

County Council

26 September 2023

Organisational Structure and Constitutional Changes

Recommendations

That Council:

1. Approves the separation of the functions of the Executive Director for People and the reconfiguration into two Executive Director roles as set out at section 5 and Appendix 1b and supports the Directorate level changes made to the Council's Directorate structures at Appendix 1a.
2. Approves the appointment of the statutory officers of Director of Children's Services (DCS) and Director of Adult Social Services (DASS) as set out at paragraph 5.8.1.
3. Approves the minor modifications to the Constitution, including officer delegations, to reflect the changes made to the Council's organisational structure.
4. Approves an amendment to Part 2(9) of the Constitution as set out at paragraph 5.8.2 to change the membership of the Health and Wellbeing Board to include the appointed statutory officers of the Director of Children's Services (DCS) and the Director of Adult Social Services (DASS) from time to time.
5. Approves an amendment to Part A of Part 2(10) of the Constitution to increase the level of ex gratia payments to complainants that Executive Directors and Directors have authority to approve from £1,000 up to and including £2,000.
6. Approves an amendment to Part 4(5) of the Constitution to replace the Officers' Code of Conduct with an updated version as at Appendix 2 and authorises the Executive Director for Resources to make such minor consequential modifications to reflect HR best practice and guidance.
7. Approves an amendment to Part 1(9) (Finance, Contracts and Legal Matters) and Part 2(10) (Delegations to Officers) to clarify the delegations relating to the approval of special severance payments as set out at Appendix 3.
8. Authorises the Executive Director for Resources to make all the necessary changes to the Constitution arising from this report.

1. Executive Summary

- 1.1 The Council is required by legislation (section 9P Local Government Act 2000) to have a Constitution which sets out the governance arrangements by which the Council will operate. The Constitution provides the basis on which the Council operates and where powers are to be exercised and decisions taken.
- 1.2 Legal and Democratic officers in Governance and Policy review the Constitution periodically to ensure it remains up to date and fit for purpose.
- 1.3 This report proposes amendments to the Constitution arising from that periodic review process, together with changes that are necessary as a result of the changes to the Council's Directorate structures which will take effect from 1 October 2023 and staffing proposals at Executive Director level for Council's approval which would take effect before the end of January 2024.

2. Financial Implications

- 2.1 The changes to the organisational structure at Director level and the Constitution per se do not have any financial implications. Whilst the portfolios of Director roles have in some cases been reconfigured, the number of Director roles remains the same and salary levels are not affected by the changes.
- 2.2 The proposal for the separation of the role of Executive Director for People into two Executive Director roles for a temporary period of 2 years as set out at section 5 below results in the creation of an additional Executive Director role, the financial implications of which need to be resourced. The current salary band for an Executive Director role (2022/23) is £139,968 to £155,050 plus on-costs. It is intended that the role be filled following an internal recruitment process and that the successful Director appointed to the post would be seconded into the Executive Director post on a temporary basis.
- 2.3 It is proposed that the two Executive Directors (ED for Children and Young People and ED of Social Care and Health) would work together to ensure the People Directorate changes are cost neutral to the Council or absorbed from within current budget allocations, which may result in roles not being backfilled. As such it is not envisaged that this temporary arrangement will result in any additional budget pressures as we move into the 2024/25 MTFS budget cycle.

3. Environmental Implications

- 3.1 There are no direct environmental implications arising from this report.

4. Supporting Information

- 4.1 The reasons for the proposed changes are set out in more detail below. The organisational structure which will take effect from 1st October is set out at Appendix 1a (changes to Resources Directorate and Communities Directorate). The reconfiguration of the areas of responsibility proposed to the People Directorate which would take effect by January 2024 are set out in Appendix 1b. The specific changes proposed in relation to the Officers' Code of Conduct and delegations in relation to special severance payments are set out at Appendix 2 and 3 respectively. Overall, the proposed changes are put forward to ensure;
- i.) that the Council's structure is fit for purpose and reflects the organisational priorities over coming years, particularly in light of the financial challenges faced in areas of high and increasing demand which will require dedicated leadership capacity; and
 - ii.) the Constitution is up to date and clear and enables the Council to undertake its business in the most effective and efficient way.

