

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	COUNCIL	6 DECEMBER 2021	11
CONSTITUTION CHANGE – TERMS OF REFERENCE CHIEF OFFICER EMPLOYMENT COMMITTEE			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The retirement of the Director of Development Services in November 2021 will lead to a change in the structure of the council's officer management team. The statutory requirements for the appointment, discipline and dismissal of senior officers reflects a strictly hierarchical structure which is not consistent with the revised structure proposed for the management team. Certain management team posts will report to the Chief Executive, while others, of equal seniority and status, will report to the Assistant Chief Executive.

Pay grade and terms at Fylde are based on the single status agreement that was signed with the unions in 2007 as part of the introduction of job evaluation as a national requirement, the authority would be exposed to risk of unfair pay and / or unequal treatment if some posts within the same family of jobs attract officer status, and in turn terms and conditions based on who the employee reported to.

The committee would be responsible for the statutory chief officer posts, the Head of Paid Service, the Monitoring Officer and the Section 151 Officer and Director posts in the authority. Non statutory and deputy chief officer posts will not be created based on lines of reporting, all other posts in the organisation will continue to be employed under the National Joint Committee terms and conditions that include the agreed job evaluation procedure at Fylde which has been applied since 2007.

The proposal brings the terms of the committee in line with the single status arrangements, they are consistent with streamlined management structures particularly in smaller organisations and will ensure that pay and grade are based on responsibility and duties.

The report recommends changes to the terms of reference of the Chief Officers Employment Committee (COEC), the Officer Employment Procedure Rules, and the delegated powers of the Chief Executive. The changes would ensure that all the relevant management team posts, whether they report to the Chief Executive or the Assistant Chief Executive, would be subject to the same arrangements and terms and conditions.

The present arrangements have been in place since at least the council's move to a committee system in 2014. However, they have never been used, and COEC has only met on 29th October 2021, because no appointments (or disciplinary action) relating to chief officers have arisen during that time.

RECOMMENDATION

1. Recommend that the council make the following changes to the council's constitution:
 - a. Amend paragraphs 2 and 3 of the terms of reference of COEC as follows:
 2. *The appointment of:*
The Officer designated as the Head of the Authority's Paid Service;
A statutory Chief Officer within the meaning of Section 2(6) of the Local Government and Housing Act 1989; and
Any officer designated as a director.
A non-statutory Chief Officer
 3. *The dismissal of, or disciplinary action against, any Officer referred to in paragraph (i) to (iii) above or the consideration of any appeals, grievances or other matters in relation to any such officer where it should be expedient for the committee to deal with them.*
 - b. Amend rule 4 of the Officers Employment Procedure Rules as follows:
*The Chief Officers Employment Committee may appoint **any officer designated as a director** or any other **statutory** Chief Officers on the Council's behalf.*
 - c. Delegate the following function to the Chief Executive:
The appointment, dismissal or disciplinary action against any chief officer or deputy chief officer (as defined in section 2 of the Local Government and Housing Act 1989) who is normally expected to attend meetings of the council's management team. (Appointments to be made following consultation with the Leader of the Council and the leader of the main opposition political group.)

SUMMARY OF PREVIOUS DECISIONS

Chief Officers Employment Committee – [29th October 2021](#) RESOLVED to recommend that council make the changes to the council's constitution.

The last recorded decision made in respect to Chief Officers at Full Council was to adopt the recommendations of the Payroll Efficiencies Panel on September 26th, 2011:

- To endorse the cabinet resolution to move from five to four senior managers of the corporate management team to make significant and on-going payroll efficiencies.
- To endorse the assessment process undertaken on 8 September 2011 by the Payroll Efficiencies Panel which scored all candidates across a range of selection activities and produced conclusive results;
- To appoint Allan Oldfield as Chief Executive and Head of Paid service from 1 January 2012.
- To recommend that the current Chief Executive appoint Tracy Scholes (*now Manning*) as Director of Resources, Clare Platt as Director of Community Services and Paul Walker as Director of Strategic Development Services from 1 January 2012.
- That the basic annual salary scale (before employer's National Insurance and pension contributions) for the Chief Executive is amended from the range of £88,818 to £98,739 to a range of £83,394 to £93,699 to reflect the current economic climate and consequent reduction in market salaries;
- To accept the recommendation of the Payroll Efficiencies Panel to terminate the contract of the existing Chief Executive on the grounds of voluntary redundancy in order to allow the actions in the remainder of the resolution to take place;
- To note that the redundancy payment to the outgoing Chief Executive will be calculated in accordance with the council's redundancy policy available to all staff in the authority.

CORPORATE PRIORITIES

Economy – To create a vibrant and healthy economy	
Environment – To deliver services customers expect	
Efficiency – By spending money in the most efficient way	√
Tourism – To create a great place to live and visit	

