

Open Report on behalf of Debbie Barnes, Executive Director of Children's Services with Responsibility for People Management

Report to:	County Council
Date:	11 May 2018
Subject:	Appointment to the Post of Chief Executive

Summary:

This Report sets out the process followed by the Appointments Committee in recruiting to the post of Chief Executive and recommends the appointment of a successful candidate and that a conditional offer of employment is made to the successful candidate.

The Report also recommends that from the date the successful candidate takes up office they be designated as the Council's Head of Paid Service and appointed as Returning Officer and that from that date the Executive Director for Environment and Economy is designated as Monitoring Officer and that the necessary constitutional changes take effect.

Recommendation(s):

That the Council, on the recommendation of the Appointments Committee:-

1. Approves the appointment of the candidate referred to in Appendix A to the post of Chief Executive;
2. Approves the making of an offer of employment to the candidate referred to in Appendix A conditional on such of the following conditions as shall remain unsatisfied at the date of the full Council's meeting:-
 - a) Satisfactory health check;
 - b) Satisfactory completion of right to work checks;
 - c) Satisfactory completion of a basic Disclosure and Barring Service check
3. Delegates to the Executive Director for Children's Services Responsible for People Management authority to determine whether the conditions referred to in paragraph 2 above have been met.
4. Approves, from and including the date on which the new Chief Executive takes up post, that:-
 - a) The Chief Executive be designated as the Head of Paid Service;

- b) The Chief Executive be appointed as Returning Officer for County Council by-elections;
- c) The Executive Director for Environment and Economy be designated as the Monitoring Officer; and
- d) The amendments to the Council's Constitution attached at Appendix B take effect.

1. Background

Introduction

- 1 Following the resignation of the Council's previous Chief Executive with effect from 28 February 2018, the Council has been pursuing a recruitment process to identify a new Chief Executive. This process has been undertaken by the Appointments Committee which has delegated authority to appoint to the post of Chief Executive.
- 2 However, under paragraph 4 of Part II of Schedule 1 to the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) the Council is required to adopt standing orders which provide that where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the head of the authority's paid service, the authority must approve that appointment before an offer of appointment is made to that person. This is reflected in paragraph 2.3 of the Officer Employment Procedure Rules in Part 4 of the Council's Constitution.
- 3 As the post of Chief Executive is traditionally designated as the Head of Paid Service and that is the intention moving forward the appointment proposed by the Appointments Committee requires approval of the full Council to enable an offer of employment to be made and this Report recommends a candidate for approval.

Recruitment process

- 4 The recruitment process commenced with:-
 - The appointment of Penna as recruitment consultants to support the process
 - The placing of advertisements in The Municipal Journal, Guardian online and Times online and use of LinkedIn alongside Penna approaching known, relevant candidates from their database and network.
 - Establishment of a dedicated micro-site giving information about the Council and the role including an interview with the Leader of the Council.

- 5 The closing date for receipt of applications was 26 March 2018 and the Council received 25 applications which represented a very strong response. The average response rate for this level of role is 10-15 applicants.
- 6 Members of the Appointments Committee received copies of the applications on Thursday 29th March 2018 and given the timescales were asked to provide feedback by Monday 2nd April 2018.
- 7 On 3 April 2018 a panel consisting of The Leader, Deputy Leader and Executive Director for Children's Services met to produce, with the support of Julie Towers from Penna a long shortlist of candidates taking into account the comments of the wider membership of the Committee. That long shortlist consisted of ten individuals.
- 8 These ten candidates then:-
- Attended an informal discussion with the Leader of the Council. This was not part of the formal process but continued the Council's engagement with the candidates and enabled the candidates to gather information about the Council prior to further formal steps in the process. At this stage applicants were also given feedback from psychometric testing that they undertook online; and
 - Attended a technical interview on either 10 or 11 April 2018. This was part of the formal process. It was designed to test knowledge of local government, understanding of the role and the candidate's leadership style and was conducted by Pete Bungard, Chief Executive of Gloucestershire County Council and Julie Towers of Penna.
- 9 At a meeting of the Appointments Committee on 12 April 2018 the Committee received the outcome of the technical assessments of the candidates made by the external assessors based on psychometric tests and technical interviews. At that meeting the Committee resolved to invite a shortlist of three of the candidates to the final round of interviews and assessments.
- 10 The final round of interviews and assessments, took place on 18 and 19 April 2018. All members of the Committee were involved in the scoring of the candidates against the assessment criteria in at least one of the interviews and assessments. The results of that evaluation process were collated and moderated with all the members of the Committee and a successful candidate identified.
- 11 At a meeting of the Committee on 19 April 2018 the Committee unanimously resolved to recommend the candidate referred to in Appendix A to the full Council for appointment to the post of Chief Executive. Appendix A contains a description of the qualifications and experience of the candidate proposed for appointment. This Appendix will follow.
- 12 However, because of the information available to the Committee in making its final decision to recommend appointment, the Committee's decision was conditional on a number of matters being satisfied. Those conditions were:-