5. Proposed Changes to People Directorate Structure

- 5.1 In 2018, Public Health and in July 2022, the Education Service moved from the Communities Directorate to the People Directorate. The People Directorate is now responsible for approximately 75% of the Council's budget and circa 43% of its staffing headcount.
- 5.2 Following a period of instability in the leadership of the Education Service, the service is benefitting from the recent appointment of the new, substantive Director of Education. However, it still requires significant leadership capacity to address a number of longstanding issues, not least the increase in demand for services and the associated financial challenges.
- 5.3 Furthermore, a significant influx of Government policies related to the work of the People Directorate all need to be taken into account and factored into the Council's forthcoming priorities. These include but are not limited to;
- i) In March 2023, the Department for Education published the SEND and alternative provision improvement plan, setting out significant changes to the special educational needs and disabilities system.
 - ii) In February 2023 following the Independent Review of Children's Social Care, the Department for Education published 'Stable Homes Built on Love', proposing significant changes to children's social care to be implemented over the next few years.
 - iii) The Department for Health and Social Care had previously launched a white paper for the reform of adult social care, 'The People at the Heart of Care' and, while it is unclear whether all elements of the reforms will be taken forward, the Health and Care Act 2022 introduced a requirement for the Care Quality Commission (CQC) to assess and

report on the performance of local authorities with regard to their social care responsibilities.

- 5.4 In order to provide sufficient leadership capacity to address these simultaneous challenges, it is proposed to trial the reconfiguration of the current People Directorate into two new directorates, a Directorate for Children and Young People and a Directorate of Social Care and Health. The proposed trial will last for two years, and the arrangements will be reviewed during that period with a decision made by the Chief Executive at that stage as to whether they will continue. The proposal is to take effect by the end of January 2024 and the new configuration of responsibilities across the two Directorates is set out at Appendix 1b.
- 5.5 The reconfiguration of the People Directorate into two Directorates will result in the creation of an additional Executive Director role alongside the current Executive Director for People role. The creation of a new post within the Council exceeding a salary level of £100,000 requires the approval of full Council. The financial implications are set out in section 2 above.
- 5.6 This approach is consistent with changes across local government. In 2015 there were 61 local authorities where the two statutory posts of Director of Children's Services (DCS) and Director of Adult Social Services (DASS) were held by one person. That number has reduced every year since and there are now just 16, of which Warwickshire is one.
- 5.7 It is proposed that the Executive Director for People is seconded for a period of 2 years into the post of Executive Director for Children and Young People and that the temporary post of Executive Director of Social Care and Health is created and is filled, as a secondment, by an existing Director following an internal process with the final appointment made by a member appointment panel, advised by the Chief Executive.
- 5.8 This proposed change requires consideration of two associated matters;
- i) The appointment of the two statutory officer roles of Director of Children's Services (DCS) and Director of Adult Social Services (DASS). The two statutory officer roles are currently held concurrently by the Executive Director for People. It is proposed that this position remains until such time as the two Executive Director roles take effect from which time both statutory officer roles would be held by the most senior officer with managerial responsibility for the functional area concerned who is qualified to hold them in line with national guidance. Under these proposals, with the Executive Director for People taking up the role of Executive Director for Children and Young People, that post holder would be the DCS. The DASS role would be held by the current Director of Adult Social Care and Support as the most senior qualified officer within the Council to undertake the role, irrespective of the outcome of the selection process referred to at paragraph 5.7.

- ii) Membership of the Health and Wellbeing Board – the current membership of the Board is the Executive Director for People and the Director of Public Health. With the proposed changes it is intended that the two statutory officer roles of DCS and DASS, together with the Director of Public Health be appointed to the Health and Wellbeing Board from such time as the two Executive Director roles take effect.
- 5.9 Other related officer appointments to the Integrated Care Board and the Integrated Care Partnership are proposed to remain ‘as is’ for the time being, with any changes required being brought forward as part of the annual report to Council in May 2024.
- 5.10 Subject to Council’s approval all necessary Constitutional changes, in particular officer delegations to Executive Directors, will be made as necessary.