REPORT

STATUTORY AND PROCEDURAL CONTEXT

1. The processes of appointment, discipline and dismissal of officers are governed by legislation and by the council's own procedure rules and delegations. The Chief Officers Employment Committee ('COEC') forms part of those procedures.
2. Legislation requires that the functions of appointment, discipline or dismissal of officers are to be discharged on behalf of the council by the Chief Executive as head of paid service, or an officer nominated by him¹. But this does not apply to chief officers and deputy chief officers, as defined in the legislation. "Chief officer" is defined as an officer who reports² to the head of paid service (a 'non-statutory' chief officer), together with the chief financial officer and the monitoring officer (a 'statutory' chief officer). "Deputy chief officer" is defined as an officer who reports to a chief officer. The terms of reference of the COEC include the appointment, discipline, or dismissal of chief officers. The Officer Employment Procedure Rules (which form part of the constitution) provide that the COEC may appoint chief officers.
3. This means new appointments to posts which fall within the statutory definition of 'chief officer' must be made by COEC, while appointments to posts which fall within the statutory definition of 'deputy chief officer' must be made by the Chief Executive. Designated Chief Officers operate under different contracts of employment with different terms and conditions covering grievance, redundancy, disciplinary etc. as well as a job evaluation that was under a designated chief officer scheme in 2007 and 2011 different to the remainder of the workforce.
4. The present arrangements have been in place since at least the council's move to a committee system in 2014. However, they have never been used, and COEC has not met, because no appointments or any action (redundancy, grievance etc) relating to chief officers have arisen during that time.
5. Pay grade and terms at Fylde are based on the single status agreement that was signed with the unions in 2007 as part of the introduction of job evaluation as a national requirement, the authority would be exposed to risk of unfair pay and / or unequal treatment if some posts within the same family of jobs attract officer status, and in turn terms and conditions based on who the employee reported to.

CHANGES TO MANAGEMENT TEAM

6. Following the retirement of the Director of Development Services, the management structure is being reviewed to create a flexible and responsive senior team that is appropriate for a small district with circa 260 employees. A streamlined senior management structure being considered is likely include an increased number of employees reporting direct to the Chief Executive. Reporting arrangements will be for administrative convenience, and do not indicate any inherent difference in status simply based on who an officer report to.
7. Posts that report to the Chief Executive are identified under legislation to be 'non-statutory' chief officer posts, while those reporting to an Assistant Chief Executive are deemed to be 'deputy' chief officer posts. The status descriptions will not make any practical difference in terms of conditions, remuneration or any other management of the post and postholder however, it does mean that changes are required to the current terms of reference of the COEC to ensure all the postholders at the same management level are dealt with in a consistent manner, in terms of discipline, grievance, appointment etc. and avoiding a two-tier workforce arrangement.

¹ Local Authorities (Standing Orders) (England) Regulations 2001, schedule 1, part IV, paragraph 2.

² Other than in an administrative or secretarial capacity.

8. The present arrangement would mean that appointment of new postholders, described as ‘non-statutory’ chief officers, reporting to the Chief Executive would need to be formally made by COEC, but the appointment of postholders reporting to the Assistant Chief Executive, ‘deputy’ chief officers would need to be made by the Chief Executive. Equally, all other arrangements around grievance, discipline, terms of employment etc. would be split. To address this the following changes are proposed to make ensure all senior management under the Chief Executive and Assistant Chief Executive are subject to the same procedures and arrangements during the life of their employment. The changes required that should be recommended to the council by this committee are:

a. Amend paragraphs 2 and 3 of the terms of reference of COEC as follows:

2. *The appointment of:*

The Officer designated as the Head of the Authority’s Paid Service;

A statutory Chief Officer within the meaning of Section 2(6) of the Local Government and Housing Act 1989; and

Any officer designated as a director.

A non-statutory Chief Officer

3. *The dismissal of, or disciplinary action against, any Officer referred to in ~~paragraph (i) to (iii)~~ above or the consideration of any appeals, grievances or other matters in relation to any such officer where it should be expedient for the committee to deal with them.*

b. Amend rule 4 of the Officers Employment Procedure Rules as follows:

*The Chief Officers Employment Committee may appoint **any officer designated as a director** or any ~~other~~ **statutory** Chief Officers on the Council’s behalf.*

c. Delegate the following function to the Chief Executive:

The appointment, dismissal or disciplinary action against any chief officer or deputy chief officer (as defined in section 2 of the Local Government and Housing Act 1989) who is normally expected to attend meetings of the council’s management team. (Appointments to be made following consultation with the Leader of the Council and the leader of the main opposition political group.)

9. Members should note the changes recommended would mean that the COEC retains its role in relation to statutory chief officers (that is, the Head of Paid Service, the Monitoring Officer, and the Chief Financial Officer) as appropriate based on the statutory responsibilities of those posts. The designation of Chief Officers within the remit of member delegation has not been addressed since the recommendations of the Pay Efficiencies Panel on 26 September 2011 which clearly identified Chief Officer posts.

10. The proposal brings the terms of the committee in line with the single status arrangements, they are consistent with streamlined management structures particularly in smaller organisations and will ensure that pay and grade are based on responsibility and duties.

IMPLICATIONS	
Finance	There are no financial implications arising directly from the report
Legal	The recommendations would allow posts with the same level of seniority in the new structure to be treated equally, notwithstanding that those posts that report to the Chief Executive will be formally chief officer posts, while those that report to the Assistant Chief Executive will formally be deputy chief officer posts.
Community Safety	No implications
Human Rights and Equalities	The report would ensure that posts at the same level in the organisation have equal treatment and status.
Sustainability and Environmental Impact	No implications

Health & Safety and Risk Management	No implications
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LEAD AUTHOR	CONTACT DETAILS	DATE
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BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Local Government and Housing Act	1989	https://www.legislation.gov.uk/ukpga/1989/42/section/2
Appointment of Section 151 Officer	2012	Council Report

Attached Documents

Appendix 1 - Management Structure and Chief Officers