

## **Review of the Chief Executive Post**

**15 September 2015**

### **Report of the Chief Executive**

#### **PURPOSE OF REPORT**

To allow the Committee to consider the potential options and associate key issues associate with the replacement of the Chief Executive due to his planned retirement in June 2016.

**This report is public**

#### **Recommendations**

- 1 That the Personnel Committee consider the implications in the report which relate to:**
- **Replacing the Chief Executive**
  - **Sharing a Chief Executive**
  - **Operating without a Chief Executive**

#### **1.0 Background**

- 1.1** On 1 September 2015 Cabinet considered a referral of the Call-In of the Reorganisation of the Office of the Chief Executive report (Cabinet Minute 17). In relation to this matter, the Cabinet resolved to ask the Chief Executive to make a public report to Personnel Committee on the legal and financial implications of:
- Replacing the Chief Executive
  - Sharing a Chief Executive (as is done by 80 local authorities)
  - Operating without a Chief Executive and making alternative arrangements for the Head of the Paid Service.

Accordingly, this report is presented to the Committee.

#### **2.0 Introduction**

- 2.1** The catalyst for the consideration of the various options set out above is the Chief Executive's stated position that he intends to retire on 30 June 2016. For ease of reporting on each option the relevant information is set out item by item.
- 2.2** In December 2014, the Personnel Committee considered a report within which various options for a way forward following the retirement of the current Chief Executive were

considered. This information has been updated and where appropriate augmented to meet the reporting requirements set out in the Cabinet Resolution (Cabinet Minute 17).

### **3.0 The role of the Chief Executive**

- 3.1 The Society of Local Authority Chief Executives (SOLACE) proposes that “the role of the Chief Executive is situated within the political and organisational context that surrounds it and it is essential to understand that context in reaching an understanding of their proper role and responsibilities...” A key function of the Chief Executive is to lead the workforce within a defined structure and as Head of the Paid Service to ensure the right resources are in place to deliver the Council priorities.
- 3.2 One of the main challenges that a Chief Executive is faced with within a modern Local Government Organisation is the increased emphasis on performance management, organisational change and development. Additionally, changes in political leadership and the increasing number of partnerships and multi-dimensional service delivery models call for the leadership of the organisation through complex changes in service delivery and working methods. This leadership role has historically been spearheaded by the Chief Executive.

#### **Senior Leadership at Lancaster City Council**

- 3.3 Lancaster City Council, like many other Councils has made significant changes to its senior management structures over the past six years. The various changes resulted in the current structure of a full-time Chief Executive and five Chief Officers (**Appendix One** shows the process of transitions to the current structure) As one would expect, these changes and the associated costs savings, have resulted in a substantial redesign of roles and responsibilities at a senior level, with the Chief Executive, Chief Officer and the senior management within each of the services taking on additional roles and responsibilities.
- 3.4 Within the current senior leadership structure (Management Team) the statutory functions of the Head of the Paid Service, the Chief Financial Officer and the Monitoring Officer are assigned to the Chief Executive, Chief Officer (Resources) and Chief Officer (Governance) respectively. Whatever the Council determines is the most suitable way forward, the arrangements must include the three statutory officers.
- 3.5 At Lancaster City Council, the functions of the Chief Executive are set out in the Council's Constitution, Article 12, Para 12.02:

#### **Functions of the Chief Executive**

##### **(a) Functions**

- (i) The Chief Executive is the Council's Head of the Paid Service
- (ii) Overall corporate management and operational responsibility (including overall management responsibility for all Officers)
- (iii) Provision of professional advice to all parties in the decision making process
- (iv) Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions
- (v) Representing the Council on partnership and external bodies (as required by statute or the Council)

- (b) Discharge of functions by the Council** - The Chief Executive will report to full Council and/or the Cabinet and any Committees or Overview and Scrutiny meeting 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.”

3.6 The Head of the Paid Service is a statutory appointment pursuant to Section 4 of the Local Government and Housing Act 1989. This role is normally assigned to the Chief Executive. The main 'extras' that turn a Head of the Paid Service role into a Chief Executive role can be summarised as:

- Overall corporate management and operational responsibility
- Provision of professional advice to all elected member bodies
- Representing the Council on partnerships and influencing external bodies

Therefore, without such a post, or one limited in terms of a shared arrangement, or one where the Chief Executive operates less than full-time, the impact that a Chief Executive post has would be more limited. Examples in a) and b) below:

- a) Reconciling the differences that routinely occur at Chief Officer level in terms of relative importance in dealing with operational matters, approach to issues and problems and differing professional advice to member bodies
- b) The authority to speak for the Council as a whole in partnership work and the influencing of external bodies. Credibility of job title of Chief Executive is also important when this is the standard job title in Local Government.

