittman, has been fully involved in the development of the proposal regarding MO arrangements. As the designated MO for the last 5 years Chris has confirmed that the proposed arrangements are an acceptable way to proceed.

11. Background papers

11.1 The Council's Constitution and relevant legislation referred to in the report.

11.2 The following background paper to this report contains confidential or exempt information as defined in paragraphs 1 and 2 of Part I of Schedule 12A to the Local Government Act 1972, as amended.

Report to Resources Committee 17th July 2013 titled Restructuring of the senior management team.

APPENDIX A

2.11.02 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

2.11.03 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Councillors, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by members of the public.
- (e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred for investigation by an assessment sub-committee of the Standards Committee and make reports or recommendations in respect of them to the Standards Committee hearings sub-committee. As an alternative to investigation the assessment sub-committee may instruct the monitoring officer to pursue alternative resolution.
- (f) **Proper officer for access to information.** The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

- (g) **Complaints.** To investigate all complaints against the Council received through the Local Government Ombudsman.
- (h) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

2.11.04 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision making.**
After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity to all Councillors and the Mayor and will support and advise Councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.