- a) Receipt of satisfactory references;
- b) There being no well-founded objection by the Executive to the appointment pursuant to paragraph 2.6 of the Officer Employment Procedure Rules; and
- c) Satisfactory evidence from the candidate that if the offer of employment were to be approved by full Council it is likely to be accepted

Authority was delegated to the Executive Director for Children's Services with Responsibility for People Management in consultation with the Leader of the Council as Chairman of the Committee to determine whether conditions a) and c) were fulfilled.

13 By way of explanation of the condition at paragraph 12b) above, paragraph 2.6 of the Officer Employment Procedure Rules in Part 4 of the Council's Constitution states that no appointment can be made to the post of Chief Executive and Head of Paid Service unless every member of the Executive has been notified of:

- (i) the name of the person to whom the appointor wishes to make the offer;
- (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
- (iii) the period within which any objection to the making of the offer may be made by the Leader of the Council on behalf of the Executive.

The appointment cannot then proceed unless

- (a) the Leader of the Council has, within the period specified in the notice notified the appointor that neither he nor any other member of the Executive has any objection to the making of the offer;
- (b) no objection is received within the specified period from the Leader of the Council; or
- (c) an objection is made by the Leader of the Council within the specified period but the Committee is satisfied that the objection is not material or is not well-founded;

A deadline of 5.00pm on Thursday 26 April 2018 was given by the Committee for notification of any objection by a member of the Executive.

14 In respect of these conditions:-

- a) satisfactory references have been received;
- b) no objection has been made by any member of the Executive to the appointment; and
- c) satisfactory evidence has been received from the candidate that if the offer of employment were to be approved by the Council it is likely to be accepted.

15 The conditions attaching to the Appointments Committee's recommendation have therefore been met and the Appointments Committee recommends that the candidate referred to in Appendix A be appointed to the post of

Chief Executive and that the full Council approve such appointment and approve the making of an offer of employment to the candidate referred to in Appendix A in respect of such appointment.

- 16 The Committee recommends however that the offer of employment is itself made conditional on the satisfaction of a number of other conditions as follows:-

- (i) Satisfactory health check;
- (ii) Satisfactory completion of right to work checks;
- (iii) Satisfactory completion of a basic Disclosure and Barring Service check

Again it is proposed that delegated authority be given to the Executive Director of Children's Services Responsible for People Management to determine whether these conditions have been fulfilled. At the date of this Report satisfactory completion of right to work checks has been achieved but the other conditions remain outstanding.

- 17 At its meeting on 23 February 2018, full Council approved a number of changes to ensure the smooth running of the Council's business following the resignation of the former Chief Executive and to ensure compliance with the Council's legal obligations. In particular the Executive Director for Environment and Economy was designated as the Head of Paid Service and appointed as Returning Officer, the Chief Legal Officer was designated as the Monitoring Officer and a number of changes to the Constitution were made.

