

HR Committee

24th November 2016



Report of: Service Director HR & Workplace

Title: Chief Executive terms & conditions and performance management

Ward: N/A

Officer Presenting Report: Richard Billingham

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Recommendations

That the Committee recommends to the Full Council:

1. That a Performance Management Panel be constituted to agree objectives with the Chief Executive, assess the jobholder's performance and decide what level (if any) of bonus should be awarded. The Panel to be composed of the Mayor and Party Group Leaders, supported by advisers with appropriate expertise.

That the Committee approves:

2. The proposed terms and conditions of employment as outlined in this report.

Summary

This report seeks the Committee's approval for proposals relating to the terms and conditions and performance management of the job of Chief Executive.

The significant issues in the report are:

- The main contractual terms are outlined.
- The Council currently makes no provision for the performance management of the Chief Executive.
- Performance measures will be agreed between the proposed Panel and the successful applicant and will centre on the delivery of the Council's Corporate Strategy.
- The Counting/Returning Officer roles will be the subject of a separate report to the Full Council.



Policy

- 1.** The terms and conditions of employment of the job of Chief Executive are set by the Human Resources Committee.
- 2.** The Council's Constitution currently makes no provision for the performance management of the Chief Executive.
- 3.** The law requires that the Head of Paid Service serves the Council as a whole. To this end, the jobholder is subject to the political restrictions that apply to all officers who regularly advise members or speak to the media on the Council's behalf.
- 4.** Designating an officer(s) as Counting/Returning Officer in relation to elections and referendums (for which fees are payable) is a power that is reserved to the Full Council.

Consultation

- 5. Internal**
None.
- 6. External**
Bevan Brittan LLP, whose advice has been fully incorporated in the proposals and contents of this report.

Context

- 7.** At its previous meeting, the HR Committee requested further work be undertaken by officers in relation to the contractual terms and performance management framework for the job of Chief Executive. This report outlines the results of that work.

Proposal

- 8.** The key elements of the proposed terms and conditions of employment are as follows:
 - 8.1.** The appointment is offered on a fixed term until 31st December 2020, unless terminated earlier by either party on six months' notice.
 - 8.2.** The jobholder may be dismissed on three months' notice during the first six months.
 - 8.3.** The jobholder may be appointed as Director and Chair of Bristol Holding Company, but this is subject to a separate process to take place following their appointment as Chief Executive.
 - 8.4.** The jobholder will serve the Council as a whole as both Chief Executive and Head of Paid Service and will not engage in any other business or take up any other appointment without the Council's express consent.
 - 8.5.** The jobholder will not be required to advise any political group of the Council or attend any political group meetings. Any arrangements to the contrary reached with the

jobholder must ensure adequate safeguards are in place to preserve the neutrality of the jobholder.

- 8.6.** The job is politically restricted under the provisions of the Local Government and Housing Act 1989.
- 8.7.** The jobholder is required to live within 25 miles of Bristol, and a relocation package of up to £8,000 may be payable to contribute to the jobholder's costs in relation to this (which would be repayable on a sliding scale in the event that employment ceases within 36 months of the first expenses payment being made).
- 8.8.** The starting salary will be £160,000 per year inclusive of any fees due as an officer of the Council or any Group Company. The salary will not be linked to pay awards of the Joint Negotiating Committee (JNC) for Local Authority Chief Executives or the Living Wage Foundation Living Wage, but these may be considered by the Full Council in setting its Pay Policy Statement each year.
- 8.9.** Any bonus awarded (up to a maximum of 10% per year payable at the end of the contract only) is intended to be discretionary, non-contractual and non-pensionable. Any bonus awarded may not be payable if the employee is leaving for any reason other than the normal expiry of the contract and will be forfeited in the event of a gross misconduct dismissal.
- 8.10.** The jobholder may claim reimbursement of expenses in line with the Council's Expenses and Benefits Policy.
- 8.11.** Annual leave entitlement is 30 working days, plus 8 bank/public holidays. The jobholder will be expected to manage their own leave taking into account key events/times in the civic year when they should be present.
- 8.12.** The jobholder will be required to take part in the rota of senior officers to attend in case of civil emergencies.
- 8.13.** Performance management (including consideration of bonus payments) will be undertaken through the proposed Performance Management Panel.
- 8.14.** The Council may terminate the employment without notice on certain grounds, including gross misconduct, negligence/incompetence, medical incapacity or actions in or outside of work that bring the individual or the Council into disrepute.
- 8.15.** The protected officer/independent person procedure will apply in the case of dismissal for certain reasons, as set out in the Council's Officer Employment Rules.
- 8.16.** The grievance process as set out in the JNC Chief Executives' Handbook will apply to this employment.
- 8.17.** Pay in lieu of notice and garden leave provisions are included, as are a number of restrictive covenants that aim to protect the Council's interests.

