

GENERAL PURPOSES COMMITTEE

Wednesday, 23 November 2016 at 7.00 p.m.

C1, Mulberry Place, 5, Clove Crescent, London E14 2BG

SUPPLEMENTAL AGENDA

This meeting is open to the public to attend.

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3 .2 Council Restructure Update

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To consider an update to the Council restructure proposals approved at the previous meeting of the Committee.

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| Non-Executive Report of the: General Purposes Committee 23 November 2016 |  |
| Report of: Will Tuckley, Chief Executive | Classification: Unrestricted |
| Organisation Structure Update | |

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| Originating Officer(s) | Stuart Young - HR, OD & Transformation Manager |
| Wards affected | All wards |

Summary

This report updates Members on the completion of formal consultation for a revised organisational structure. The report provides a timetable for implementing the new structure.

Recommendations

The General Purposes Committee is recommended to:

- a) Note the responses to consultation as described at paragraph 3.4 and subsequent changes to the structure at paragraph 3.5
- b) Note the arrangements put in place by the Chief Executive acting as Head of Paid service to implement the new management structure.
- c) Agree to the proposal at paragraph 3.12 that those posts technically meeting the definition of Deputy Chief Officer are delegated for appointment to the Head of Paid Service.

1. **REASONS FOR THE DECISIONS**

- 1.1 The report is for noting, Members of General Purposes Committee have already decided to consult on a new organisational structure. The implementation of the structure is a matter for the Head of Paid Service acting in accordance with Member principles previously agreed at the Committee.

2. **ALTERNATIVE OPTIONS**

- 2.1 The organisational structure could be left unchanged but this would not deliver the necessary benefits to deliver the Council's strategic priorities.

3. **DETAILS OF REPORT**

- 3.1 Proposals for a revised Council structure were discussed at General Purposes Committee on 14th September. The Committee reached the following decisions:
- Agree the organisation structure described and the chart for release to formal consultation.
 - Note that the formal consultation period will commence with effect from 19th September and end on 28th October to provide sufficient time for comprehensive staff and union engagement.
 - Authorise the Chief Executive, pursuant to the Council's organisational change procedure, to appoint to posts within the restructure any deputy chief officer who might be displaced.
 - Note that a series of enabling projects will be delivered as described at and where required staffing decisions brought back to this Committee.
- 3.2 This report updates Members as requested on the outcome of the consultation and provides more details about the next phase of implementing the new structure.
- 3.3 The proposals were launched with senior managers at a meeting on 3rd October and information packs distributed. Meetings with unions took place in advance and during the consultation process. Consultation closed on 11th November following a period of 6 weeks.
- 3.4 A summary of responses received is provided below:

| Consultation Comment | Response |
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| The proposals do not provide detail of the structure below senior tiers. | The proposals are designed to set the overall structure of the Council at a high level. It is proposed to determine the structure of the tiers below by a series of further reorganisations at service level, informed by the reviews listed in the report. These will all be in accordance with the Council's procedures including consultation. |
| Some staff have left the Council making the proposals a fait accompli. | The proposals consulted upon relate to posts in the Council's senior management structure. |

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| | Inevitably there is an impact on staff especially where a proposal is to delete a role. It remains valid to consult and take into account comments about a post even where a postholder has taken a personal decision to leave the Councils employment. |
| Ringfences should be agreed at the outset and designed to avoid compulsory redundancies | Ringfence proposals were included in the consultation pack and are designed to reduce the risk of compulsory redundancies. The Council's approach is to avoid compulsory redundancies where possible, and indeed there is a statutory duty to avoid redundancies where practicable. |
| How will the clusters work? | The cluster concept is to encourage cross Council working. Clusters are formed around themes such as commissioning or community cohesion. Details of the thematic working will develop in time as working groups are formed. |
| What is the PMO? What is transformation? What is change management? | The Council's Medium Term Financial Strategy requires significant change in the way Council services are run. A programme of change is being designed to best co-ordinate the redesign of services. Change management is about planning when changes take place to minimise the impact on staff and service users. The Programme Management Office or PMO is a small team who ensure that progress is made to plan on the various projects. |
| Is there a percentage % that automatically triggers staff assimilation to the new posts? | There is no set percentage. The Organisational Change Guidance for Managers states that direct assimilation applies when there is no substantial difference between the current JD and a new JD. |
| Is it possible to conduct single interviews for multiple posts? | Yes, the assimilation plan should allow for single interviews provided that questions are sufficient to cover all jobs in the ringfence. |
| There needs to be clarity over how the various reviews in the proposals will take place. | The reviews are being developed and managers of the relevant services will be included. A managers' event is planned for 28 th November to discuss the programme. A communications plan will accompany the reviews to ensure everyone is kept informed. |
| The Council needs to ensure that the reviews and restructures at service level are consistent and that the jobs in the structure are not too broad. | Agreed. This is why the changes will be co-ordinated through a programme and overseen by the Programme Management Office. Several comments have been received about individual job descriptions which will be discussed with the affected staff. |
| What is the process for assimilation | The process will be as provided in the |

