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This report is exempt under paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972

Folkestone

Hythe & Romney Marsh
Shepway District Council



Report Number **P/17/09**

To: Personnel Committee
Date: 28 February 2018
Status: Non – executive decision
Leader of the council: Councillor David Monk

SUBJECT: SENIOR MANAGEMENT REVIEW

SUMMARY: This report considers proposals for the senior management of the council

REASONS FOR RECOMMENDATIONS: The committee should consider and make recommendation on the senior management of the council now in view of the challenges the council is facing in the short, medium and long term.

RECOMMENDATIONS:

- 1. To receive and note report P/17/09.**
- 2. To recommend to council that the senior management structure consist of three directors (or posts with equivalent titles) one of whom will be designated as head of paid service pursuant to section 4 Local Government and Housing Act 1989;**
- 3. To recommend to council that Mr. Alistair Stewart, chief executive be dismissed on the grounds of redundancy on 31 March 2018;**
- 4. To recommend to council that, subject to approval of the necessary constitutional change, the head of paid service role be advertised internally;**
- 5. To recommend to council that the personnel committee carry out the selection process with any recommendations considered at an extraordinary meeting of the council on 28 March 2018;**
- 6. To approve the specification for head of paid service role in appendix 2 and;**
- 7. To determine the level of supplement for the role of head of paid service.**

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1. BACKGROUND

- 1.1 Members will be aware that the cabinet approved the commissioning of a report to look at the future operating model of the council. See minute 13, cabinet 21 June 2017.
- 1.2 The work so far has given a clear indication of what the senior management structure of the council should look like. It is considered appropriate to bring this aspect forward now and to seek certain decisions from council. This will be considered by the overview and scrutiny committee on 27 February 2018 and by cabinet at a meeting on the same date as this committee. Any views of the overview and scrutiny committee and any decisions of cabinet will be reported orally to the committee.

2. IMPLICATIONS FOR THE SENIOR MANAGEMENT OF THE COUNCIL

- 2.1 Presently the senior management of the council consists of a chief executive (the council's designated head of paid service) supported by three corporate directors. The new operating model blueprint prepared by the council's consultants (appendix 1) has come to the conclusion that the senior management structure should be formed of three functional areas. Each area would be headed by a director (although the actual titles have not been determined in the blue print, the title "director" is used in this report for ease of reference). No separate chief executive post is identified (but see later in this report on the position of head of paid service). Obviously "four into three doesn't go" which means that a redundancy will occur, if the proposals are taken forward at senior management level.
- 2.2 The roles of the directors under the future operating model are very closely aligned to the roles of the corporate directors under the existing structure. It would be difficult if not impossible to establish that any of these posts would be redundant under the proposals especially as there are three corporate directors currently and three director equivalent role in the next structure. The post that is at risk of redundancy is, therefore, the post of chief executive.
- 2.3 There is no statutory requirement to appoint a chief executive, however the council does need to designate one of its officers as the "head of paid service" under S 4 Local Government and Housing Act 1989. The duties of the head of paid service are set out in section 4 as follows:-

"4 Designation and reports of head of paid service.

(1)It shall be the duty of every relevant authority—

*(a) to designate one of their officers as the head of their paid service; and
(b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow his duties under this section to be performed.*

(2)It shall be the duty of the head of a relevant authority's paid service, where he considers it appropriate to do so in respect of any proposals of his with

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respect to any of the matters specified in subsection (3) below, to prepare a report to the authority setting out his proposals.

(3) Those matters are—

(a) the manner in which the discharge by the authority of their different functions is co-ordinated;

(b) the number and grades of staff required by the authority for the discharge of their functions;

(c) the organisation of the authority's staff; and

(d) the appointment and proper management of the authority's staff."

- 2.4 Whilst there is no requirement, as stated above to have a chief executive the head of paid service has, in practice, to be a senior officer of the council. It is suggested therefore that if the senior management structure is taken forward one of the three directors should be designated as the head of paid service – a first amongst equals.
- 2.5 This is a departure from the existing structure and if approved does mean, as noted above, that the existing post of chief executive would be redundant.
- 2.6 Mr. Alistair Stewart, the present chief executive has, of course, seen the report to cabinet and the conclusions of the consultants, Ignite. Mr. Stewart has indicated that he would consider the option of his post being made redundant. If this is something the members wish to pursue other things naturally follow; in basic terms:-
- Council would have to dismiss the present chief executive on grounds of redundancy and;
 - Arrangements would have to be made for the appointment of a head of paid service.
- 2.7 The council's constitution requires that the appointment and dismissal of the Head of Paid Service can only be by decision of the full council on recommendation from this committee.

3. DISMISSAL OF CURRENT CHIEF EXECUTIVE BY REASON OF REDUNDANCY

- 3.1 Why should the actions regarding the senior management structure of the council be taken now prior to consideration of the future operating model in the round?
- 3.2 The council, members will appreciate, is embarking on several major medium to long term projects. The future operating model (commonly referred to as "Transforming Shepway") will require substantial changes to the method the council works, there are major external projects – Princes Parade and Otterpool Park for example - and there is always the budgetary pressures. On top of all these, and not to be forgotten is the "day job" delivering services to the customers.

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3.3 The council, in short, is facing major internal and external challenges which will require senior management attention. These challenges are not matters that will crystallise sometime in the future but are here and now. The organisation also needs to function effectively. It is considered therefore that there should be stability at the senior management level in order that the organisation can rise to the challenges, consequently the opportunity should be taken at this stage to settle the senior management structure. The recommendation is therefore to move quickly to a senior management structure of three directors, one of whom will be the head of paid service, the structure to take effect on 1 April 2018. Obviously before making the recommendation to do so members will have to consider the costs, these are set out below.