In summary, the practical differences that a post of Chief Executive as opposed to Head of the Paid Service makes are an internal 'One Council' approach, efficiency and effectiveness of the operational activities and consistency of advice to elected member bodies.

Examples of partnership initiatives that might not have moved forward if there was not a post of Chief Executive in place at the time include:

- Top level collaboration within Lancashire County Council across all Local Government services and enhanced services as a result.
- Refurbishment of the Midland Hotel
- Removal of the Prison from Lancaster Castle
- Development of Chatsworth Gardens
- Development of the Innovation Campus
- "Punching at our weight" in the Lancashire region

## KEY OPTIONS

### 4.0 To retain a Chief Executive

4.1 Should the Council wish to continue to employ its own Chief Executive for the foreseeable future, there are two main options;

**Option 1** - Continue with a full time Chief Executive which, in principle, would be a like for like replacement.

Or

**Option 2** - Seek to develop a structure where the Chief Executive is shared with another authority or organisation.

#### **Option One:**

4.2 Although a like-for-like replacement of the Chief Executive role (full-time) may appear to be a fairly easy process, consideration would need to be given to the terms and conditions of service on which the postholder would be employed and agreement reached on the Job Description and Person Specification for the post.

In particular, reference should be made to the political and organisational context of the City Council.

- 4.3 Recent information from 'epaycheck' and NW Employers, suggests that following a number of years in which the pay for Chief Executives and Chief Officers showed an upward trend, in relative terms, pay for new appointments is now either staying static or showing a slight decline.
- 4.4 The current level of remuneration for the Chief Executive at Lancaster City Council has been in place since 2002. If the Council was to progress with the recruitment of a 'like for like' replacement then due consideration would need to be given to the level of pay for the Chief Executive and its appropriateness within Lancaster City Council, and the ability to attract candidates of the right calibre. **Appendix Two** of this report contains salary data secured from 'epaycheck' and NW Employers which may assist members in considering the level of Chief Executive remuneration.

### **Option Two**

- 4.6 Driving any consideration of the options for the way forward must be the requirement to have the right capacity at a senior level and postholders who have the right knowledge, skills and abilities, to ensure the Council delivers its corporate priorities in an efficient and effective manner.
- 4.7 There are options available to retain a Chief Executive role, whilst showing a saving against the Establishment budget. One option would be to share a Chief Executive with another authority (or other organisation). Another option would be to operate with a Chief Executive working less than five days per week. Although a number of Councils have operated the above arrangement, the relative success or failure of the arrangements is based, to a large extent, on a wide range of factors, many beyond the specific role of the Chief Executive.
- 4.8 In terms of less than full-time, the research conducted by the LGA suggests that:
- The focus of the Chief Executive has to be clearly defined, so that his/her objectives can be effectively delivered within the available time (see paragraph 3.6 above).
  - Although historically a full-time Chief Executive may have taken the lead on a range of operational activities, capacity to achieve this is lost with a Chief Executive operating less than full-time, with the postholder needing to focus on the progress of the Council against its strategic/corporate plan and liaison with partners.
  - The roles and responsibilities of the second tier officers (Chief Officers) and, to some extent, third tier officers would need to be structured to ensure that decision making and the business of operating the Council is not hindered by the limited availability of the Chief Executive.
  - The appropriate resources / capacity would need to be in place to deal with the day to day activities which a full-time Chief Executive might normally undertake.
  - Changes to the Council's Constitution and governance arrangements may be needed to enable the effective operation of the Council, whilst ensuring appropriate good governance arrangements.
- 4.9 Additional feedback from a Council that has moved to a structure where the Chief Executive operates less than full-time, indicates that it is not sufficient just to change the roles and responsibilities of the second tier Officers. Additional capacity must be factored in, to deal with the time critical activities that the Chief Executive needs to undertake. The provision of additional support capacity, beyond the traditional role of a Personal Assistant or Secretary

must be considered as a means of avoiding undue pressure being placed on second tier Officers or other Officers, as existing capacity might not be sufficient.

- 4.10 Feedback has also indicated that despite having moved to a Chief Executive role that operates less than full-time, consideration is now being given to a move back to a full-time role, due to the challenges that the adopted arrangements have presented.

### **Terms and Condition**

- 4.11 In general terms, if the Council pursued a full-time or less than full-time Chief Executive, the terms and conditions of the Chief Executive would be in line with the provisions of the Chief Executives' Handbook. However, the main issues of; pay, working hours and working routine would be tailored to meet the needs of the Council. Normally a 'full-time' Chief Executive will be required to work the hours necessary to effectively deliver against his/her objectives. By design, employing a Chief Executive on less than a full-time basis, places a restriction on the total hours that will be worked, where historically the Chief Executive has been expected to 'do the hours necessary to get the job done'.