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| | <p>Organisation Change procedure. Staff will be either assimilated; ringfenced for interview; or attempts made to redeploy them if no suitable role exists. Staff vulnerable to redundancy have been informed.</p> |
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- 3.5 The table provides a summary of the comments received and responses made. In addition, the Chief Executive having considered the responses to consultation, is planning to make two changes of significance to the original proposals:
- 3.5.1. to change the title members of CMT (excluding the Chief Executive) to Corporate Director instead of Director and the senior posts reporting to members of CMT to Divisional Director instead of Assistant Director; and,
 - 3.5.2. to create a post of Divisional Director Growth and Economic Development. This will require the deletion of the current Head of Economic Development post and remove economic development from the portfolio of the proposed Divisional Director Regeneration, Housing and Economic Development. Both posts will be in the Place Directorate. This will require a further limited period of consultation with the only postholder directly affected who was not previously in scope of the proposals.
- 3.6 Further discussion will take place with unions and staff on a variety of matters of detail such as the wording of some job descriptions. A final set of job descriptions and grades will be issued as is usual practice.
- 3.7 Members of the Committee asked to be kept apprised of the process to implement the new structure. There are three stages of change. Firstly an employee may be directly assimilated if the new role is significantly the same as current. Secondly, the employee may be placed in a ringfence for other jobs in the new structure. Thirdly, any employees at risk of redundancy may be considered ahead of external advert for remaining vacancies arising as part of the restructure. The outcome of the job matching can be formally challenged by an employee submitting a written appeal within 5 working days of the final job matching list being issued. The appeal is considered by a senior manager who had no previous involvement in the decision. To date one such appeal has been lodged and is being considered.
- 3.8 The appointment decisions will be informed by technical assessments/tests in addition to an interview. As previously agreed by the Committee, the interviews will be carried out by the Chief Executive and other members of CMT as required. These positions are the most senior in the Council's management structure. Therefore the process needs to be robust in order to maintain confidence in the appointment decisions.
- 3.9 An executive search and selection recruitment agency will be procured from the Council's framework to support appointments and external recruitment to any vacant posts that remain after the restructure.

3.10 The timetable for delivering the restructure is:

| Date | Action |
|----------------------|--|
| 11 th Nov | Formal consultation ends |
| 23 rd Nov | GP Committee |
| Early Dec | Recruitment company appointed |
| 16 th Dec | Assimilation interviews |
| Jan 17 | Recruitment campaign for unfilled jobs |
| Jan-Mar | Redeployment and outplacement |
| 31 st Mar | End of Notice period for leavers |

3.11 The Chief Executive will however agree with Directors the timing and phased implementation of some parts of the new structure which rely on the completion of preparatory work e.g. the programme of work necessary to enable revenues and welfare functions to be successful merged.

3.12 The Council's Constitution requires that the appointment of Deputy Chief Officers is carried out by an Appointments Sub-Committee. However, there are a number of posts which report into Chief Officers who are not at Service Head/Assistant Director grade who are designated as Deputy Chief Officers by the Local Government and Housing Act 1989. There are a number of posts in the proposed structure in the Directorates of Governance and Resources that are Head of Service positions which are of a lower grade, There are also 3 Public Health Consultant posts that report to the Director of Public Health, which is a Statutory Chief Officer post at Service Head/Assistant Director grade, that would meet the definition of a Deputy Chief Officer are be required to be appointment by an Appointments Cub-Committee. The Committee is asked to support amending the Council's Constitution to delegate appointments to Head of Service roles reporting to a Chief Officer and Public Health Consultants to the Chief Executive or other officers nominated by him.

3.13 The Director of Public Health is currently concluding a restructure of the service and will imminently seek to appoint to 2 vacant Public Health Consultant posts. Pending a formal change to the Constitution, the Committee is requested to delegate authority to the Chief Executive or other officers nominated by him to make these appointments.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

4.1 The Chief Finance Officer has been consulted in the preparation of this report. Based on the proposed structure there is an estimated on-going saving of £500k which will be included as part of the Council's Medium Term Financial Strategy proposals.

4.2 To the extent that there are additional one-off costs arising from the restructure proposals (e.g. redundancy and early retirement costs) these will be met from the existing severance reserve held by the Council.