3.4 Under the government's guidelines, which have been adopted within the council's pay policy, the council needs to be advised and be given the opportunity to vote on severance packages to be made to an employee when those costs exceed the threshold.

3.5 The Pay Policy states in paragraph 34:-

“Severance payments may include salary paid in lieu, redundancy compensation, pension entitlements, holiday pay and any bonuses, fees or allowances paid. Bonuses may include any payment not normally paid to the employee...”

3.6 The costs involved are:-

Payments to the chief executive

- Redundancy compensation - £69,295.86
- Holiday pay - £4,301.12

Payment to the Kent County Council pension fund:

- Pension strain costs of release of pension - £109,900.00

3.7 Members should appreciate however that savings will accrue to the authority consisting of the salary saving / cash alternative savings of the chief executive's post being dispensed with. . The proposed deletion of the Chief Executive role from the structure is anticipated to save around £160,000 from the costs of the establishment (including on costs), this will be partially offset by the additional cost of the Head of the Paid Service role (see below). If the top of the range is agreed this would be around £19,000 (with on costs applied). On this assumption the net saving of the deletion of this post is projected to be £141,000. This saving will apply to the financial years 2018/19 onwards. The costs of the severance if agreed would be incurred in 2017/18, and would amount to approximately £184,000. Therefore anticipated to take around 16 months for the authority to be in a cost neutral position from this proposal, after which the full annual saving of £141,000 would be achieved. To reiterate this saving assumes a supplement of £15,000.

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3.8 This proposal is part of the wider Transformation Project proposals. This project is intended to significantly contribute towards addressing the medium term financial projections which currently anticipate a cumulative deficit by 2020/21 of £6.5 million, and should be considered in the wider context of that programme

4. APPOINTMENT OF HEAD OF PAID SERVICE

4.1 It is recommended that the council be recommended to designate one of the director posts as head of paid service and to appoint one of the directors as such.

4.2 The committee also needs to make recommendations on the process for interviewing a head of paid service. The council's constitution in part 8.2 – Officer Employment Procedure Rules provides:-

“2.1.4 The post of the Head of Paid Service will always be subject to external advertisement.”

4.3 This is a local rule of the council and is not a statutory requirement. It was introduced at a particular time in response to circumstances. However circumstances have changed, what is envisaged now is not appointing to a separate post but to have the head of paid service duties attached to a director post. Given that the existing directors are not redundant it would not be appropriate to advertise the head of paid service role externally. It is considered that this requirement should be deleted from the constitution. Obviously any change to the constitution has to be made by Council on the recommendation of the Audit and Governance Committee. That committee will be receiving a report on this aspect recommending the deletion of the requirement. Subject to agreement of the council on the constitutional change the proposed recommendation to council is that the post be advertised internally only. The removal of the requirement to advertise the post externally does not mean that the council cannot decide to do this in the future.

4.4 Subject to council approval it is proposed that interviews be held by this committee on 27 March with a recommendation to an Extraordinary Meeting of the Council to consider the recommendations (if any) on 28 March 2018.

4.5 In order to interview the committee will have to agree the role description of head of paid service. A draft of this is appended (2). It will also be necessary to determine the supplement to be paid to the post to which the head of paid service role is attached. The basic salary of each of the director post will be identical to those of the present corporate director post but obviously the head of paid service role has additional responsibilities.

4.6 As far as this council is concerned supplements have been paid in the past. In 2012/13 when one of the corporate directors was designated deputy chief executive a supplement of £4476.00 was paid. When the chief finance officer / S151 officer role was held be a head of service a supplement of

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£7,000.00.was paid for the statutory role. Given the past practises of the council a supplement for head of paid service in the range of £10,000.00 - £15,000.00 pa would seem appropriate. The committee is asked to consider and determine the level of the supplement.

- 4.7 It will be noted that the role does not include the role of Returning Officer or Electoral Registration Officer. Every district council in England is required by Section 35(1) of the Representation of the People Act 1983 Act to appoint an officer of the council to be the Returning Officer (RO) for elections of district and parish councillors. Section 8(2) (a) of the Act also requires the Council to appoint an officer to be the Electoral Registration Officer (ERO). The ERO is responsible for the preparation and maintenance of the electoral register for any parliamentary constituency or part of a constituency within its area.
- 4.8 Under Section 28(1) of the Act, only the ERO may act as the (Acting) Returning Officer at Parliamentary elections, (the Returning Officer for these elections being the High Sheriff). It makes sense, therefore, to ensure that one officer is appointed as both the RO and ERO.
- 4.9 Whilst the chief executive has been the RO and ERO it does not form part of the duties of head of paid service. It is recommended that this committee, as part of the appointment process in March decides whether to recommend to council whether these duties should be attached to the role of head of paid service or be attached to another post.

4. RISK MANAGEMENT ISSUES

- 4.1 The perceived risks are as follows:-

Perceived risk	Seriousness	Likelihood	Preventative action
Failure to appoint head of paid service	Medium	Low	Carry out selection process, appoint interim if necessary.

5. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

5.1 Legal Officer's Comments (AK)

The legal issues are covered fully in the body of this report.

5.2 Finance Officer's Comments (CS)

The financial implications are set out in the body of the report.

5.3 Diversities and Equalities Implications (AK)

None identified

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6. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Amandeep Khroud, monitoring officer
Telephone: 01303 853253.
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The following background documents have been relied upon in the preparation of this report:

Exempt

Appendices:

Appendix 1: Ignite – future operating model blueprint
Appendix 2: Proposed role description of Head of Paid Service