## **5.0 Disestablish the post of Chief Executive**

- 5.1 A number of Councils have, in recent years, abolished the role of Chief Executive, with the statutory duties normally assigned to the post (including those of the Head of the Paid Service) being taken on by other senior roles; the catalyst for this action having been driven by costs savings. Although there have been some clear successes in this area, Members may wish to ask: "Is this right for us?"
- 5.2 The Council's stated ethos of being an Ensuring Council and the ongoing pressures placed on the public purse do call for clear strategic leadership. Therefore, pursuit of a structure without a Chief Executive function may present more challenges than benefits. (See also paragraph 3.6 above.)
- 5.3 Although there are no statutory or organisational hurdles that could not be overcome with time and resources, Members may wish to consider the motive, benefits and challenges of operating without a Chief Executive. Lancaster City Council is a complex organisation that has, for its own reasons, elected to retain most of its services in house. By design, this calls for leadership across a wide range of disciplines. Whereas a Council that has taken a more commissioning based approach to service delivery, for example Pendle Borough Council, may have less of an issue about leadership capacity.
- 5.4 A structure without a Chief Executive would require the redesign of the senior manager (currently second tier) structure and other senior manager roles (third tier). As expressed in Paras 4.8 - 4.9 above, there must be sufficient knowledge, skills and capacity to deal with the statutory duties (including those of the Head of the Paid Service) and the strategic and operational business of the Council in an efficient and effective manner.
- 5.5 The absence of a Chief Executive role would also call for a number of Elected Member roles (The Leader and Portfolio holders), to be reviewed, as the historic relationships with the Chief Executive would be lost and, therefore, the relationships with the revised senior leadership would inevitably need to be redefined.
- 5.6 If there is an appetite for a structure without a Chief Executive, further analysis would be required and this would take time. Although time is available to complete a review of the current activities and develop a structure that would operate from 1 July 2016, additional resources would be needed to undertake any review and there is no clear position, at this stage, of what the key benefits would be, how this might improve or enhance the operation of the Council or what cost savings this might deliver. Although this work could be aligned to the research into the option of a shared or less than full-time Chief Executive, the risk is that, should Members decide that these are not viable options, then there would be limited time available to complete a recruitment process for a full time Chief Executive (or less than

full-time Chief Executive for that matter) and secure his/her appointment before the current Chief Executive retires on 30 June 2016.

- 5.8 Consideration of the time it would take to complete the recruitment, selection and appointment of a new Chief Executive suggests that the process would have to commence by December 2015 at the latest, for appointment on 1 July 2016.

## **6.0 A shared Chief Executive**

- 6.1 The ability to share a Chief Executive across Councils (or any other employed officer for that matter) is covered by Section 112 & 113 of the Local Government Act 1972 which allows for one Council to place at the disposal of another Council an employed officer.

The options of replacing the current Chief Executive role on a 'like for like' basis or operating with a less than full-time role, or no role at all, calls for consideration of the needs of Lancaster City Council. However, the consideration of a shared Chief Executive calls for a much wider view, taking into account the needs and demands of the other organisation(s) that may be involved. Accepting that the aim of a shared role is to deliver efficiencies, the same consideration would have to be given to the structure of the senior management structure in the same way as described in Paras 4.8-4.9 above. However, beyond this would be the selection of a suitable 'partner' with which to share.

- 6.2 There is a growing number of cases where a shared senior leadership arrangement has proven successful. The Improvement and Development Agency research highlights a number of key learning points that members may wish to consider:

1. Ensure no large cultural differences between the partner organisations.
2. There must be similarities in the areas covered by the Councils.
3. The communities need to have some similarities.
4. Both authorities must trust the Chief Executive.
5. There needs to be clear and well understood governance arrangements.
6. Politicians must be able to trust and work with each other.

*Source: IdeA – Shared Chief Executive – The lessons*

- 6.3 From the evidence available it is clear there is no 'one model' for all Councils when it comes to shared senior leadership arrangements, with many of the current arrangements overlapping. The 2006 Local Government White Paper entitled 'Strong and Prosperous Communities' highlighted the potential for shared management to drive the efficiency provision of public services, with the aim of securing 'more for less'.

- 6.4 If the motivation for a shared Chief Executive is seen as a way of securing efficiencies, then Members may wish to reflect on their motivation and, in turn being mindful of the learning points set out in para 6.2, consider the potential for a wider shared leadership structure and / or shared services. Whether the Council wishes to explore the option of a shared Chief Executive or a broader range of management and sharing of services, a number of factors are highlighted as critical to the right outcome:

- Finance has driven the need to share management in most cases.
- Capacity is required to deal with the work involved.
- Political buy-in to the process of shearing (to whatever level of sharing is agreed)
- Time is required to develop the structures and understand the issues that need to be overcome.
- Clarity is required on what can be shared and what cannot (what is best for Lancaster City Council).