5. LEGAL COMMENTS

- 5.1 The Interim Service Head for Legal has been consulted on the contents of this report. This report proposes to make changes to a number of senior management roles and will lead to the potential redundancy of some of these employees.
- 5.2 An employee is dismissed if the contract under which he or she is employed is terminated with or without notice (Employment Rights Act (ERA) 1996, section 95). Dismissal by reason of redundancy occurs where the requirements of the business for employees to carry out work of a particular kind has ceased or diminished (ERA 1996, section 139(b)(i)).
- 5.3 Redundancy is a potentially fair reason for dismissal under section 98(2)(c) of the ERA 1996. However, an employee can bring a claim for unfair dismissal in circumstances where suitable alternative employment is available and is not offered by the employer. A suitable alternative post is one that the employee has the qualifications and aptitude to do immediately, or will have in the near future with reasonable training. What constitutes suitable alternative employment may depend on how similar the work is to the previous role, the terms being offered, the pay, status and hours as well as the employee's skills, abilities and circumstances in relation to the job being offered. Consideration is not limited to what the employee's current role comprises, but would also include consideration of the employee's previous experience and skillset.
- 5.4 The Officer Employment Procedure Rules (OEPR) in Part 4.9 of the Constitution specify the Council's rules and procedures applying to both the appointment and dismissal of Chief Officers. These are relevant to the circumstances of both Chief and Deputy Chief Officers who are affected by this restructure. It is proposed that the Constitution be amended so that the OEPR only apply to Chief Officer posts. As a consequence of this, the Handling Organisational Change procedure will also require amendment so that it applies to Deputy Chief Officers if the OEPR no longer applies to them.
- 5.5 The current rules and procedures for appointing to Chief and Deputy Chief Officer post are set out in sections 5 and 6 of the OEPR
- 5.6 The rules and procedures for dismissing a Chief Officer are set out in section 9 of the OEPR
- 5.7 The employee has a right to appeal against a decision to dismiss. It would not be unreasonable to require any person being considered for a new Chief or Deputy Chief Officer role to be subject to an interview process to determine their suitability for the role. As set out above, the appointment process in the OEPR requires an interview. Further, an interview may be considered a fair method of testing the person's suitability for the role, which should support both the Council's obligation to appoint on merit in section 7 of the Local Government and Housing Act 1989 and the Council's obligations under the Equality Act 2010 not to discriminate and to promote equality of opportunity.

It may also be relevant to take into account that this would not constitute a direct assimilation situation were the Handling Organisational Change procedure applicable.

- 5.8 The current post holder could be considered for the new roles in advance of any external recruitment process as an alternative to compulsory redundancy. Interview questions for the internal candidate would need to give some consideration as to what would constitute suitable alternative employment under the redeployment guidance (see below) taking into account the skills and experience of the current postholder who will be otherwise redundant following the deletion of their current post.
- 5.9 The Council's Handling Organisational Change procedure does not apply to Chief Officers (but may be applicable to deputy Chief Officers following the proposed amendment to the Constitution) but regard should nevertheless be had to normal custom and practice in respect of selection for redundancy and criteria for redeployment in respect of the Chief Officer post changes. The Council has also published Redeployment Guidance, which is intended to apply to the Chief Officer posts covered by this report (subject to confirmation into post in the way set out in the Officer Employment Procedure Rules if the alternative role is at the level covered by the Rules).
- 5.10 The Redeployment Guidance provides that an employee who is issued with notice of redundancy as a result of a restructure will be asked to complete an employee profile. This will include details of the person's knowledge, skills and experience together with any relevant qualifications. This pro forma will be used to consider redeployees against vacant posts which may offer suitable alternative employment. There is no reason why this should not be applied to potentially redundant Chief and Deputy Chief Officers and the information provided may be used when considering suitability for other posts.
- 5.11 Redeployed staff should normally be offered a post on the same grade, but if the only suitable alternative is a lower graded post, the employee's pay should be protected at the level of the spinal column point applicable to them at the end of the previous job for two years. Salary protection will not exceed two grades. Given that salary protection is offered in the Council's Redeployment Guidance, then this should be offered if Chief or Deputy Chief officers are assimilated into one of the new posts and it is at a lower grade than the current role. If an employee unreasonably refuses an offer of suitable alternative employment they would not be entitled to a redundancy payment (ERA 1996, section 141(4)).
- 5.12 When carrying out the reorganisation, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector equality duty). It must take care not to discriminate or otherwise act unlawfully within the meaning of the Equality Act. A proportionate level of equality analysis is required in order to discharge the Council's duties and reference is made to this in the report.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The organisational design principles set out in this report will support the One Tower Hamlets objectives.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The proposals will add value to the efficiency and effectiveness of the Council. The future staffing organisation will contribute to each of the Best Value Action Plan areas.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 There are no direct SAGE implications arising from this report.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 The proposals to be brought forward on staffing will provide a secure foundation for the delivery of the Council's main plans and strategies therefore reducing risk of not realising our planned resident outcomes.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 There are no direct Crime and Disorder implications arising from this report.

Linked Reports, Appendices and Background Documents

Linked Report

- None

Appendices

- None

Officer contact details for documents:

- N/A