6. Changes to the Directorate Structures

- 6.1 With effect from 1 October 2023 changes to the Council’s organisational structure and allocation of responsibilities at Director level in the Resources and the Communities Directorates are as set out at Appendix 1a, however the key changes arising from the reallocation of responsibilities across Directors in those Directorates are set out below;
- i) The Resources Directorate will move to a streamlined structure with four rather than five Directors with revised portfolios.
 - ii) The role of Director of Business and Customer Service will cease to exist with the functions currently sitting within that service area being reallocated as set out below.
 - iii) The Director of Commissioning Support Unit (CSU) will become the Director of Strategic Infrastructure and Climate Change and will move to the Communities Directorate, with the CSU functions being reallocated as set out below.
 - iv) A Director of Workforce and Local Services will sit in the Resources Directorate. This role will include libraries, heritage, culture and registration and all of the Human Resources and Organisational Development functions which will now sit under one Director.
 - v) Customer Contact, Business Intelligence and Strategic Asset Management will sit with the Director of Enabling Services, Resources. This will mean that all property related responsibilities will sit under one Director.
 - vi) Community Partnerships and Change Programmes will sit with the Director of Strategy, Planning and Governance, Resources (formerly the Director of Governance and Policy).
 - vii) Business Support and Contract Management and Procurement will sit with the Director of Finance, Resources.
 - viii) Quality Assurance (which will become Quality Assurance and Market Management) will move to the Director of People Strategy and Commissioning within People Directorate.

- 6.2 The officer delegations to Executive Directors as set out in the Constitution are not affected by these changes, however any minor modifications, such as job title changes and onwards delegations to Directors, which are dealt with outside of the Constitution, will be made as necessary to reflect these changes.

7. Amendment to approval level for ex gratia payments

- 7.1 Part A of Part 2(10) of the Constitution (Delegations to Officers) includes a delegation to all Executive Directors and Directors to approve requests for ex gratia payments to complainants up to and including £1,000 in relation to upheld complaints or in consultation with the Chief Finance Officer in relation to other complaints where a financial remedy is considered to be appropriate. For any such payments above £1,000 approval is required from the Regulatory Committee.
- 7.2 This financial threshold has not been reviewed in a number of years and due to a number of factors including inflation and revised guidance on remedies from the Local Government and Social Care Ombudsman (LGSCO), an increasing number of proposed payments are requiring Regulatory Committee approval. For example, the Ombudsman's guidance on remedies now suggests that where fault of an authority has resulted in a loss of educational provision, they will usually recommend a remedy payment of between £900 and £2,400 per term to acknowledge the impact of that loss. This is a higher award level than in previous years.
- 7.3 It is therefore proposed that the level delegated to officers in Part A of Part 2(10) is increased to enable Executive Directors and Directors to approve ex gratia payments up to and including £2,000. This will bring the number of referrals to Regulatory Committee back into balance and require only the higher level payments to be referred. The number of ex gratia payments (including the referrals to Regulatory Committee) will continue to be transparent as reported through the annual report to Cabinet on complaints referred to the LGCSO.

8. Amendment to update the Officers' Code of Conduct

- 8.1 The Officers' Code of Conduct (also known as the Employer and Employee Responsibilities Policy) forms part of the Constitution at Part 4(5) and is a Human Resources policy that all members of staff are required to follow. The Code has been considered and updated to reflect changes in the law and in the Council's internal processes (such as use of ICT, personal devices, social media for example) and also to make it easier to follow and to provide greater clarity in some of the areas covered by the Code.
- 8.2 Approval is therefore sought to replace the previous document with the updated version as set out at Appendix 2 (which tracks the changes).

9. Clarification relating to the approval of special severance payments

- 9.1 In September 2022 Council approved changes to Parts 1(9) (Finance Contracts and Legal Matters) and 2(10) (Delegations to Officers) of the Constitution in relation to special severance payments (SSPs). This was to ensure that the Constitution reflected the requirements of statutory guidance issued by the Department for Levelling Up, Housing and Communities on the making and disclosure of SSPs by local authorities.
- 9.2 Whilst advice will be necessary on a case-by-case basis to determine whether a payment constitutes a SSP it is considered that some minor amendments to these sections of the Constitution would be beneficial to align with Government guidance on the issue and to ensure transparency as to when these specific requirements are likely to apply. For example, there are certain payments which do not constitute SSPs including; redundancy payments and associated pension strain costs, payments which have been ordered by a court or tribunal and payments agreed as part of certain forms of mediation. In addition, the statutory guidance does not apply to staff working in a maintained school.
- 9.3 It is therefore proposed that these sections of the Constitution be amended as set out at Appendix 3.

Appendices

- Appendix 1a – Council Directorate Structure from 1st October 2023 for Resources and Communities Directorates
- Appendix 1b – New Executive Director areas of responsibility by 31 January 2024 for People Directorate
- Appendix 2 – Updated Officers' Code of Conduct
- Appendix 3 – Proposed amendments to Part 1(9) and Part 2(10) in relation to special severance payments.

Background Papers

None

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