*Source: Developed from the LGA – Crossing the border – Research into shared Chief Executives*

- 6.5 For the reasons set out above, the cost savings that may be secured through operating a shared Chief Executive are not at this stage quantifiable. Careful consideration needs to be given to the motivation for such an arrangements, the benefits to Lancaster City Council and the time available to develop a shared arrangement.

## **7.0 Consequential matters**

### **Head of Paid Service**

- 7.1 The Head of the Paid Service is a statutory role. Each Local Authority must appoint one of its officers to this role. (Section 4 of the Local Government and Housing Act 1989). The Head of the Paid Service may be any officer other than the Monitoring Officer.
- 7.2 The matter of appointing a Chief Executive and separately the Head of Paid Service, rests with full Council, albeit that historically the Chief Executive has been the Head of the Paid Service.

### **Returning Officer**

- 7.3 The role of the returning Officer is a statutory role. Appointment of a Returning Officer by a Local Authority is prescribed in Section 35 of the Representation of the People Act 1983. Each District Council must appoint an Officer of the Council to be the Returning Officer for the election of district councillors. The Returning Officer's duties are separate from and additional to their duties as local government officers and need not necessarily be an appointment added to the Head of the Paid Service or Chief Executive. The Returning Officer is personally liable for the proper conduct of each aspect of the election, including the process for nominating candidates, the provision of polling stations and ballot papers and responsibility for counting the votes and declaring the result. The Returning Officer for the District Council also acts in that capacity for Parish and Town Council elections within the District and as the County Returning Officer and Acting Returning Officer for parliamentary elections, etc.

### **Revisions to Senior Leadership and Service Structures**

- 7.4 The operation of a structure, without a Chief Executive, with a shared Chief Executive or a less than full-time role will call for the review and reorganisation of the wider senior management arrangements. Any development in these areas would be the subject of reporting arrangements in line with the Council's Constitutions.

## **8.0 Conclusion**

The Committee's views are sought.

<b>CONCLUSION OF IMPACT ASSESSMENT</b> <b>(including Health &amp; Safety, Equality &amp; Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</b>
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<b>LEGAL IMPLICATIONS.</b>
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<p>The ability of the Council to appoint a Head of Paid Service is not, in itself, impugned by the operation of a structure without a Chief Executive or with a shared Chief Executive. However, what is required is an appointment of an Officer as the Head of Paid Service to ensure compliance with the Council's statutory obligations. As evidence of practice shows, a shared Chief Executive can operate as the Head of Paid Service across more than one Council.</p>
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<p>Section 113 of the Local Government Act 1972 allows for one Council to place at the disposal of another Council an employed officer. Staff who are made available under such arrangement are able to take binding decisions on behalf of the body at whose disposal</p>
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they are placed, although they remain an employee of their original employer. The contractual and governance arrangements that are put in place to manage the arrangement would need to be the subject of an agreement containing express and clear terms. Those terms and conditions will deal with how matters that may affect the contractual relationship or the good governance of the Council would be handled by the partners to the 'shared arrangement'.

The operation of a structure without a Chief Executive or operating less than full-time, would require that the roles of the Senior Leadership (Chief Officers) to be reviewed. That in turn might require that their terms and condition of employment are similarly reviewed.

### **FINANCIAL IMPLICATIONS**

At this stage in considering future arrangements it is impossible to provide any quantified assessment of the financial implications across the range of various options for change. Whilst any option involving a reduction in resource at Chief Executive level, whether through reduced hours or through sharing, would be expected to deliver cost savings, the level of savings would be greatly dependent on the nature and cost of any associated arrangements or consequential changes made necessary within the Council.

### **DEPUTY SECTION 151 OFFICER'S COMMENTS**

Members are reminded that the Council remains under a statutory duty to deliver "Best Value". The Deputy Section 151 Officer would therefore advise that, in considering options for the future, they remain mindful of the crucial role required of a Chief Executive, or alternative top management arrangements, in establishing and leading the culture of the organisation and managing its activities. Members should seek to satisfy themselves that any options they wish to consider are suitable and capable of ensuring the Council meets its Best Value obligations to deliver economy, efficiency and effectiveness across its operations and activities.

### **MONITORING OFFICER'S COMMENTS**

The Deputy Monitoring Officer has been consulted and has no further comments

### **BACKGROUND PAPERS**

Personnel Committee Report - December 2014  
Council Report - February 2015  
Cabinet Report - August 2015

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