- 18 On the taking up of office of a new Chief Executive these arrangements will need to be addressed. The new Chief Executive will need to be designated as Head of Paid Service and appointed as the Returning Officer which will enable the Executive Director for Environment and Economy to be designated as Monitoring Officer. Certain constitutional changes would then be required as a consequence. The necessary constitutional changes are attached at Appendix B to this Report. This Appendix does not reverse all of the changes that were made at the February meeting. In particular a number of changes of references to the Chief Executive to references to the Head of Paid Service remain valid. Amendments to Part 7 of the Constitution will follow with Appendix A.

2. Legal Issues:

Equality Act 2010

- 19 Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:
- * Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
 - * Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
 - * Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

- 20 Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:
- * Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
 - * Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
 - * Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low
- 21 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities
- 22 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.
- 23 Compliance with the duties in section 149 may involve treating some persons more favourably than others
- 24 The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

The recruitment has been conducted in accordance with the Council's policies and a rigorously designed assessment and evaluation process which ensures that all applicants are treated equally regardless of protected characteristics.

Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS).

- 25 The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision

There are no direct implications of the decision for the JSNA or JHWS.

Crime and Disorder

- 26 Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the

exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area

There are no direct implications of the decision for the JSNA or JHWS.

2. Conclusion

27 The Council has undertaken a comprehensive and rigorous process for the recruitment of a replacement Chief Executive who will also be the Council's Head of Paid Service. This process has been undertaken by the Appointments Committee which has delegated authority to make appointments to the post of Chief Executive subject to full Council approval.

28 The Council is recommended by the Appointments Committee to approve the appointment of the candidate referred to in Appendix A to the post of Chief Executive and the making of an offer of employment to the candidate referred to in Appendix A conditional on such of the following conditions as shall remain unsatisfied at the date of the full Council's meeting

- (i) Satisfactory health check;
- (ii) Satisfactory completion of right to work checks;
- (iii) Satisfactory completion of a basic Disclosure and Barring Service check

It is further recommended that delegated authority be given to the Executive Director of Children's Services Responsible for People Management to determine whether these conditions have been fulfilled.

29 The Report also proposes changes to the designation of the Council's Head of Paid Service and Monitoring Officer, the appointment of the Returning Officer and a number of constitutional provisions to return the Council to the position prior to the resignation of the previous Chief Executive.

3. Legal Comments:

The Appointments Committee has delegated authority to make appointments to the post of Chief Executive subject to full Council approval. The Report sets out the process that the Committee has followed in identifying a successful candidate and recommends to full Council approval to the appointment of that candidate.

The approval of the candidate is reserved to full Council on the grounds set out in the Report.

The Council must designate one of its officers as Head of Paid Service and one of its officers as Monitoring Officer. It must also appoint a Returning Officer. Changes were made to these designations and appointments at the meeting of the Council in February. The recommendations in the Report return the Council

to the position prior to the resignation of the former Chief Executive and make the necessary constitutional changes.

The designation of the Head of Paid Service and Monitoring Officer, the appointment of the Returning Officer and approving changes to the Council's Constitution are reserved to the full Council.

4. Resource Comments:

There are no additional budget implications arising from the recommendations within this report

5. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

All members of the Executive have been notified of the proposed appointment under paragraph 2.6 of the Officer Employment Procedure Rules of the Constitution as described in the Report and no objection has been received.

c) Scrutiny Comments

This decision has not been the subject of prior scrutiny

d) Have Risks and Impact Analysis been carried out?

Yes

e) Risks and Impact Analysis

See the body of the Report

6. Appendices

These are listed below and attached at the back of the report	
Appendix A	Details of Candidate (to follow)
Appendix B	Changes to the Constitution (Part 7 to follow)

7. Background Papers

The following Background Papers within the meaning of section 100D of the Local Government Act 1972 have been used in the preparation of this Report.

Background Paper	Where it can be viewed
Full Council Report 23 February 2018 "Interim Arrangements following the resignation of the Chief Executive"	Democratic Services

This report was written by Debbie Barnes, who can be contacted on 01522 553200 or debbie.barnes@lincolnshire.gov.uk.

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