8.18. In the event the jobholder wishes the Council to make payments to a private pension plan instead of the Local Government Pension Scheme, these will be no greater than those that would otherwise be due to the LGPS.

8.19. JNC terms and conditions of employment will apply unless otherwise stated.

- 9.** It is proposed that the Committee recommends to the Full Council that a Performance Management Panel be constituted to agree objectives with the Chief Executive, assess the jobholder's performance and decide what level (if any) of bonus should be awarded. The Panel to be composed of the Mayor and Party Group Leaders, supported by advisers with appropriate expertise.
- 10.** The key performance measures will be agreed between the Panel and the successful applicant and will centre on the successful delivery of the first three years of the Council's Corporate Strategy (2017-2022). Clearly a key aspect will be the need to achieve savings targets on time.
- 11.** The Counting/Returning Officer roles will be the subject of a separate report to the Full Council.

Other Options Considered

- 12.** None.

Risk Assessment

- 13.** No significant risks have been identified.

Public Sector Equality Duties

- 14a) Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following "protected characteristics": age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:
- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
 - ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);

- encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
 - tackle prejudice; and
 - promote understanding.

14b) No equality impact assessment has been undertaken because this report concerns one job only.

Legal and Resource Implications

Legal

TO FOLLOW

Financial

(a) Revenue

A total revenue budget of £219k is included in the 2016/17 revenue budget for the total annual cost of the Chief Executive role, which includes on-costs (employers National Insurance and Pension contributions) and provision for the national agreement of the Joint Negotiating Committee (JNC) for Local Authority Chief Executives.

It is recommended in the report that the basic pay of the Chief Executive is set at £160k per annum and will not be linked to pay awards of the JNC for Local Authority Chief Executives or the Living Wage Foundation Living Wage, but these may be considered by the Full Council in setting its Pay Policy Statement each year. If the pay per annum remains at £160k, with oncosts, this can be managed within the existing budget envelope. Within the current Medium Term Financial Plan, provision is included for annual pay increases and this is included for all staff of the Council. Any amendments to the Pay Policy Statement should be considered against this budget provision, and any recommendations over and above the assumed pay increase would result in an additional budget pressure.

In addition to the annual salary arrangements described above, the report includes a proposal to pay a bonus to be no more than 10% of the cumulative basic salary paid between the start and end of the contract, to be paid at the end of the fixed term contract. The total amount payable will be dependent on the start date of the fixed term contract, the actual annual salary (if amended by the Pay Policy statement) and on the satisfactory fulfilment of transparent and objective criteria. If paid in full, the cost implication of this proposal is expected to be c.£60k and provision for this has been made in the current Medium Term Financial Plan.

The estimates provided in this report will require review as part of the annual budget setting process to take account of any amendments recommended in the Pay Policy Statement.

Advice given by: Janet Ditte: Service Manager, Finance Business Support
Date: 16th November 2016

(b) Capital

Not applicable.

Land

Not applicable.

Personnel

These are identified within the report.

Appendices:

None.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

None.