

# **REPORT TO COUNCIL**

**REPORT OF:** Councillor Linda Neal, Leader of the Council

**REPORT NO.:** LN/08/1

**DATE:** 3 March 2008

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| <b>TITLE:</b>                                     | Interim Staffing Arrangements for the Chief Executive |
| <b>FORWARD PLAN ITEM:</b>                         | N/A   |
| <b>DATE WHEN FIRST APPEARED IN FORWARD PLAN:</b>  | N/A   |
| <b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b> | N/A   |

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| <b>COUNCIL AIMS/PORTFOLIO HOLDER NAME AND DESIGNATION:</b> | Councillor Mrs. Linda Neal<br>Leader of the Council       |   |
| <b>CORPORATE PRIORITY:</b>                                 | All   |   |
| <b>CRIME AND DISORDER IMPLICATIONS:</b>                    | N/A   |   |
| <b>FREEDOM OF INFORMATION ACT IMPLICATIONS:</b>            | N/A   |   |
| <b>INITIAL EQUALITY IMPACT ASSESSMENT</b>                  | Carried out and appended to report?<br><br>Not Applicable | Full impact assessment required?<br><br>N/A |
| <b>BACKGROUND PAPERS:</b>                                  | None  |   |

## **1. INTRODUCTION**

As members will be aware, Duncan Kerr, the Chief Executive has requested that the Council considers granting him authorised leave of absence (that is a period of unpaid leave, without breaking his contract of service) for a period of 13 weeks over the summer. He has also indicated that he would like to take the majority of his annual leave entitlement (including that carried-forward from the current year) at the same time, meaning that he would be on leave from Friday 18th April to Friday 26th September 2008 (inclusive).

## **2. RECOMMENDATIONS**

- 2.1 That the Council authorise leave of absence for Duncan Kerr, the Chief Executive for a thirteen week period from Monday 2nd of June 2008.
- 2.2 The Council appoints the officers identified below to discharge the following duties during the period specified:

The duties:

- Head of Paid Service, and
- Electoral Registration Officer (in fulfilment of the requirement of Section 8 of the Representation of the People Act 1983) and Returning Officer (under the requirements of Section 41 of the Local Government Act 1972).
- The full range of other duties set-down in the Chief Executive's Job Description.

Officers Appointed and term:

Beverly Agass for the period from Friday 18th April to Tuesday 15th July 2008 (inclusive), during which time Ian Yates will be the appointed deputy with full powers.

Ian Yates for the period from Wednesday 16th July to Sunday 28th September 2008, (inclusive) during which time Beverly Agass will be the appointed deputy with full powers.

## **3. DETAILS OF REPORT AND CONSIDERATION OF OTHER OPTIONS**

I have carefully considered this request and taken advice from the appropriate statutory and non-statutory officers. I have also considered very carefully the type of interim arrangements that could be made, paying particular attention to the discharge of the statutory functions relating to the designations of Head of Paid Service and Returning Officer which are appointments of the Council.

In considering this issue I have been guided by the consideration that the consequences of agreeing to this request should not impose any additional costs on the Council. I know that Duncan also shares this desire and as part of that he has given me a commitment not to exercise his right to continue to make pension contributions for the whole period of unpaid leave so that the Council can make additional savings in our employer's contributions.

In order to ensure that Duncan is here to oversee the Council's Annual meeting in April, I will also be approving the carrying-forward of a proportion of his leave entitlement for the current year.

Often periods of absence of this length occur naturally as a result of illness or resignations. When this happens it is impossible to prepare for such absence and they can have an impact on the capacity of the organisation. This situation is different because we have the time to prepare and plan for it. As a consequence we can provide some very good learning and development opportunities for our senior managers. By improving in this way I believe we can enhance our own capacity, making the organisation stronger and more resilient, in the future.

The alternative option would be to bring in a consultant to act as the Chief Executive during the leave of absence which would not facilitate the same development opportunities. In addition, to fulfil the role effectively the consultant would have to be an experienced Chief Executive and the fees commensurate with this level of experience would not represent the most cost effective option for the Council.

I have therefore decided to divide this time into two equal periods and I am recommending to Council that one of the two Strategic Directors are appointed to fulfil the role of the Chief Executive for each of these periods.

During this time the appointees will exercise, not only the statutory functions of Head of Paid Service and Electoral Registration Officer, but also the full range of duties set-down in the Chief Executive's Job Description and, as a consequence, they will be remunerated accordingly.

There may be some other managerial changes which will need to be made during this period. Under the Council's constitution these matters are the responsibility of our senior officers who are authorised to manage personnel matters within the Council's approved budget.

Whilst we can make contingency plans, we cannot predict the future and for this reason Duncan has undertaken to return to work during his period of leave, if required by the Council. This would seem to me to be a sensible precautionary measure and therefore I am not proposing that his existing authorisations be revoked during this period. The terms for the interim appointments will make it clear that these appointments will be terminated if Duncan is asked to return.

#### **4. COMMENTS OF SECTION 151 OFFICER**

The role of Chief Executive includes governance responsibilities, such as responsibility for the annual Governance Statement. This will need to be authorised by the Leader and the interim Chief Executive as part of the Closure of Accounts process. All governance responsibilities will need to be included within the responsibilities covered by the interim arrangements.

The Pension Regulations require that both the employee and employing organisation will make their contribution for the first 30 days of "approved leave of absence", the impact of this will be contained within the budget provision for interim arrangements. Also, any individual taking authorised leave of absence may elect to make good their employee contribution within the first 30 days of returning to work, if they so choose, then the employer is required to make their employer's contribution also. It is noted in this case that the Chief Executive will not be exercising this option, therefore there will be no financial impact from this.

I will validate budget projections for any further backfilling other than the arrangements for the Chief Executive's post when available, to ensure that the arrangements put in place are at no additional cost to the Council.

## **5. COMMENTS OF MONITORING OFFICER**

By virtue of the Local Government Act 1972 and Article 15 of the Council's Constitution, appointment of staff cannot be the responsibility of Cabinet. As no delegation of this function has been made, it is for full Council to appoint to the role of Chief executive and the statutory functions carried out by that role.

Leave of absence is not unprecedented and meets with this Council's flexible working arrangements.

The terms and conditions of any interim appointment must include provision for immediate termination of appointment on the return of the Chief Executive at any time during the fixed term of their appointment.

## **6. COMMENTS OF THE SERVICE MANAGER FOR HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT**

There is no specific legislation relating to sabbaticals and the LGE guidance on career breaks has been reflected in this request. The proposed unpaid leave of absence does not constitute a break in the employment contract. Unpaid leave has been agreed for Council employees previously on an individual case basis with careful consideration of operational requirements, and this report highlights the operational considerations that relate to the post of Chief Executive. The proposal accords with the Council's policy statement on flexible working.

## **7. CONCLUSION/SUMMARY**

That Council consider and agree implementation of the recommendations in paragraph 2 of this report to cover the temporary absence of Duncan Kerr, Chief Executive.

Councillor Linda Neal  
Leader of the Council